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^{DU}
Québec

Part

2

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Laws and Regulations

Volume 141

Summary

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Contents

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- (1) Acts assented to, before their publication in the annual collection of statutes;
- (2) proclamations of Acts;
- (3) regulations made by the Government, a minister or a group of ministers and of Government agencies and semi-public agencies described by the Charter of the French language (R.S.Q., c. C-11), which before coming into force must be approved by the Government, a minister or a group of ministers;
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- (6) rules of practice made by judicial courts and quasi-judicial tribunals;
- (7) drafts of the texts mentioned in paragraph 3 whose publication in the *Gazette officielle du Québec* is required by law before their adoption or approval by the Government.

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PROVINCE OF QUÉBEC

1ST SESSION

39TH LEGISLATURE

QUÉBEC, 27 OCTOBER 2009

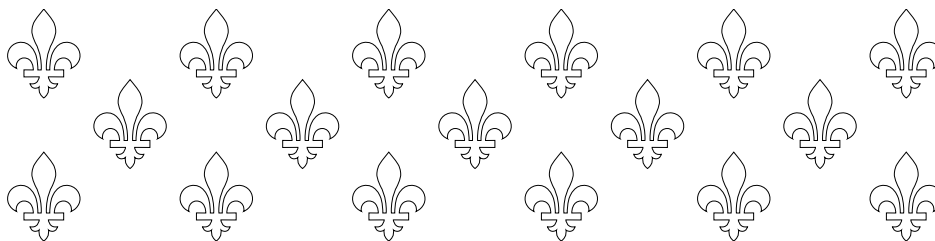
OFFICE OF THE LIEUTENANT-GOVERNOR

Québec, 27 October 2009

This day, at fourteen minutes past four o'clock in the afternoon, His Excellency the Lieutenant-Governor was pleased to sanction the following bill:

6 An Act to establish a caregiver support fund (*modified title*)

To this bill the Royal assent was affixed by His Excellency the Lieutenant-Governor.



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 6
(2009, chapter 42)

An Act to establish a caregiver support fund

Introduced 11 March 2009
Passed in principle 4 June 2009
Passed 8 October 2009
Assented to 27 October 2009

**Québec Official Publisher
2009**

EXPLANATORY NOTES

This Act provides for the establishment of a caregiver support fund. The purpose of the fund is to contribute to the achievement of the mission of the Minister responsible for Seniors by supporting caregivers who provide unpaid in-home care and regular assistance to seniors with a significant or persistent disability that may compromise their ability to continue living at home.

The fund will be dedicated to the financing of activities, projects and initiatives designed to help provide, increase and diversify respite services for caregivers, provide assistance and individual, community or social support services for caregivers, give effective and continuous support to local communities that work with caregivers and provide caregiver training and education services. The fund will also be used to support innovation and the acquisition and transfer of knowledge in the area of caregiver support.

The Act also contains measures governing the constitution and management of the fund, as well as rules applicable to the Société de gestion pour le soutien aux proches aidants.

Bill 6

AN ACT TO ESTABLISH A CAREGIVER SUPPORT FUND

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. A caregiver support fund is established at the Ministère de la Famille et des Aînés.

The purpose of the fund is to contribute to the achievement of the mission of the Minister responsible for Seniors by supporting caregivers who provide unpaid in-home care and regular assistance to seniors with a significant or persistent disability that may compromise their ability to continue living at home.

2. The fund is dedicated to the financing of activities, projects and initiatives to help

- (1) provide, increase and diversify respite services for caregivers;
- (2) provide assistance and individual, community or social support services for caregivers;
- (3) give effective and continuous support to local communities that work with caregivers;
- (4) provide caregiver training and education services; and
- (5) support innovation and the acquisition and transfer of knowledge in the area of caregiver support.

Only activities, projects and initiatives that do not come under regular programs established or approved by the Government may be financed by the fund.

3. The Government sets the date on which the fund begins to operate and determines its assets and liabilities and the nature of the costs that may be charged to it.

4. The fund is made up of

- (1) the sums paid into it by the Minister of Revenue under section 6;
- (2) the sums paid into it by a minister out of the appropriations granted for that purpose by Parliament;
- (3) the gifts, legacies and other contributions paid into it to further the achievement of the purpose of the fund;
- (4) the sums paid into it by the Minister of Finance under sections 7 and 8; and
- (5) the interest earned on bank balances in proportion to the sums referred to in paragraphs 1 and 3.

5. The management of the sums making up the fund is entrusted to the Minister of Finance. The sums are paid to the order of the Minister of Finance and deposited with the financial institutions designated by the Minister of Finance.

The Minister responsible for Seniors keeps the books of account of the fund and records the financial commitments chargeable to it. The Minister also ensures that the commitments and the payments arising from them do not exceed the available balances and are consistent with them.

The particulars of the management of the fund are determined by the Conseil du trésor.

6. On the dates and in the manner determined by the Government, the Minister of Revenue pays into the fund part of the proceeds of the tobacco tax collected under the Tobacco Tax Act (R.S.Q., chapter I-2) for a total amount of \$15,000,000 per year.

7. The Minister of Finance may, with the authorization of the Government and subject to the conditions it determines, advance to the fund sums taken out of the consolidated revenue fund.

Conversely, subject to the conditions determined by the Minister of Finance, that minister may advance to the consolidated revenue fund on a short-term basis any part of the sums making up the fund that is not required for its operation.

Any sum advanced to a fund is repayable out of that fund.

8. The Minister responsible for Seniors, as manager of the fund, may borrow sums from the Minister of Finance out of the financing fund of the Ministère des Finances.

9. The sums required for the following purposes are taken out of the fund:

(1) the payment of subsidies or contributions by the Minister responsible for Seniors to the Société de gestion pour le soutien aux proches aidants or to any other body for the purposes set out in sections 1 and 2;

(2) the payment of the remuneration and expenses pertaining to the employee benefits and other conditions of employment of the persons assigned, in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1), to the activities related to the fund; and

(3) the payment of any expense necessary for carrying out the functions entrusted to the Minister responsible for Seniors by this Act.

The Government determines how and on what terms payments are to be made to the Société de gestion pour le soutien aux proches aidants or to any other body.

10. The Société de gestion pour le soutien aux proches aidants is a non-profit legal person whose board of directors includes an equal number of women and men, for a total of 10 members, as follows:

(1) three members from among persons proposed as candidates by the Minister responsible for Seniors;

(2) one member from among persons who occupy the position of Assistant Deputy Minister at the Ministère de la Santé et des Services sociaux and who are proposed as candidates by the Minister of Health and Social Services;

(3) four members from among persons proposed as candidates by Sojecci II Ltée; and

(4) two members from among persons proposed jointly as candidates by the Minister responsible for Seniors and Sojecci II Ltée.

The members referred to in subparagraph 4 of the first paragraph may not, in the three years preceding their election, have had a contractual or employment relationship with the Government, Sojecci II Ltée or the recipient of a subsidy or funding granted by the Société.

The chair of the Société's board of directors is a member proposed by the Minister responsible for Seniors from among those referred to in subparagraph 1 of the first paragraph. In the case of a tie vote, the chair has a casting vote, except if the vote concerns the appointment of the Société's chief executive officer.

The Société's chief executive officer is appointed from among the persons proposed jointly by the Minister responsible for Seniors and Sojecci II Ltée.

11. The Société de gestion pour le soutien aux proches aidants is not a government agency or enterprise within the meaning of the Auditor General Act (R.S.Q., chapter V-5.01).

However, the Auditor General has, with respect to the Société, the competence and powers conferred by section 30.2 of the Auditor General Act and, with respect to the auditor of the Société's books and accounts, the competence and powers conferred by section 32 of that Act. The Auditor General also has the powers set out in section 30 of that Act with respect to any recipient of a subsidy or funding granted by the Société and, in all cases, enjoys the immunity attached to the Auditor General's activities under that Act.

12. The Société de gestion pour le soutien aux proches aidants may form a relevance and monitoring committee to advise the Société in assessing the activities, projects and initiatives that may be financed.

If a relevance and monitoring committee is formed, it must be made up of an odd number of members but not more than nine, including two members of the Société's board of directors. The committee members are chosen taking into consideration the expertise and experience profiles determined by the Société's board of directors.

The Société must also establish a code of ethics and professional conduct applicable to the members of the board of directors, the members of the relevance and monitoring committee, if such a committee is formed, and the Société's officers and personnel.

13. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (R.S.Q., chapter A-6.001) apply to the fund, with the necessary modifications.

14. Despite any provision to the contrary, the Minister of Finance must, in the event of a deficiency in the consolidated revenue fund, pay out of the caregiver support fund the sums required for the execution of a judgment against the State that has become *res judicata*.

15. The fiscal year of the fund ends on 31 March.

16. For every fiscal year, the Minister responsible for Seniors tables a report in the National Assembly on the activities of the fund and the activities of the Société de gestion pour le soutien aux proches aidants and any other body to which the Minister pays subsidies or contributions for the purposes set out in sections 1 and 2. The report must include a list of the activities, projects and initiatives financed and highlight any amendments made to the partnership memorandum of agreement between the Minister responsible for Seniors and Sojecci II Ltée. The report is examined by the competent committee of the National Assembly every three years.

Moreover, in the tenth report, the Minister responsible for Seniors must assess all the activities of the fund and express an opinion on the relevance of maintaining or reviewing the fund's financing. The tenth report must also be examined by the committee referred to in the first paragraph.

17. The Minister responsible for Seniors is responsible for the administration of this Act.

18. The provisions of this Act cease to have effect on the date or dates to be set by the Government, which may not be prior to 1 April 2019.

Any sum remaining in the fund on the date section 1 ceases to have effect is paid into the consolidated revenue fund and appropriated, in the manner established by the Government, to the funding of such complementary measures consistent with the purpose of the caregiver support fund as are determined by the Government.

19. This Act comes into force on 27 October 2009.

Regulations and other Acts

Gouvernement du Québec

O.C. 1134-2009, 28 October 2009

Professional Code
(R.S.Q., c. C-26)

Medical technologist — Certain professional activities that may be performed

Regulation respecting certain professional activities that may be performed by a medical technologist

WHEREAS, under paragraph *h* of section 94 of the Professional Code (R.S.Q., c. C-26), amended by section 1 and paragraph 3 of section 62 of chapter 11 of the Statutes of 2008, the board of directors of a professional order may make a regulation to determine, among the professional activities that may be engaged in by members of the order, those that may be engaged in by the persons or categories of persons indicated in the regulation, and the terms and conditions on which such persons may engage in such activities;

WHEREAS the board of directors of the Collège des médecins du Québec made the Regulation respecting certain activities that may be performed by a medical technologist;

WHEREAS, pursuant to section 95 of the Code, amended by sections 1 and 63 of chapter 11 of the Statutes of 2008 and by section 4 of chapter 16 of the Statutes of 2009, and subject to sections 95.0.1 and 95.2 of the Code, the latter section having been amended by sections 1 and 65 of chapter 11 of the Statutes of 2008, every regulation made by the board of directors of a professional order under the Code or an Act constituting a professional order must be transmitted to the Office des professions du Québec for examination and be submitted, with the recommendation of the Office, to the Government which may approve it with or without amendment;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation respecting certain professional activities that may be performed by a medical technologist was published in Part 2 of the *Gazette officielle du Québec* of 3 December 2008 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS, in accordance with section 95 of the Professional Code, the Office has examined the Regulation and made its recommendation;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Justice:

THAT the Regulation respecting certain professional activities that may be performed by a medical technologist, attached to this Order in Council, be approved.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation respecting certain professional activities that may be engaged in by a medical technologist

Professional Code
(R.S.Q., c. C-26, sec. 94, para. *h* and s. 94.1;
2008, c. 11, s. 1 and 62)

1. The purpose of this regulation is to identify amongst professional activities that may be performed by physicians those which, according to defined terms and conditions, may be performed by a medical technologist or other persons in a center operated by an establishment in the meaning of the Act respecting health services and social services (R.S.Q., c. S-4.2) or the Act respecting health services and social services for Cree Native Persons (R.S.Q., c. S-5).

2. In this regulation, “medical technologist” means:

(1) a member of the Ordre professionnel des technologistes médicaux du Québec;

(2) any person whom on 26 November 2009 was performing the professional activities contemplated in sections 3, 4 or 5, with the exception of the employees of Héma-Québec.

3. A medical technologist may, for the purposes of an autopsy and in accordance with a medical prescription, open a body, introduce an instrument and remove organs.

4. A medical technologist may, for purposes of eye tissue transplants or for research, remove eyeballs from a deceased person.

The professional activity contemplated by the preceding paragraph is performed under the responsibility of a medical director and in accordance with National Standard “CAN/CSA-Z900.2.4 Ocular tissues for transplantation” as amended at the time of its application.

5. A medical technologist may, for purposes of tissue transplants or for research, remove tissue from a deceased person.

The professional activity contemplated by the preceding paragraph is performed under the responsibility of a medical director and in accordance with National Standard “CAN/CSA-Z900.2.2 Tissues for Transplantation” as amended at the time of its application.

6. A person contemplated by the third paragraph of section 9 of the Regulation respecting diploma or equivalence training standards for the purpose of the issuing of a permit by the Ordre des technologistes médicaux approved by Order-in-Council number 470-2006 of May 30, 2006 may, in the presence of a medical technologist, perform the activities contemplated by sections 3, 4 and 5 to the extent they are required to complete the training period or training that would enable the person to receive such equivalence.

7. An employee of Héma-Québec holding a training attestation issued by a trainer certified by Héma-Québec may perform the professional activities contemplated by sections 4 and 5.

8. A student registered for a training program leading to a diploma allowing access to the permit issued by the Ordre professionnel des technologistes médicaux du Québec may, in the presence of a medical technologist, perform the professional activities contemplated by sections 3 and 4 to the extent they are required for the purposes of completing such a program.

9. This regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*.

9508

Gouvernement du Québec

O.C. 1138-2009, 28 October 2009

Insurance Act
(R.S.Q., c. A-25)

Reimbursement of certain expenses — Amendments

CONCERNING the Regulation to amend the Regulation respecting the reimbursement of certain expenses

WHEREAS under paragraphs 15 and 16 of section 195 of the Automobile Insurance Act (R.S.Q., c. A-25), the Société de l'assurance automobile du Québec may make regulations to determine the cases and conditions entitling a person to the reimbursement of the expenses referred to in section 83.2 of that Act and to fix the maximum amount thereof;

WHEREAS the Regulation respecting the reimbursement of certain expenses was approved by Order in Council 1925-89 dated 13 December 1989;

WHEREAS it is expedient to increase the rate for a physiotherapy treatment, for an occupational therapy treatment, for the correction of a scar, for the correction of a deformity and for transportation by private automobile;

WHEREAS at the sitting of the board of directors held on 10 December 2008, the Société made the Regulation to amend the Regulation respecting the reimbursement of certain expenses;

WHEREAS under section 197 of that Act, a regulation made by the Société is subject to approval by the Government;

WHEREAS under sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation to amend the Regulation respecting the reimbursement of certain expenses was published in Part 2 of the *Gazette officielle du Québec* of 8 April 2009 with a notice that it could be submitted to the Government for approval upon the expiry of 45 days following that publication;

WHEREAS it is expedient to approve the Regulation without amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Transport:

THAT the Regulation to amend the Regulation respecting the reimbursement of certain expenses, attached to this Order in Council, be approved.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to amend the regulation respecting the reimbursement of certain expenses*

Automobile Insurance Act
(R.S.Q., c. A-25, s. 195, pars. 15 and 16)

1. The Regulation respecting the reimbursement of certain expenses is amended in section 10 by striking out “, physiotherapy or occupational therapy” in the first paragraph.

2. The following is inserted after section 10:

“**10.1.** Expenses incurred for purposes of receiving physiotherapy or occupational therapy treatment qualify for reimbursement up to 15 prescribed treatment sessions.

These expenses qualify for reimbursement up to a maximum amount of \$36 per treatment session.

Expenses incurred for purposes of receiving at home a treatment covered by this section qualify for reimbursement when the victim is in a physical state such that the victim is incapable of travel. Home treatment qualifies for reimbursement up to a maximum amount of \$54 per treatment session.”

3. Section 13 is amended in the first paragraph:

- (1) by replacing “\$258” in subparagraph 1 by “\$280”;
- (2) by replacing “\$387” in subparagraph 2 by “\$415”;
- (3) by replacing “\$580” in subparagraph 3 by “\$625”;
- (4) by replacing “\$774” in subparagraph 4 by “\$835”.

4. Section 13.1. is amended in the first paragraph:

- (1) by replacing “\$860” in subparagraph 1 by “\$925”;
- (2) by replacing “\$430” in subparagraph 2 by “\$465”;
- (3) by replacing “\$860” in subparagraph 3 by “\$925”;
- (4) by replacing “\$430” in subparagraph 4 by “\$465”.

5. Schedule III is amended by replacing “\$0.125” in section 26 by “\$0.145”.

6. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

9509

Gouvernement du Québec

O.C. 1153-2009, 11 November 2009

Supplemental Pension Plans Act
(R.S.Q., c. R-15.1)

An Act to amend the Supplemental Pension Plans Act, particularly with respect to the funding and administration of pension plans
(2006, c. 42)

Supplemental Pension Plans — Measures to reduce the effects of the financial crisis on pension plans covered by the Act

Regulation respecting measures to reduce the effects of the financial crisis on pension plans covered by the Supplemental Pension Plans Act

WHEREAS, under the second paragraph of section 2 of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1), the Government may, by regulation and on the conditions it determines,

— exempt any pension plan or category of pension plan it designates from the application of all or part of the Act, particularly by reason of the special characteristics of the plan or category or by reason of the complexity of the Act in relation to the number of members in the plan;

— prescribe special rules applicable to the plan or category;

* The Regulation respecting the reimbursement of certain expenses, approved by Order in Council 1925-89 dated 13 December 1989 (1989, *G.O.* 2, 4661), was last amended by the regulation approved by Order in Council 879-2002 dated 8 August 2002 (2002, *G.O.* 2, 4401). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2009, updated to 1 March 2009.

WHEREAS, under the third paragraph of section 2 of the Act, amended by section 1 of the Act to amend the Supplemental Pension Plans Act and other legislative provisions in order to reduce the effects of the financial crisis on plans covered by the Act (2009, c. 1), a regulation made under the second paragraph of section 2 of the Supplemental Pension Plans Act may, if it so provides, have retroactive effect from a date that is prior to the date of its coming into force but not prior to 31 December of the year preceding the year in which it was published in the *Gazette officielle du Québec* under section 8 of the Regulations Act (R.S.Q., c. R-18.1);

WHEREAS, under the first paragraph of section 53 of the Act to amend the Supplemental Pension Plans Act, particularly with respect to the funding and administration of pension plans (2006, c. 42), the Government may, by regulation made before 1 July 2010, make any other transitional provision concerning the administration of the Supplemental Pension Plans Act as amended by that Act or the administration of the Act respecting the funding of certain pension plans (2005, c. 25);

WHEREAS, under the second paragraph of section 53 of the Act to amend the Supplemental Pension Plans Act, particularly with respect to the funding and administration of pension plans provides that a regulation made under the first paragraph of that section may, once it is published in the *Gazette officielle du Québec* and if it so provides, apply from any date not prior to 13 December 2006;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act, a draft of the Regulation attached to this Order in Council was published in Part 2 of the *Gazette officielle du Québec* of 6 May 2009 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation with amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Employment and Social Solidarity:

THAT the Regulation respecting measures to reduce the effects of the financial crisis on pension plans covered by the Supplemental Pension Plans Act, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation respecting measures to reduce the effects of the financial crisis on pensions plans covered by the Supplemental Pension Plans Act

Supplemental Pension Plans Act
(R.S.Q., c. R-15.1, s. 2, 2nd and 3rd pars.; 2009, c. 1, s. 1)

An Act to amend the Supplemental Pension Plans Act, particularly with respect to the funding and administration of pension plans
(2006, c. 42, s. 53)

DIVISION 1 **SCOPE**

1. This Regulation applies to every pension plan to which Chapter X of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1) applies.

Except for Division 2 and sections 35 and 36, the provisions of this Regulation apply only to a pension plan for which instructions were given under section 2.

DIVISION 2 **FUNDING RELIEF MEASURES**

2. An employer that is a party to a pension plan or, in the case of a multi-employer pension plan, even not considered as such under section 11 of the Act, the person or body empowered to amend the plan, may, in writing, instruct the pension committee that administers the plan to take one or more of the following measures for the purposes of the first complete actuarial valuation of the plan dated after 30 December 2008:

(1) the application of an asset valuation method that, in accordance with the conditions in sections 15 and 16, levels the short-term fluctuations in the market value of the assets of the plan for the purposes of determining the value of those assets on a solvency basis;

(2) the elimination of amortization payments related to any technical actuarial deficiency determined on the date of that valuation or a previous valuation and related to an amendment made before 31 December 2008 and of amortization payments related to any technical actuarial deficiency determined on the date of a previous actuarial valuation of the plan;

(3) the extension, in accordance with the rules in section 20, of the period provided in the Act to amortize the technical actuarial deficiencies determined by taking into account the funding relief measures.

3. The report on the first complete actuarial valuation of a pension plan whose date is after 30 December 2008 must, upon being sent to the Régie, be accompanied by a writing whereby the person or body empowered to give instructions under section 2 or under section 6 of the Act to amend the Supplemental Pension Plans Act and other legislative provisions in order to reduce the effects of the financial crisis on plans covered by the Act (2009, c. 1) certifies that the report complies with the instructions given to the pension committee, or that no instructions were given.

DIVISION 3

APPLICABLE LEGISLATIVE PROVISIONS

4. If the date of the actuarial valuation referred to in section 2 is prior to 1 January 2010, the following rules apply, as of the valuation date, to a pension plan for which instructions are given under that section:

(1) the plan is exempt from the application of subparagraph 4 of the second paragraph of section 24, sections 39, 39.1, 41, 42, 101, 116 to 146 and 172 and paragraph 1 of section 258 of the Act;

(2) the provisions of the Act below apply to the plan subject to the following amendments:

(a) in the second paragraph of section 195, “subdivision 1 of Division II of Chapter X” is replaced by “sections 134 to 139”;

(b) in the fifth paragraph of section 288.1.1, “31 December 2009” is replaced by “the date of the first complete actuarial valuation of the plan dated after 30 December 2008”;

(3) the following provisions of the Act, as amended or enacted by chapter 42 of the Statutes of 2006, and with any amendments made by this Regulation, apply to the plan, subject to the amendments made to the Act by chapter 21 of the Statutes of 2008: sections 39, 39.1, 41, 42, 42.1, 101, 116 to 146 and 172, paragraph 1 of section 258 and section 306.7.1;

(4) section 288.3 of the Act, enacted by section 24 of chapter 21 of the Statutes of 2008, applies to the plan by replacing “1 January 2010” by “the date of the first complete actuarial valuation of the plan dated after 30 December 2008”;

(5) section 305.2 of the Act, enacted by section 26 of chapter 21 of the Statutes of 2008, applies to the plan by replacing “must be later than 14 December 2009” by “may not be prior to the date of the first complete actuarial valuation after 30 December 2008, in the case of an amendment that is made or takes effect on or after that date”;

(6) sections 15.0.0.1 to 15.0.0.10 and 60.1 to 60.5 of the Regulation respecting supplemental pension plans approved by Order in Council 1158-90 dated 8 August 1990 (1990, *G.O.* 2, 2318), made by Order in Council 1073-2009 dated 7 October 2009.

DIVISION 4

BASIC ACTUARIAL VALUATION

§1. General rules

5. An actuarial valuation of a pension plan must establish the amount referred to in the third paragraph of section 230.0.0.9 of the Act, enacted by section 2 of chapter 1 of the Statutes of 2009, and any actuarial deficiency that may be determined without reference to the funding relief measures.

6. The value of the plan’s assets, determined on a funding basis, may not be greater than the value that would be determined using the asset valuation method used in the last complete actuarial valuation prior to the valuation referred to in section 2.

§2. Amount referred to in the third paragraph of section 230.0.0.9 of the Act

7. On the date of the actuarial valuation referred to in section 2, the amount referred to in the third paragraph of section 230.0.0.9 of the Act is equal to zero.

On the date of any subsequent actuarial valuation, the amount is equal to “S” in the following formula:

$$A + B - C = S$$

“A” represents the amount in question established at the date of the last actuarial valuation;

“B” represents the amortization payment determined, at the date of the last actuarial valuation, for the financial crisis deficiency;

“C” represents the amount by which the total of the employer contribution paid since the last actuarial valuation and the amount of any letter of credit provided since that date pursuant to section 42.1 of the Act referred to in paragraph 3 of section 4 exceeds the employer contribution that would have been determined on the date of the last actuarial valuation, in accordance with subparagraph 2 of the second paragraph of section 39 of the Act referred to in paragraph 3 of section 4, if the amount of the amortization payments determined in relation to the solvency actuarial deficits had been equal to the amount determined on the same date in accordance with paragraph 1 of section 21.

Those amounts and contributions bear interest at the rate of return of the pension fund. Should the date of the last actuarial valuation or the date of the actuarial valuation concerned not correspond to the date of the end of a fiscal year of the plan, only the monthly payments related to amortization payments, current service contributions and the special amortization payments that became due during the period starting the day following the last actuarial valuation and ending on the date of the actuarial valuation concerned are taken into account.

8. If paragraph 1 of section 32 applies, the amount referred to in the third paragraph of section 230.0.0.9 of the Act is equal to zero.

§3. *Rules specific to the actuarial valuation referred to in section 2*

9. The amortization amounts, among the following, that remain to be paid at the date of the valuation are considered to be amortization payments relating to a technical actuarial deficiency referred to in paragraph 1 of section 130 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006:

(1) the amortization amounts referred to in subparagraphs 2 and 3 of the second paragraph of section 137 of the Act as they read prior to 1 January 2010, excluding those relating to an improvement unfunded actuarial liability, that were taken into account at the date of the last complete actuarial valuation of the plan dated prior to 31 December 2008;

(2) the amortization amounts determined at the date of the valuation referred to in subparagraph 1 for the purposes of section 140 of the Act in its version prior to 1 January 2010.

The amortization amounts, among the following, that remain to be paid at the date of the valuation are considered to be amortization payments relating to an improvement unfunded actuarial liability within the meaning of paragraph 2 of section 130 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006:

(1) the amortization amounts referred to in subparagraphs 1 and 2 of the second paragraph of section 137 of the Act as they read prior to 1 January 2010, excluding those relating to a technical actuarial deficiency, that were taken into account at the date of the last complete actuarial valuation of the plan dated prior to 31 December 2008;

(2) the amortization amounts related to an unfunded liability referred to in the third paragraph of section 130 of the Act as they read prior to 1 January 2010, and determined, if applicable, at the date of an actuarial

valuation of the plan carried out in accordance with that section at a date subsequent to the date of the valuation referred to in subparagraph 1, must be paid within 5 years following the date on which the liability is determined; the amounts referred to in this subparagraph need not be taken into account if an actuary certifies in the report on the valuation referred to in section 2 that none of those amounts were required to ensure the solvency or partial solvency of the plan at the date they were determined.

10. The actuarial valuation must determine an amount, called “financial crisis amount”, equal to the result of the following formula, which may not be negative:

D – E

“D” represents the market value of the assets of the pension plan on 31 December 2007, adjusted to 31 December 2008 taking into account receipts and expenditures of the pension plan fund and using the interest rate that applied on 31 December 2007 to establish, on a solvency basis, the value of the benefits of members in the plan to whom no pension was paid on that date;

“E” represents the market value of the assets of the plan on 31 December 2008.

The market value of the assets of the plan referred to in elements “D” and “E” of the first paragraph is reduced by the value of the pension guaranteed, the value of the voluntary contributions and the optional ancillary contributions paid to the pension fund and the value of the contributions paid under provisions which, in a defined benefit plan, are identical to those of a defined contribution plan.

Where applicable, the financial crisis amount bears interest, between 31 December 2008 and the valuation date, at the rate used to calculate element “D”.

11. If the technical actuarial deficiency referred to in paragraph 1 of section 130 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006, is determined and less than or equal to the financial crisis amount, that deficiency is then called “financial crisis deficiency”.

If the technical actuarial deficiency referred to in paragraph 1 of section 130 is determined and greater than the financial crisis amount, that deficiency is apportioned into two technical actuarial deficiencies:

(1) a first deficiency, called “financial crisis deficiency”, equal to the financial crisis amount;

(2) a second deficiency equal to the difference between the technical actuarial deficiency referred to in paragraph 1 of section 130 and that amount.

§4. Rules specific to subsequent actuarial valuations

12. For the purposes of the second paragraph of section 128 and paragraph 1 of section 130 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006, the assets of the plan must also be increased by the amount referred to in the third paragraph of section 230.0.0.9 of the Act and, where applicable, by the value of the remaining amortization payments related to the financial crisis deficiency.

13. Despite the first paragraph of section 128 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006, the actuarial gains determined in accordance with the second paragraph of that section, account being taken of section 12 of this Regulation, must be used to reduce the amortization payments related to the financial crisis deficiency.

Any reduction in the amortization payments related to that deficiency must be applied proportionately.

DIVISION 5

ACTUARIAL VALUATION TAKING INTO ACCOUNT FUNDING RELIEF MEASURES

14. An actuarial valuation of a pension plan must determine, in addition to what is provided for in section 5, any technical actuarial deficiency that may be determined by taking into account funding relief measures.

No improvement unfunded actuarial liability is determined in the carrying out of the actuarial valuation referred to in this Division.

15. If instructions were given to the pension committee to apply the measure provided for in paragraph 1 of section 2, the asset valuation method indicated in the instructions must include the taking into account of the short-term fluctuations in the market value of the assets during the period determined in accordance with section 16.

Despite the first paragraph of section 123 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006, the assets of the pension plan must be established in accordance with the asset valuation method indicated in the instructions, for the purposes of the actuarial valuation referred to in section 2 and subsequent actuarial valuations.

16. The period used to level short-term fluctuations in the market value of the assets using the method referred to in paragraph 1 of section 2 is the period fixed in the instructions provided for in that section, subject to a 5-year maximum period.

17. For the purposes of the second paragraph of section 128 and paragraph 1 of section 130 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006, the following amortization payments are to be taken into account:

(1) if instructions were given to the pension committee to apply the measure provided for in paragraph 2 of section 2, amortization payments related to any actuarial deficiency concerning an amendment made after 30 December 2008 and determined before the date of valuation, and those related to technical actuarial deficiencies determined by taking into account the funding relief measures;

(2) if not, amortization payments related to any improvement unfunded actuarial liability, those related to technical actuarial deficiencies resulting from deficiencies determined before the date of the actuarial valuation referred to in section 2, and those related to technical actuarial deficiencies determined by taking into account the funding relief measures.

18. Despite section 128 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006, amortization payments remaining to be paid in respect of a technical actuarial deficiency determined by taking into account the funding relief measures and determined on the date of the actuarial valuation referred to in section 2 may be reduced by the actuarial gains determined in accordance with the second paragraph of that section 128, taking into account section 17 of this Regulation.

If the pension committee was given instructions to apply the measure provided for in paragraph 1 of section 2, the allocation of actuarial gains authorized by the first paragraph applies in respect of any technical actuarial deficiency determined by taking into account the funding relief measures and determined on the date of the actuarial valuation referred to in section 2 or on a later date. The reduction of amortization payments is applied beginning with the earliest deficiency and ending with the most recent.

Any reduction in amortization payments related to a deficiency must be applied proportionately.

19. Despite paragraph 1 of section 130 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006, if the pension committee was given instructions to apply the measure provided for in paragraph 2 of section 2, the value of the additional obligations arising from an amendment to the pension plan made before 31 December 2008 and considered for the first time on the date of the actuarial valuation referred to in section 2 must be included in the liabilities of the plan.

20. Despite section 142 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006, if the pension committee was given instructions to apply the measure provided for in paragraph 3 of section 2, the amortization period for a technical actuarial deficiency established by taking into account the funding relief measures expires at the latest at the end of the first fiscal year of the pension plan starting after 31 December 2017.

DIVISION 6 **AMORTIZATION PAYMENTS**

21. For the purposes of subparagraph *b* of subparagraph 2 of the first paragraph of section 39 of the Act mentioned in paragraph 3 of section 4, the amount of the amortization payments determined in relation to solvency deficiencies is equal to the greatest of the following amounts:

(1) the total of the amortization payments related to solvency deficiencies resulting from deficiencies determined before the date of the actuarial valuation referred to in section 2 and amortization payments related to solvency deficiencies determined under section 4, excluding amortization payments related to the financial crisis deficiency;

(2) the total of the amortization payments related to technical actuarial deficiencies determined by taking into account the funding relief measures, increased,

(a) if instructions were given to the pension committee to apply the measure provided for in paragraph 2 of section 2, by the amortization payments related to improvement unfunded actuarial liabilities concerning amendments made after 30 December 2008;

(b) if not, by the amortization payments related to improvement unfunded actuarial liabilities determined under section 4 and by amortization payments related to solvency deficiencies resulting from deficiencies determined before the date of the actuarial valuation referred to in section 2.

22. Amortization payments concerning the financial crisis deficiency are not required to be paid into the pension fund.

DIVISION 7 **WITHDRAWAL OF AN EMPLOYER THAT IS A PARTY TO A MULTI-EMPLOYER PENSION PLAN OR TERMINATION OF A PENSION PLAN**

23. The amount referred to in the third paragraph of section 230.0.0.9 of the Act must be established when an employer that is a party to a multi-employer pension plan withdraws. It must also be established on the termination of a pension plan, except if the termination report provided for in section 207.2 of the Act shows that the employer has paid any amount owed by the employer under section 228 of the Act.

24. On the date on which the valuation of the benefits of members or beneficiaries affected by the withdrawal of an employer that is a party to a multi-employer pension plan is made, the amount referred to in the third paragraph of section 230.0.0.9 of the Act is equal, at the time the assets of the plan are apportioned, to element S^R in the following formula:

$$A + B - C = S^R$$

“A” represents the amount in question established on the date of the last actuarial valuation;

“B” represents the amortization payment determined, on the date of the last actuarial valuation, for the financial crisis deficit;

“C” represents the amount by which the employer contribution paid since the date of the last actuarial valuation exceeds the employer contribution that would have been determined on that date, in accordance with subparagraph 2 of the second paragraph of section 39 of the Act referred to in paragraph 3 of section 4, if the amount of the amortization payments determined in relation to the solvency actuarial deficits had been equal to the amount determined on the same date in accordance with paragraph 1 of section 21.

On the date of the valuation of the benefits of members and beneficiaries mentioned in the first paragraph, the amount referred to in the third paragraph of section 230.0.0.9 of the Act corresponds, after the assets of the plan have been distributed, to element “S” in the following formula:

$$S^R - (X - Y) = S$$

“S^R” represents element “S” determined pursuant to the first paragraph;

“X” represents the value of the portion of the plan’s assets that would be allocated to the group of benefits of those members and beneficiaries at the time of the distribution provided for in section 222 of the Act, were the assets of the plan, for the distribution, increased by element “S^R” determined pursuant to the first paragraph;

“Y” represents the value of the portion of the assets allocated to that group at the time of the distribution.

Those amounts and contributions bear interest at the rate of return of the pension fund. Should the date of the last actuarial valuation or the date of the valuation of the benefits of the members and beneficiaries not correspond to the date of the end of a fiscal year of the plan, only the monthly payments related to amortization payments, current service contributions and the special amortization payments that became due during the period starting the day following the last actuarial valuation and ending on the date of the valuation of benefits are taken into account.

25. For the purposes of sections 7, 24 and 26, the valuation of the benefits of the members and beneficiaries affected by the withdrawal of an employer that is a party to a multi-employer pension plan is, on the earlier of the following dates, considered to be an actuarial valuation:

(1) the date of the first subsequent actuarial valuation of the plan;

(2) the date of the valuation of the benefits of the members and beneficiaries affected by another amendment of the plan for the purpose of the withdrawal of an employer;

(3) the date of termination of the plan.

For the purposes of the same sections, an amount paid by the employer toward the employer’s debt established under section 228 does not constitute an employer contribution paid.

26. To calculate the amount referred to in the third paragraph of section 230.0.0.9 of the Act in case of termination of the pension plan, section 7 must read by replacing

(1) in the part of the second paragraph preceding the formula, “any subsequent actuarial valuation” by “the plan’s termination”;

(2) the last sentence of the third paragraph by the following: “Where the date of the last actuarial valuation or the date of termination of the plan does not correspond to the date of the end of a fiscal year of the plan, only the monthly payments related to amortization payments, current service contributions and the special amortization payments that became due during the period starting the day following the last actuarial valuation and ending on the date of termination are taken into account.”.

27. If subdivision 4.0.1 of Division II of Chapter XIII of the Act enacted by section 2 of chapter 1 of the Statutes of 2009, applies to a pension plan after the date fixed pursuant to section 32 for that plan, the amount referred to in the third paragraph of section 230.0.0.9 of the Act bears interest between that date and the date of the employer’s withdrawal or plan’s termination at the rate of return of the pension fund.

DIVISION 8 REPORTS

28. Even if the date of the actuarial valuation of a pension plan is prior to 1 January 2010, the report on that actuarial valuation must be established in accordance with the provisions of sections 4 to 5.4 of the Regulation respecting supplemental pension plans, made by Order in Council 1073-2009 dated 7 October 2009, except the provisions of paragraph 1 of section 4.5 of the Regulation.

29. The report referred to in section 28 must also contain

(1) for each solvency deficiency determined without regard to the funding relief measures:

(a) the type of deficiency, specifying, in the case of a technical actuarial deficiency, whether it is the financial crisis deficiency;

(b) the date on which the deficiency was determined and the date on which the amortization period is scheduled to end;

(c) the monthly payments related to amortization payments to be made until the end of that period and their present value;

(2) for each technical actuarial deficiency determined with regard to the funding relief measures:

(a) the date on which the deficiency was determined and the date on which the amortization period is scheduled to end;

(b) the monthly payments related to amortization payments to be made until the end of that period and their present value;

(3) the amount referred to in the third paragraph of section 230.0.0.9 of the Act;

(4) the total of the amortization payments provided for in paragraph 1 of section 21 and the total of the amortization payments provided for in paragraph 2 of that section;

(5) if instructions were given to the pension committee to apply the measure provided for in paragraph 1 of section 2, a description of the asset valuation method used.

30. The report provided for in the second paragraph of section 202 of the Act must indicate the amount of element “S^R” and the amount of element “S” determined under the first and second paragraphs of section 24.

31. The termination report provided for in section 207.2 of the Act must indicate the amount referred to in the third paragraph of section 230.0.0.9 of the Act, as established under section 26, if applicable.

DIVISION 9 END OF THE APPLICATION OF THE PROVISIONS OF THIS REGULATION REGARDING A PENSION PLAN

32. Subject to sections 24, 26 and 27, the provisions of this Regulation cease to apply in respect of a pension plan on the earlier of the following dates:

(1) the date of the first actuarial valuation showing that the plan is solvent;

(2) the date fixed in a writing giving instructions to that effect and sent to the pension committee by the employer that is a party to a pension plan or, in the case of a multi-employer pension plan, even not considered as such under section 11 of the Act, by the person or body empowered to amend the plan. That date must fall on the date on which a fiscal year of the plan ends; or

(3) the date of the end of the plan’s first fiscal year beginning after 31 December 2010.

33. On the date fixed pursuant to section 32, technical actuarial deficiencies, including the financial crisis deficiency, and improvement unfunded actuarial liabilities concerning amendments made before 31 December 2008, as well as amortization payments for those deficiencies and liabilities, are eliminated.

DIVISION 10 FINAL

34. Section 49 of the Act to amend the Supplemental Pension Plans Act, particularly with respect to the funding and administration of pension plans (2006, c. 42) does not apply to a pension plan for which instructions were given under section 2.

35. Despite subparagraph 1 of the second paragraph of section 119 of the Act, subparagraph 1 of the first paragraph of section 119 of the Act referred to in paragraph 3 of section 4 or the second paragraph of section 119, as the case may be, a pension committee has until 31 December 2009 to send the Régie des rentes du Québec the report on an actuarial valuation of a pension plan whose date is after 30 December 2008 and prior to 31 March 2009.

36. The fourth paragraph of section 14 of the Regulation respecting Supplemental Pension Plans, made by Order in Council 1073-2009 dated 7 October 2009, does not apply to the report on an actuarial valuation whose date is prior to 15 December 2009.

37. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec* but has effect from 31 December 2008.

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Abbreviations : **A**: Abrogated, **N**: New, **M**: Modified

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