

FOURTH SESSION
THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 1

An Act respecting work income supplement

First reading

Second reading

Third reading

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L'ÉDITEUR OFFICIEL DU QUÉBEC

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EXPLANATORY NOTES

The object of this bill is to provide, for families and persons who fulfil certain conditions, a work income supplement established in relation to their work income.

It provides in particular that the work income supplement to which a family or a person will be entitled for a year will be computed on the basis of the work income of that family or person during the preceding year, and of that family's or person's financial situation and family obligations on 31 December of that year.

The bill fixes the mechanisms of application for the supplement and for its determination and payment. Rules are provided to enable families and persons entitled to the work income supplement to object to the decisions rendered by the Ministre du revenu, who will be responsible for the application of the act.

That act will be a fiscal law and, consequently, the Ministre du revenu will have for its carrying out all the powers conferred on him by the Revenue Department Act with respect to such a law.

The Government will designate a Minister who, in cooperation with the Ministre du revenu and the Ministre des affaires sociales, will devise and propose policies to the Government aimed at ensuring a suitable quality of life and standard of living for families and individuals.

The act will apply to childless families and persons only from 1 January 1980.

Bill 1

An Act respecting work income supplement

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

DIVISION I

DEFINITIONS

- Inter-pretation: **1.** In this act and the regulations, unless the context indicates otherwise,
- “spouses”; (a) “spouses” means two persons who are living together and are married to each other or who have been living together as husband and wife for at least one year;
- “child”; (b) “child” means an unmarried child who is under 18 years of age, or who is 18 years of age or over and attends a primary or secondary educational institution on a full time basis;
- “Minister”; (c) “Minister” means the Ministre du revenu;
- “regulation”; (d) “regulation” means a regulation made by the Government under this act;
- “maximum benefit income”. (e) “maximum benefit income” means the work income entitling a family or a person to the maximum work income supplement benefit.

DIVISION II

ENTITLEMENT TO A WORK INCOME SUPPLEMENT

- Eligibility of a family. **2.** A family is entitled to a work income supplement for a year if, on 31 December of the preceding year,
- (a) it was composed of spouses having at least one dependent child who is their own child or who is the child of one of

them, of a person having at least one dependent child who is his own child, or of spouses one of whom has reached the age determined by regulation;

(b) one of these spouses or that person had had a work income during that preceding year;

(c) these spouses were or that person was resident in Québec and one of them or that person had been resident in Canada for at least one year, and

(d) these spouses or that person had property not excluded by regulation, the market value of which did not exceed the amount determined by regulation.

Eligibility
of a single
person.

3. A person who is not a member of a family within the meaning of section 2 is also entitled to a work income supplement for a year if, on 31 December of the preceding year, that person

(a) had reached the age determined by regulation;

(b) had had a work income during that preceding year;

(c) was resident in Québec;

(d) had been resident in Canada for at least one year; and

(e) had property not excluded by regulation, the market value of which did not exceed the amount determined by regulation.

Exception.

4. A family contemplated in section 2 or a person contemplated in section 3 is not, however, entitled to a work income supplement if one of its members or that person is exempt from tax under section 714 or 715 of the Taxation Act (1972, chapter 23), for the year preceding that for which an application for a supplement is made.

DIVISION III

COMPUTATION OF THE WORK INCOME SUPPLEMENT

Work
income not
exceeding
maximum.

5. Where the work income of spouses who are members or of the person who is a member of a family within the meaning of section 2, or the work income of a person contemplated in section 3, does not exceed the maximum benefit income established by regulation, the work income supplement to which that family or that person is entitled is a benefit equal to the percentage of that work income determined by regulation, less the amount by which that family's or person's total income exceeds that maximum benefit income.

Work
income
exceeding
maximum.

If that work income exceeds the maximum benefit income established by regulation, the work income supplement is a

benefit equal to the percentage of that maximum benefit income determined by regulation, less one-third of the amount by which that work income exceeds that maximum benefit income and less the amount by which the total income exceeds that same work income.

Basis of
computation.

6. The work income used in computing the work income supplement is, as the case may be, that of the spouses who are members or of the person who is a member of a family within the meaning of section 2, or that of the person contemplated in section 3, for the year preceding that during which an application for a supplement is made.

Work
income
defined.

That work income is the aggregate of

(a) income from an office or employment, computed in accordance with the Taxation Act but before any deduction provided for by that act except those provided for by sections 56 to 61 and 72 of that act; and

(b) income from a business, computed in accordance with the Taxation Act but before any deduction under sections 119 and 119a of that act, less the losses, so computed, from a business.

Basis of
computation.

7. The total income used in computing the work income supplement is, as the case may be, that of the spouses who are members or of the person who is a member of a family within the meaning of section 2, or that of the person contemplated in section 3, for the year preceding that during which an application for a supplement is made.

Total
income
defined.

That total income is the aggregate of

(a) work income;

(b) income from property, computed in accordance with the Taxation Act but before any deduction under sections 119 and 119a of that act, less the losses, so computed, from property;

(c) any other amount included in computing income for the purposes of the Taxation Act, but before any deduction provided for by that act in that computation except those respecting allowable capital losses and the capital element of an annuity;

(d) any other amount received that is excluded in computing income for the purposes of the Taxation Act under paragraphs a, b and c of section 387, sections 389 and 391a to 391c of that act and the regulations made under section 386 of that act, except a work income supplement received under this act; and

(e) any other amount received as a lost-wages insurance benefit or as an income insurance benefit or as a replacement for wages or income.

DIVISION IV

APPLICATION FOR AND DETERMINATION AND PAYMENT OF A WORK INCOME SUPPLEMENT

Applica-
tion for
supple-
ment.

8. Every person who wishes to receive a work income supplement for a family or for himself must make an application therefor to the Minister in the form and containing the information prescribed by the latter, not later than 30 April of the year following that during which he has had a work income.

Fiscal
return.

He shall file his application for a supplement at the same time as the fiscal return contemplated in section 732 of the Taxation Act; he must file that return even if he is not subject to the payment of tax under the said act.

Certificate
from
spouse.

9. The person designated as a spouse in an application for a supplement filed under section 8 shall annex to that application a certificate in the form and containing the information prescribed by the Minister.

Determina-
tion of sup-
plement.

10. The Minister shall, with all due dispatch, examine the application for a supplement sent to him and determine the work income supplement to which the family or the person is entitled.

Exception.

However, he is not bound to examine a person's application for a supplement so long as he has not received the fiscal return contemplated in section 8 and, where such is the case, the certificate contemplated in section 9.

Notice.

11. After examining an application for a supplement, the Minister shall send a notice to the applicant informing him of his decision.

Payment
by instal-
ments.

12. Payment of the work income supplement is made in a maximum of four instalments, in accordance with the terms and conditions established by regulation. The first instalment must be effected not later than 31 August of the year in which the application for a supplement is made and the others, where such is the case, on the following 15 September, 15 December and 15 March.

Payment
to appli-
cant or
spouses.

13. The Minister shall pay the work income supplement to the person who applied for it; in the case of a family composed of spouses, he shall pay the supplement to both of them jointly unless they have requested that it be payable to one of them only.

Minister
not bound.

14. The Minister is not bound by information supplied in an application for a supplement or in a certificate and he may determine the work income supplement to which a family or a person is entitled on the basis of information from another source.

Redeter-
mination of
supple-
ment.

15. The Minister may redetermine the amount of such work income supplement

(a) within four years from the mailing of the notice provided for in section 11, or

(b) at any time, if the person who has filed the application for a supplement or the certificate has falsely represented the facts through carelessness or voluntary omission or has committed a fraud in filing the application for a supplement or the certificate or in supplying any other information required by the law or the regulations.

Reimbur-
sement.

16. Every person who has received a work income supplement to which he is not entitled in whole or in part must, within 90 days from the mailing of a notice from the Minister, reimburse that supplement or that part of the supplement to the Minister, whether or not an objection or an appeal in respect of that supplement is in progress.

DIVISION V

OBJECTIONS AND APPEALS

§ 1.—*Objections*

Notice of
objection.

17. A person who objects to the decision rendered by the Minister on his application for a supplement may, within 90 days from the day of mailing of the notice provided for in section 11, serve on the Minister a notice of objection in duplicate in the form prescribed by the latter, setting out the reasons for the objection and all the relevant facts.

Notice
accepted.

The Minister may accept a notice of objection even if such notice was not served in duplicate or in the prescribed form.

Service.

18. Such notice of objection must be served by being sent by registered mail.

Decision of
the
Minister.

19. Upon receipt of a notice of objection, the Minister shall with all due dispatch reconsider the application for a supplement, vacate, confirm or vary the determination contested or redeter-

mine the supplement and make his decision known to the person concerned by sending him a notice by registered mail.

Section not to apply.

20. Section 17 does not apply to the redetermination of a work income supplement established under section 19.

Redetermination valid.

21. A redetermination of a work income supplement made by the Minister pursuant to section 19 is not invalid by reason only of not having been made within four years from the day of mailing of an original notice given under section 11.

§ 2.—*Appeals*

Right to appeal.

22. Where a person has served a notice of objection to the Minister under section 17, he may appeal to the Provincial Court sitting for the district in which he resides to have the decision rendered by the Minister on his application for a supplement vacated or varied after either

(a) the Minister has confirmed the determination of the work income supplement or redetermined that supplement, or

(b) 180 days have elapsed after service of the notice of objection and the Minister has not notified that person that he has vacated or confirmed the determination of the work income supplement or redetermined that supplement.

Delay.

23. No appeal may be instituted after the expiry of 90 days from the date on which, under section 19, the Minister has sent notice of his decision to the person concerned.

Irregularity, informality, etc.

24. The decision of the Minister on an application for a supplement shall not be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of anyone in the observance of any non-peremptory provision of this act.

Motion.

25. An appeal before the Provincial Court is exercised by a mere motion, three copies of which must be filed in the office of the Court.

Filing by registered mail.

Such copies may also be filed by sending them, by registered mail, to the clerk of the Provincial Court sitting for the district where the appeal is to be instituted.

Documents transmitted.

When these copies have been filed and the amount of \$15 mentioned in section 26 has been paid, the clerk of the Court shall immediately send two of these copies to the Minister, who shall then send to the clerk without delay copies of all the docu-

ments relating to the objection and the determination of the work income supplement.

Costs. **26.** On filing his motion, the person concerned must pay to the clerk of the Court an amount of \$15 and, if his appeal is wholly or partly successful, such amount shall be repaid to him.

No additional costs. The Court cannot compel that person to pay any additional costs.

Summary procedure. **27.** The procedure on such appeal is summary. Subject to the other provisions of this subdivision, such appeal and the hearing thereof is subject to the procedure governing ordinary actions before the Provincial Court.

Power of Court. **28.** The Court may dismiss the appeal, or vacate or vary the determination of the work income supplement or refer it to the Minister for reconsideration and redetermination of the supplement.

Decision transmitted. **29.** The clerk of the Court shall, within eight days from the decision on the appeal, send a copy of it, by registered mail, to the Minister and to the person concerned.

Final judgment. A decision of the Court on an appeal is a final judgment of the Provincial Court within the meaning of the Code of Civil Procedure.

Appeal to Court of Appeal. **30.** An appeal lies to the Court of Appeal from any final judgment of the Provincial Court rendered under this subdivision.

Code of Civil Procedure applies. The appeal is brought, heard and decided in accordance with the rules of the Code of Civil Procedure, subject to any contrary provision of this subdivision.

Amount not exceeding \$500. Where, upon an appeal brought by the Deputy Minister of Revenue otherwise than by means of a counter appeal, the amount of the work income supplement which is the subject of the dispute is not more than \$500, the Court of Appeal, when deciding on the appeal, shall grant to the respondent the reasonable and justified expenses incurred by him in respect of that appeal.

Recovery. **31.** An appeal brought under this subdivision does not prevent the recovery by the Minister of the amount of an overpayment of the work income supplement which is the subject of the recourse.

Payment deemed under protest. Payment of the amounts contested under this subdivision is deemed made under protest.

Deposit in consolidated revenue fund.

[[**32.** The deposit of \$15 mentioned in section 26 shall be paid into the consolidated revenue fund, and reimbursed out of such fund when required.

Payment out of consolidated revenue fund.

The expenses contemplated in section 30 shall be paid out of the consolidated revenue fund.]]

§ 3.—*Provisions applicable on an objection or appeal*

Presumption.

33. Where a person objects to or appeals from an assessment made under the Taxation Act, he is deemed to object to or appeal from the decision of the Minister on his application for a supplement, in all the cases where the Minister, consequently to that assessment, should also vary the amount of the work income supplement granted on that application.

Objection or appeal not valid.

34. A person cannot validly object to the decision rendered by the Minister on his application for a supplement or appeal from that decision, if he does not object to or appeal from the question in dispute under the Taxation Act, in all cases where the Minister, consequently to that dispute, also varies the amount of tax that that person must pay under the said Taxation Act.

DIVISION VI

REGULATIONS

Regulations.

35. The Government may make regulations

(a) determining, for the purposes of entitlement to a work income supplement, the required age of one of the spouses contemplated in paragraph *a* of section 2 and the required age of a person contemplated in section 3;

(b) determining, for the purposes of sections 2 and 3, the amount that the market value of property cannot exceed, the property that must be excluded therefrom and on what conditions it is so excluded;

(c) establishing the maximum benefit income applicable to a family contemplated in section 2, in accordance with the number of dependent children who are members of that family;

(d) establishing the maximum benefit income applicable to a person contemplated in section 3;

(e) determining, for the purposes of section 5, the percentage of the work income and the percentage of the maximum benefit income; these percentages shall in no case be smaller than twenty per cent nor greater than thirty per cent;

Sec. 37. The proposed amendment establishes that the Act respecting work income supplement is a fiscal law, and thus enables the Ministre du revenu to exercise, for its carrying out, the powers conferred on him by the Revenue Department Act with respect to such a law.

Sec. 38. Section 31 of the Revenue Department Act reads as follows:

“31. When a person entitled to a refund by reason of the application of a fiscal law is also a debtor under such a law or about to become so, the Minister

(f) establishing what proof is required to establish the facts relevant to the determination of a work income supplement by the Minister;

(g) establishing the terms and conditions of payment of a work income supplement;

(h) excluding any class of persons from the application of this act.

Coming
into force.

Regulations made under this act come into force on the date of their publication in the *Gazette officielle du Québec* or on any later date fixed therein.

DIVISION VII

OFFENCES

Offences
and
penalties.

36. Any person who makes a false or misleading declaration, or participates in, consents to or acquiesces in its formulation in an application for a supplement, a certificate or any other document made or filed under this act or a regulation, is guilty of an offence and is liable, on summary proceeding, in addition to the costs, to a fine of not less than \$100 nor more than \$5 000.

DIVISION VIII

MISCELLANEOUS PROVISIONS

1972, c. 22,
s. 1, am.

37. Section 1 of the Revenue Department Act (1972, chapter 22), amended by section 1 of chapter 17 of the statutes of 1974 and by section 1 of chapter 25 of the statutes of 1978, is again amended by replacing paragraph *a* by the following paragraph:

“fiscal
law”;

“(a) “fiscal law”: this act, the Act to promote industrial development by means of fiscal advantages (Revised Statutes, 1964, chapter 67), the Act to authorize payment of allowances to certain self-employed workers (Revised Statutes, 1964, chapter 66), the Act respecting lotteries, racing, publicity contests and amusement machines (1978, chapter 36), the Act respecting work income supplement (1979, chapter *insert here the chapter number of Bill 1*) or any other act imposing duties, the administration of which is entrusted to the Minister;”.

Compensa-
tion.

38. For the application of section 31 of the Revenue Department Act, the payment of a work income supplement under this act is deemed to be a refund by reason of the application of a fiscal law. The Minister may thus apply the work income supple-

may apply such refund to the payment of the debt of that person, up to the amount of such debt, and give him notice of it.”

The object of section 38 is to adapt this section 31 to a payment owing by the Minister under this act and to provide that compensation may also be effected with respect to a debt of the spouse.

Sec. 39. Division IX of Chapter III of the Revenue Department Act deals with procedure and proof.

ment owing to a family or a person to the payment of a debt to which that person or either spouse is bound under a fiscal law within the meaning of the Revenue Department Act.

Notice of
assessment.

39. For the purposes of Division IX of Chapter III of the Revenue Department Act, a notice sent under section 11 or under section 19 is deemed to be a notice of assessment.

No interest
payable.

40. No interest is payable in respect of any amount paid to a person by the Minister under this act.

Supple-
ment in-
alienable
and un-
seizable.

41. A work income supplement paid under this act is inalienable and unseizable, except for an alimentary debt.

Designated
minister.

42. The Government shall designate a minister who, in cooperation with the Ministre du revenu and the Ministre des affaires sociales, shall devise and propose to it such policies as may ensure a quality of life and standard of living suitable for each person and family within the scope of this act, and shall exercise any other function assigned to him by the Government respecting the application of this act.

Informa-
tion.

43. The Ministre du revenu shall furnish, upon request, to the Minister designated under section 42 or to the Ministre des affaires sociales all such information as either Minister may indicate, if they set forth that the obtaining of that information is necessary for the application of section 42.

Confiden-
tiality.

However, the information furnished by the Minister in conformity with this section must be supplied in such a manner that it is impossible to identify the persons respecting whom such information is so furnished.

Applica-
tions for
1979.

44. Notwithstanding section 8, an application for a work income supplement for the year 1979 must be filed not later than the date fixed by the Minister, and the second paragraph of the said section 8 does not apply to such an application.

Date of
payment.

Notwithstanding section 12, the Minister shall determine the dates on which the work income supplement provided for in the first paragraph is to be paid.

Moneys
required.

[[**45.** The amounts required for the application of this act are taken out of the moneys granted every year for that purpose by the Legislature.]]

Minister
responsi-
ble.

46. The Ministre du revenu is responsible for the application of this act.

Effect.

47. This act has effect with respect to spouses one of whom has reached the age determined by regulation, contemplated in paragraph *a* of section 2, and with respect to a person contemplated in section 3, only from 1 January 1980.

Coming
into force.

48. This act comes into force on the day of its sanction.