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Laws and Regulations

Volume 141

Summary

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Contents

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- (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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Regulations and other Acts

Gouvernement du Québec

O.C. 1347-2009, 21 December 2009

Environment Quality Act
(R.S.Q., c. Q-2)

Halocarbons — Amendment

Regulation to amend the Regulation respecting halocarbons

WHEREAS, under paragraphs *a* to *e*, *i*, *j* and *l* of section 31, paragraphs 3 and 4 of section 53.28, subparagraphs 1 to 3 and subparagraph *c* of subparagraph 6 of the first paragraph of section 53.30, subparagraphs 2, 3 and 14 to 19 of the first paragraph and the second paragraph of section 70.19, sections 109.1 and 124.1 of the Environment Quality Act (R.S.Q., c. Q-2), the Government may make regulations on the matters set forth therein;

WHEREAS the Government made the Regulation respecting halocarbons by Order in Council 1091-2004 dated 23 November 2004;

WHEREAS the third paragraph of section 39 of the Regulation provides that, as of 1 January 2010, no person may manufacture, sell or distribute plastic foam or a product containing plastic foam that contains, or requires for its manufacturing, HCFC-141b, HCFC-142b or HCFC-22;

WHEREAS the Ozone-Depleting Substances Regulations (1998) (SOR/99-7) of the federal government do not prohibit, as of 1 January 2010, the sale or distribution of such foam or products manufactured prior to that date;

WHEREAS it is expedient to set a period of no more than six months to allow the sale of the foam or products manufactured prior to 1 January 2010;

WHEREAS, under sections 12 and 18 of the Regulations Act (R.S.Q., c. R.18.1), a proposed regulation may be made without having been published as provided for in section 8 of that Act, and may come into force on the date of its publication in the *Gazette officielle du Québec* where the authority that has made it is of the opinion that the urgency of the situation requires it;

WHEREAS, under sections 13 and 18 of that Act, the reason justifying the absence of prior publication and such coming into force must be published with the regulation;

WHEREAS the Government is of the opinion that the urgency due to the following circumstances justifies the absence of prior publication and such coming into force:

— the need to make the amendment before 1 January 2010 so that plastic foam or products containing plastic foam that contain, or require for their manufacturing, HCFC-141b, HCFC-142b or HCFC-22, manufactured prior to that date, may continue to be sold or distributed in Québec until 30 June 2010;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, Environment and Parks:

THAT the Regulation to amend the Regulation respecting halocarbons, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting halocarbons*

Environment Quality Act
(R.S.Q., c. Q-2, s. 70.19, 1st par., subpars. 2, 3, 16, 18 and 2nd par.)

1. The Regulation respecting halocarbons is amended in section 39 by adding the following sentence at the end of the third paragraph:

“However, the prohibition on the sale or distribution of such foam or products manufactured prior to 1 January 2010 only applies as of 1 July 2010.”.

2. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

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* The Regulation respecting halocarbons, made by Order in Council 1091-2004 dated 23 November 2004 (2004, *G.O.* 2, 3275), was amended once, by the regulation made by Order in Council 384-2007 dated 30 May 2007 (2007, *G.O.* 2, 1445A).

Gouvernement du Québec

O.C. 1359-2009, 21 December 2009

An Act respecting financial assistance
for education expenses
(R.S.Q., c. A-13.3)

Financial assistance for education expenses — Amendment

Regulation to amend the Regulation respecting financial assistance for education expenses

WHEREAS, under section 57 of the Act respecting financial assistance for education expenses (R.S.Q., c. A-13.3), the Government may make regulations for the purposes of the carrying out of the Act;

WHEREAS the Government made the Regulation respecting financial assistance for education expenses by Order in Council 344-2004 dated 7 April 2004;

WHEREAS it is expedient to amend the Regulation respecting financial assistance for education expenses;

WHEREAS, under section 23.7 of the Act respecting the Conseil supérieur de l'éducation (R.S.Q., c. C-60), every draft regulation respecting the financial assistance programs established by the Act respecting financial assistance for education expenses must be submitted to the advisory committee on the financial accessibility of education for its advice;

WHEREAS a draft of the Regulation attached to this Order in Council was submitted to the advisory committee on the financial accessibility of education and the committee has issued its advice;

WHEREAS, under section 12 of the Regulations Act (R.S.Q., c. R-18.1), a proposed regulation may be made without having been published as provided for in section 8 of that Act if the authority making it is of the opinion that the urgency of the situation requires it;

WHEREAS, under section 18 of that Act, a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* where the authority that has made it is of the opinion that the urgency of the situation requires it;

WHEREAS, under sections 13 and 18 of that Act, the reasons justifying the absence of prior publication and such coming into force must be published with the regulation;

WHEREAS the Government is of the opinion that the urgency due to the following circumstances justifies the absence of prior publication and such coming into force:

Further to a judgment rendered recently by the Québec Court of Appeal, the amendments made to the Regulation respecting financial assistance for education expenses by the regulation attached to this Order in Council were required to clarify the Government's intention;

IT IS ORDERED, therefore, on the recommendation of the Minister of Education, Recreation and Sports:

THAT the Regulation to amend the Regulation respecting financial assistance for education expenses, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting financial assistance for education expenses*

An Act respecting financial assistance
for education expenses
(R.S.Q., c. A-13.3, s. 57)

1. The Regulation respecting financial assistance for education expenses is amended in Schedule II

(1) by replacing paragraph 6 by the following:

“(6) amounts received as support, paid for the student or the student's child, in excess of \$1,200 per year of allocation, as well as other monetary benefits or benefits to which a monetary value may be assigned, except compensatory allowances, received as a result of a de facto separation agreement, a judgment granting separation as to bed and board or a divorce judgment;”;

(2) by striking out paragraph 9.

2. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

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* The Regulation respecting financial assistance for education expenses, made by Order in Council 344-2004 dated 7 April 2004 (2004, *G.O.* 2, 1211), was last amended by the regulation made by Order in Council 811-2008 dated 27 August 2008 (2008, *G.O.* 2, 4447A), the regulation made by Order in Council 386-2009 dated 1 April 2009 (2009, *G.O.* 2, 1585) and the regulation made by Order in Council 1175-2009 dated 11 November 2009 (2009, *G.O.* 2, 3707). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2009, updated to 1 March 2009.

Draft Regulations

Draft Regulation

Transport Act
(R.S.Q., c. T-12)

Brokerage of bulk trucking services — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulation Act (R.S.Q., c. R-18.1), the the Regulation to amend the Regulation respecting the brokerage of bulk trucking services, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The purpose of the draft Regulation is to allow brokerage permits for bulk trucking services expiring on 31 March 2010 to be renewed automatically for a one-year period ending on 31 March 2011.

To date, study of the draft Regulation has shown no financial impact on the public and on enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Yanick Blouin, Ministère des Transports, 700, boulevard René-Lévesque Est, 2^e étage, Québec (Québec) G1R 5H1; telephone: 418 644-4719, extension 2345; fax: 418 644-5178.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to the Minister of Transport, 700, boulevard René-Lévesque Est, 29^e étage, Québec (Québec) G1R 5H1.

JULIE BOULET,
Minister of Transport

Regulation to amend the Regulation respecting the brokerage of bulk trucking services*

Transport Act
(R.S.Q., c. T-12, s. 5, par. f)

1. The Regulation respecting the brokerage of bulk trucking services is amended by replacing section 37.1 by the following:

“**37.1.** Every brokerage permit expiring on 31 March 2010 is automatically renewed for a one-year period ending on 31 March 2011.”.

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

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Draft Regulation

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)

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the draft Regulation respecting the funding of pension plans of the municipal and university sectors, appearing below, may be made by the Government on the expiry of 45 days following this publication.

* The Regulation respecting the brokerage of bulk trucking services, made by Order in Council 1483-99 dated 17 December 1999 (1999, *G.O.* 2, 5079), was last amended by the regulation made by Order in Council 219-2009 dated 12 March 2009 (2009, *G.O.* 2, 525A). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2009, updated to 1 March 2009.

The draft Regulation harmonizes, as of 31 December 2008, the special funding rules that apply to pension plans of the municipal and university sectors and to the Régime de retraite du personnel des CPE et des garderies privées conventionnées du Québec, to new measures to strengthen the funding of defined contribution pension plans of the private sector. These measures were enacted by the Act to amend the Supplemental Pension Plans Act, particularly with respect to the funding and administration of pension plans (2006, c. 42).

Further information may be obtained by contacting Pierre Bégin, Régie des rentes du Québec, Place de la Cité, 2600, boulevard Laurier, Québec (Québec) G1V 4T3; telephone: 418 657-8714, extension 3914; fax: 418 659-8985; e-mail: pierre.begin@rrq.gouv.qc.ca

Any person wishing to comment on the draft Regulation is asked to submit written comments within the 45-day period to André Trudeau, President and General Manager, Régie des rentes du Québec, Place de la Cité, 2600, boulevard Laurier, 5^e étage Québec (Québec) G1V 4T3. The comments will be sent by the Régie to the Minister of Employment and Social Solidarity, responsible for the administration of the Supplemental Pension Plans Act.

SAM HAMAD,
Minister of Employment and Social Solidarity

Regulation respecting the funding of pension plans of the municipal and university sectors

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 APPLICATION

1. This Regulation applies to the pension plans to which Chapter X of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1) and for which the employer is a municipality, a body referred to in section 18 of the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., c. R-9.3), a municipal housing bureau within the meaning of the Act respecting the Société d'habitation du Québec (R.S.Q., c. S-8), or an educational institution

at the university level referred to in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (R.S.Q., c. E-14.1).

In the case of a multi-employer pension plan, even where it is not considered as such under section 11 of the Act, this Regulation applies only to the extent that, on 31 December 2008 or on the date of coming into force of the plan, if it is after 31 December 2008, and at the end of each fiscal year of the plan thereafter, at least 90% of the active members of the plan are employed by the employers referred to in the first paragraph.

DIVISION 2 APPLICABLE LEGISLATIVE PROVISIONS

2. The following rules apply to a pension plan as of 31 December 2008:

(1) the plan is not subject to the application of paragraph 4 of section 24, sections 39, 39.1, 41, 42, 101, 116 to 146.3 and 172 and paragraph 1 of section 258 of the Act in their version prior to 1 January 2010;

(2) before 1 January 2010, the second paragraph of section 195 of the Act applies to the plan by replacing “in subdivision 1 of Division II of Chapter X” by “in sections 134 to 139”;

(3) even before 1 January 2010, the following provisions of the Act as amended or enacted by chapter 42 of the Statutes of 2006, subject to the amendments made to that Act by chapter 21 of the Statutes of 2008, apply to the plan taking into account the amendments made by this Regulation: sections 39, 39.1, 41, 42, 101, 116 to 127, 129, 134 to 146.1, 146.3.4 and 146.3.6 and paragraph 1 of section 258; and

(4) even before 1 January 2010, sections 4 to 5.4 and 60.1 to 60.5 of the Regulation respecting supplemental pension plans approved by Order in Council 1158-90 dated 8 August 1990, as enacted by Order in Council 1073-2009 dated 7 October 2009, apply to the plan taking into account the amendments made by this Regulation.

3. The pension plans referred to in this Regulation are not subject to the application of sections 42.1, 128, 130 to 133 and 305.2 of the Act, as enacted or amended by chapter 42 of the Statutes of 2006 or chapter 21 of the Statutes of 2008.

DIVISION 3
SPECIAL RULES FOR THE FIRST COMPLETE
ACTUARIAL VALUATION AFTER 30 DECEMBER
2008

4. The amortization amounts remaining to be paid on the valuation date and that relate to the technical actuarial deficiency determined pursuant to paragraph 3 of section 126 of the Act in its version prior to 1 January 2010 are considered to be amortization payments related to a technical actuarial deficiency within the meaning of paragraph 1 of section 135 of the Act as replaced by section 20 of this Regulation.

The amortization amounts remaining to be paid on the valuation date in relation to the initial liability and to an improvement unfunded actuarial liability determined pursuant to paragraphs 1 and 2 of section 126 of the Act in their version prior to 1 January 2010 are considered to be amortization payments related to an improvement unfunded actuarial liability within the meaning of paragraph 2 of section 135 of the Act as replaced by section 20 of this Regulation.

DIVISION 4
EMPLOYER CONTRIBUTION

5. Section 39 of the Act mentioned in paragraph 3 of section 2 applies by replacing subparagraph *b* of subparagraph 2 of the first paragraph by the following:

“(b) the total of the amortization payments determined in relation to the funding deficiencies and the special amortization payments payable during the fiscal year.”

6. At the beginning of each fiscal year of a pension plan, an employer is relieved from paying a portion of the employer contribution equal to the lesser of the reserve at that time and 50% of the amortization payment determined for that fiscal year in relation to the technical actuarial deficiency. The amount of the portion of which the employer is relieved is then transferred from the reserve to the general account and that portion is divided equally between each monthly payment relating to the deficiency for the fiscal year.

Where the employer contribution is not determined at the beginning of the fiscal year and the amortization payment, determined in relation to a technical actuarial deficiency in the report sent to the Régie des rentes du Québec during the fiscal year, is greater than the amortization payment determined previously, an amount must be transferred from the reserve to the general account.

That amount corresponds to the difference between the monthly payments that should have been paid with respect to the deficiency according to the report and the monthly payments that were to be paid, taking into account the interest referred to in section 48 of the Act. The transfer is made on the date of the first monthly payment due after the report is sent to the Régie.

Where the amortization payment determined in the report for the fiscal year in relation to the technical actuarial deficiency is lower than the amortization payment determined previously, an amount must be transferred from the general account to the reserve. That amount corresponds to the difference between the monthly payments that were to be paid with respect to the deficiency and the monthly payments that should have been paid according to the report, taking into account the interest referred to in section 48 of the Act. The transfer is made on the date indicated in the second paragraph.

DIVISION 5
FUNDING RULES

§1. General

7. The following section replaces section 118 of the Act mentioned in paragraph 3 of section 2:

“**118.** Every pension plan is the subject of an actuarial valuation

(1) at the date on which it becomes effective;

(2) not later than the date of the end of the last fiscal year of the plan occurring within 3 years after the date of the last complete actuarial valuation of the plan;

(3) in case of an amendment having an impact on the funding of the plan, at the date determined in accordance with section 121;

(4) at the date of the end of the fiscal year of the plan that immediately precedes the fiscal year during which the surplus assets is appropriated to the payment of employer contributions in accordance with section 146.3.4; and

(5) whenever so required by the Régie, at the date fixed by the Régie.

The actuarial valuations carried out under the first paragraph must be complete actuarial valuations, although the valuations provided for in subparagraph 3

or 4 may be partial actuarial valuations if the date of the valuations corresponds to the date of the end of a fiscal year of the plan and no complete actuarial valuation is required by this Act or the Régie at that date.”.

8. The first paragraph of section 119 of the Act mentioned in paragraph 3 of section 2 is replaced by the following:

“**119.** The pension committee must send a report to the Régie on every actuarial valuation referred to in section 118

(1) within 9 months after the date of the actuarial valuation if the report relates to an actuarial valuation required under subparagraph 2 or 4 of the first paragraph of that section; or

(2) within the time fixed by the Régie, which is at least 60 days, if the report relates to an actuarial valuation required under subparagraph 5 of the first paragraph of that section.”.

9. The following section replaces section 121 of the Act mentioned in paragraph 3 of section 2:

“**121.** Any amendment to a pension plan having an impact on the funding of the plan must be considered for the first time not later than the latest of the following dates:

(1) the date of the last end of fiscal year of the plan, the date of which is not later than the date the amendment is made; or

(2) the date of the last end of fiscal year of the plan, the date of which is not later than the date the amendment becomes effective.

However, where the date of the last complete valuation of the plan occurs after the date determined pursuant to the first paragraph without occurring after the latest of the date the amendment is made or the date the amendment becomes effective, the amendment must be considered for the first time not later than the date of the valuation.

If the actuarial valuation report was sent to the Régie and an amendment which should have been considered under the first or second paragraph was not taken into account, the report must be amended or replaced.”.

§2. Solvency

10. The following paragraph replaces the second paragraph of section 127 of the Act mentioned in paragraph 3 of section 2:

“The degree of solvency of the plan at the date of a complete actuarial valuation corresponds to the value of the assets, increased by the special amortization payment provided for in section 21 of the Regulation respecting the funding of pension plans of the municipal and university sectors, but reduced as provided in the first paragraph, over the value of the liabilities reduced in the same manner, expressed as a percentage. “.

§3. Funding

11. For the determination of the funding of a pension plan, the assets must be determined according to their liquidation value, or an estimate thereof.

12. The assets of a pension plan are divided between a general account and a reserve. The rate of return of each account corresponds to the rate of return derived from the investment of the plan’s assets.

The general account is initially equal to the value of the plan’s assets and the reserve is equal to zero.

13. Where, at the date of the complete actuarial valuation of a pension plan, the reserve exceeds the provision for adverse deviation, the surplus is, at that date, transferred from the reserve to the general account.

14. The actuarial gains are determined at the date of a complete actuarial valuation made for a pension plan. The amount corresponds to the amount by which the general account of the plan, increased by the value of the amortization payments remaining to be paid to amortize a funding deficiency determined during a prior actuarial valuation, exceeds the plan’s liabilities, the latter being reduced by the value of the additional obligations arising from an amendment considered for the first time during the valuation.

15. At the date of a complete actuarial valuation of a pension plan, the lesser of the following amounts must be transferred from the general account to the reserve:

(1) the amount of the actuarial gains determined during the valuation; or

(2) the amount by which the provision for adverse deviation, calculated in accordance with sections 60.1 to 60.5 of the Regulation respecting supplemental pension plans, as amended by sections 16 to 18 of this Regulation, exceeds the reserve, it being understood that the provision is calculated using financial data established on the solvency basis.

If there is a balance of actuarial gains after the transfer provided for in the first paragraph and the balance exceeds the value of the amortization payments that would remain to be paid in relation to the technical actuarial deficiency determined during the last complete actuarial valuation of the plan, the surplus may be used to reduce the amortization payments remaining to be paid in relation to any improvement unfunded actuarial liability.

For all improvement unfunded actuarial liabilities, the reduction is made by appropriating the surplus determined in the second paragraph to the reduction of the monthly payments that become due on the later date. The appropriation ceases where the residual surplus does not eliminate completely the monthly payments becoming due on a given date.

16. The part of section 60.1 of the Regulation respecting supplemental pension plans preceding paragraph 1, and paragraph 1 are replaced by the following:

“**60.1.** The following elements are likely to contribute to the establishment of the reserve provided for in section 12 of the Regulation respecting the funding of pension plans of the municipal and university sectors:

(1) the contributions paid into the pension fund that exceed the contributions required for the pension plan to be funded;”;

17. The first paragraph of section 60.2 of the Regulation respecting supplemental pension plans is replaced by the following:

“**60.2.** The provision for adverse deviation provided for in section 15 of the Regulation respecting the funding of pension plans of the municipal and university sectors is calculated at the following dates:

(1) the date of the last complete actuarial valuation of a pension plan; and

(2) the date of the last partial actuarial valuation of a pension plan establishing

(a) the maximum amount of surplus assets that may be appropriated to the payment of the value of the additional obligations arising from an amendment to the plan; or

(b) the maximum amount of surplus assets that may be appropriated to the payment of employer contributions, established in accordance with section 146.3.4 of the Act.

However, the provision for adverse deviation does not have to be calculated on the date referred to in subparagraph *a* of subparagraph 2 of the first paragraph if the actuary certifies that, if a complete actuarial valuation were carried out on that date, the value of the plan’s assets would be less than the value of its liabilities increased by the provision for adverse deviation.

18. The expressions “of the general account” and “of the plan’s general account” replace the expressions “of the assets” and “of the plan’s assets” in sections 60.4 and 60.5 of the Regulation respecting supplemental pension plans.

19. The following section replaces section 134.1 of the Act mentioned in paragraph 3 of section 2:

“**134.1.** A plan is funded if, at the date of the actuarial valuation, the value of its general account is equal to or greater than the value of its liabilities.

A plan is partially funded if the value of its general account, increased by the value of the amortization payments relating to a funding deficiency determined at the date of the actuarial valuation or during a prior actuarial valuation, is, at that date, equal to or greater than the value of its liabilities.”.

20. The following section replaces section 135 of the Act mentioned in paragraph 3 of section 2:

“**135.** The following are funding deficiencies:

(1) the technical actuarial deficiency that, at the date of an actuarial valuation of the pension plan, corresponds to the surplus liabilities of the plan, after deducting the value of the additional obligations arising from an amendment to the plan considered for the first time during the valuation, over the sum of the general account and the value of the amortization payments remaining to be paid to amortize an improvement unfunded actuarial deficiency determined during a prior actuarial valuation; the value of the payments is established by using an interest rate identical to the rate used to establish the plan’s liabilities; and

(2) the improvement unfunded actuarial deficiency that corresponds to the surplus value of the additional obligations arising from an amendment to the plan considered for the first time during the valuation, over the special amortization payment provided for in section 21 of the Regulation respecting the funding of the pension plans of the municipal and university sectors. The deficiency is reduced, where applicable, by the amount representing the portion of the value of the obligations that is paid by appropriating the plan’s surplus assets.”.

21. If the actuarial valuation used to determine the value of the additional obligations arising from an amendment to the pension plan shows that the degree of solvency of the plan is less than 90%, a special amortization payment must be paid into the pension fund, payable in full on the day following the date of the valuation and equal to or greater than the lesser of:

(1) the amount corresponding to the value on a solvency basis of the additional obligations arising from an amendment to the plan considered for the first time during the valuation; or

(2) the amount corresponding to the assets lacking for the plan's degree of solvency to be 90%.

§4. Amortization of unfunded actuarial liabilities

22. The following paragraphs replace paragraphs 1 and 2 of section 142 of the Act mentioned in paragraph 3 of section 2:

“(1) no later than 5 years after the date of the valuation, if the liability is an improvement unfunded actuarial liability; or

(2) no later than 15 years after the date of the valuation, if the liability is a technical actuarial liability.”.

DIVISION 6 APPROPRIATION OF SURPLUS ASSETS

23. Section 146.1 of the Act mentioned in paragraph 3 of section 2 applies

(1) by replacing the first paragraph by the following:

“The surplus assets of a pension plan to which Chapter X applies may only be appropriated to the payment of the value of the additional obligations arising from an amendment to the plan if, without reference to the value of those obligations, the actuarial valuation of the plan determines that, on a funding basis and a solvency basis, there are surplus assets and if either of the following conditions is met:”;

(2) by replacing the first and second subparagraphs of the third paragraph by the following:

“(1) on a solvency basis, to the amount by which the plan's assets exceed the plan's liabilities reduced by the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation;

(2) on a funding basis, to the amount by which the plan's assets exceed the plan's liabilities increased by the provision for adverse deviation, the liabilities being reduced by the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation.”.

24. Section 146.3.4 of the Act mentioned in paragraph 3 of section 2 applies

(1) by replacing the first and second subparagraphs of the first paragraph by the following:

“(1) on a solvency basis, assets exceed liabilities; or

(2) on a funding basis, assets of the plan exceed liabilities increased by the provision for adverse deviation.”;

(2) by replacing subparagraphs 1 and 2 of the third paragraph by the following:

“(1) the surplus assets of the plan determined on a solvency basis; or

(2) the surplus assets of the plan determined on a funding basis, over the liabilities increased by the provision for adverse deviation.”.

25. The following section replaces section 146.3.6 of the Act mentioned in paragraph 3 of section 2:

“**146.3.6.** The appropriation of the assets of a pension plan to the payment of employer contributions must cease

(1) at the date of any actuarial valuation showing that there are no surplus assets determined on a funding basis or a solvency basis; and

(2) at the date of the end of the fiscal year that follows the date of an actuarial valuation that complies with the first paragraph of section 146.3.4 where no actuarial valuation is made at that date of the end of the fiscal year.”.

DIVISION 7 REPORTS

26. The actuarial valuation report of a pension plan must be established in accordance with sections 4 to 5.4 of the Regulation respecting supplemental pension plans, as made by Order in Council 1073-2009 dated 7 October 2009, subject to the following:

(1) paragraph 6 of section 4.1, paragraphs 6 and 7 of section 4.2, paragraph 4 of section 4.4, paragraph 6 of section 4.6, paragraphs 3 to 6 of section 5.1 and paragraph 4 of section 5.4 of that Regulation do not apply;

(2) the following paragraph replaces paragraph 3 of section 4.3 of that Regulation:

“(3) the amounts established in accordance with section 135 of the Act.”;

(3) the following paragraph replaces paragraph 3 of section 4.4 of that Regulation:

“(3) the amount of surplus assets determined on a solvency basis that may be appropriated to the payment of that value.”;

(4) the following paragraph is added after paragraph 6 of section 4.4 of that Regulation:

“(7) the special amortization payment determined pursuant to section 21 of the Regulation respecting the funding of the pension plans of the municipal and university sectors.”;

(5) the following section replaces section 4.5 of that Regulation:

“**4.5.** With respect to unfunded actuarial liabilities, the report must contain

(1) for each funding deficiency determined pursuant to section 135 of the Act,

(a) its type;

(b) the date on which it was determined and the date of the end of the period provided for its amortization; and

(c) the monthly payments, other than those referred to in paragraph 2, relating to the amortization payments to be paid until the end of that period and their funded value;

(2) where the pension committee was instructed to apply the measure provided for in section 28 of the Regulation respecting the funding of the pension plans of the municipal and university sectors, the amount of the technical actuarial deficiency referred to in the instructions, the date of its determination, the monthly payments relating to the amortization payments, established in accordance with section 141 of the Act and

section 30 of that Regulation, becoming due as regards that deficiency until 31 December 2011 and thereafter and their funded value.”;

(6) the following section replaces section 5 of that Regulation:

“**5.** A report on a partial actuarial valuation carried out under the conditions provided for in the second paragraph of section 118 of the Act must contain the following information:

(1) the name of the plan and the number assigned to it by the Régie;

(2) the date of the actuarial valuation;

(3) the name of the signatory, the signatory’s professional title, the name and address of the signatory’s office and the date of signing;

(4) if the valuation is referred to in paragraph 3 or 4 of section 118 of the Act, the information provided for in section 5.2 or 5.2.1.

The certifications provided for in sections 5.1, 5.2 and 5.2.1 must be established on the basis of a conservative estimate made by the actuary.”;

(7) section 5.2 of the Regulation is amended by adding the following paragraphs:

“(5) for the improvement unfunded actuarial deficiency determined during the valuation pursuant to section 135 of the Act, the date on which it was determined, the date of the end of the period provided for its amortization, the monthly amortization payable until the end of that period and their funded value;

(6) where a special amortization payment was determined pursuant to section 21 of the Regulation respecting the funding of the pension plans of the municipal and university sectors, the amount of the payment.”;

(8) the following section is added after section 5.2:

“**5.2.1.** Where an actuarial valuation determines the maximum amount of surplus assets that may be appropriated to the payment of employer contributions, the report must contain the following information:

(1) the maximum amount of surplus assets that may be appropriated to the payment of employer contributions until the date of the end of the fiscal year that follows the date of the actuarial valuation;

(2) the certification of the actuary required by the fourth paragraph of section 146.3.4 of the Act mentioned in paragraph 3 of section 2;

(3) the certification of the actuary certifying that, on a funding basis, the value of the obligations was estimated using the same actuarial assumptions and methods as those used during the most recent actuarial valuation of the plan; and

(4) the actuarial assumptions or methods used to estimate the value of the obligations of the plan on a solvency basis on the date of the valuation.”

27. An actuarial valuation report must, in the case of a multi-employer plan, even where it is not considered as such under section 11 of the Act, indicate if at least 90% of the active members of the plan are employed by employers referred to in the first paragraph of section 1.

DIVISION 8 RELIEF MEASURE

28. An employer participating in a pension plan — or, in the case of a multi-employer plan, even where it is not considered as such under section 11 of the Act, the participating employers jointly — may, in writing, instruct the pension committee managing the plan that the monthly payments relating to a technical actuarial deficiency determined during a complete actuarial valuation of the plan dated after 30 December 2008 and prior to 31 December 2011 be reduced according to the conditions provided for in section 30.

The instructions must be sent to the pension committee for the purposes of the first complete actuarial valuation of the plan dated after 30 December 2008.

29. The report on the first complete actuarial valuation of a pension plan dated after 30 December 2008 must, when sent to the Régie, be accompanied by a writing in which the person who has the power to instruct under section 28 or 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 is established in accordance with the instructions given to the pension committee or that the person did not give such instructions.

30. Where the pension committee was instructed to apply the measure provided for in section 28, the monthly amortization established in accordance with section 141 of the Act mentioned in paragraph 3 of section 2 relating to the technical actuarial deficiency determined during a complete actuarial valuation dated after 30 December

2008 and prior to 31 December 2011 and that become due before 1 January 2012 are reduced as follows:

(1) in the case of a pension plan for which the employer is a municipality, a body referred to in section 18 of the Act respecting the Pension Plan of Elected Municipal Officers, or a municipal housing bureau, to one-third of the payments established otherwise;

(2) in the case of a pension plan for which the employer is an educational institution at the university-level referred to in any of paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level, to 20% of the payments established otherwise.

For the purposes of the first paragraph, the employer employing the greatest number of active members of a multi-employer pension plan, even where it is not considered as such under section 11 of the Act, is considered to be the employer of the plan.

31. In case of the merger of all or part of the assets and liabilities of several pension plans into a single plan, the measure provided for in section 28 applies to the absorbing pension plan after the date of the merger, if it applied on that date.

DIVISION 9 TRANSITIONAL AND FINAL

§1. Maintenance of certain actuarial deficiencies until the first complete actuarial valuation dated after 31 December 2011

32. Where a number of technical actuarial deficiencies remain with respect to a pension plan, section 6 must be read by replacing “to the technical actuarial deficiency” by “to a technical actuarial deficiency”.

33. Where a complete actuarial valuation dated after 30 December 2008 but prior to 31 December 2011, the second and third paragraphs of section 15 are replaced by the following:

“If a balance of actuarial gains remains after the transfer provided for in the first paragraph and the balance exceeds the value of the amortization payments that would remain to be paid relating to the technical actuarial deficiency determined during a complete actuarial valuation dated after 30 December 2008, the surplus may be used to reduce, in the following order, the amortization payments remaining to be paid relating to

(1) any technical actuarial deficiency determined before 31 December 2008 other than a technical actuarial deficiency referred to in paragraph 2;

(2) concurrently, any technical actuarial deficiency

(a) other than a deficiency referred to in subparagraph *b*, of a pension plan in which participated a municipality covered by an order of the Government made under section 125.11 of the Act respecting municipal territorial organization, made by section 1 of chapter 27 of the Statutes of 2000, and constituting a local municipality resulting from an amalgamation, or by the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56) and that has not been constituted;

(b) determined during an actuarial valuation dated neither prior to 31 December 2001 or after 1 January 2005, in the case of a pension plan for which the employer is a municipality, a body referred to in section 18 of the Act respecting the Pension Plan of Elected Municipal Officers, or a municipal housing bureau;

(c) any improvement unfunded actuarial liability.

The reduction is applied by appropriating the surplus to the reduction of monthly payments becoming due on the later date. It ceases when the residual surplus does not completely eliminate the monthly payments due on a given date.”

34. Subject to section 37, the monthly payments relating to technical actuarial deficiencies determined during an actuarial valuation dated prior to 31 December 2008 are eliminated during the first complete actuarial valuation undertaken after 30 December 2011.

The elimination of monthly payments applies after the determination of actuarial gains.

35. In the case of an actuarial valuation undertaken after 30 December 2008, but prior to 31 December 2011, subparagraph 1 of the first paragraph of section 135 of the Act mentioned in paragraph 3 of section 2, as replaced by section 20, is replaced by the following:

“(1) the technical actuarial deficiency that, at the date of an actuarial valuation of the pension plan, corresponds to the surplus liabilities of the plan, after deducting the value of the additional obligations arising from an amendment to the plan considered for the first time during the valuation, over the sum of the general account, the value of the amortization payments remaining to be paid to amortize an improvement unfunded actuarial deficiency determined during a prior actuarial valuation and the value of the amortization payments remaining to be paid to amortize a technical actuarial deficiency deter-

mined during an actuarial valuation undertaken prior to 31 December 2008; the value of the payments is established by using an interest rate identical to the rate used to establish the plan’s liabilities;”.

§2. Maintenance of certain actuarial deficiencies of the municipal sector after the first complete actuarial valuation undertaken after 31 December 2011

36. Where the date of a complete actuarial valuation of a pension plan for which the employer is a municipality, a body referred to in section 18 of the Act respecting the Pension Plan of Elected Municipal Officers, or a municipal housing bureau within the meaning of the Act respecting the Société d’habitation du Québec is after 30 December 2011, the second and third paragraphs of section 15 are replaced by the following:

“If a balance of actuarial gains remains after the transfer provided for in the first paragraph and the balance exceeds the value of the amortization payments that would remain to be paid relating to the technical actuarial deficiency determined during a complete actuarial valuation undertaken after 30 December 2008 and, in the case of the first complete actuarial valuation dated after 30 December 2011, the value of the amortization payments that would remain to be paid relating to the technical actuarial deficiencies whose monthly payments are eliminated pursuant to section 34 or the second paragraph of section 37, the surplus may be used to reduce, in the following order and after the elimination, the amortization payments remaining to be paid relating to

(1) any technical actuarial deficiency determined before 31 December 2008;

(2) any improvement unfunded actuarial deficiency.

The reduction applies by appropriating the surplus to the reduction of monthly payments becoming due on the later date. It ceases when the residual surplus does not completely eliminate the monthly payments due on a given date.”

37. Despite section 34, in the case of a pension plan for which the employer is a municipality, a body referred to in section 18 of the Act respecting the Pension Plan of Elected Municipal Officers, or a municipal housing bureau within the meaning of the Act respecting the Société d’habitation du Québec, the monthly payments relating to the technical actuarial deficiencies referred to in subparagraph 2 of the second paragraph of section 15, as amended by section 33, are not eliminated.

However, such an employer — or, in the case of a multi-employer plan, even where it is not considered as such under section 11 of the Act, the participating employers jointly — may, in writing, instruct the pension committee managing the plan to eliminate the monthly payments related to a technical actuarial deficiency determined during an actuarial valuation undertaken neither prior to 31 December 2001 nor after 1 January 2005, other than a technical actuarial deficiency referred to in subparagraph *a* of subparagraph 2 of the second paragraph of section 15, as amended by section 33. The elimination of monthly payments applies after the determination of actuarial gains.

38. In the case of a pension plan for which the employer is a municipality, a body referred to in section 18 of the Act respecting the Pension Plan of Elected Municipal Officers, or a municipal housing bureau within the meaning of the Act respecting the Société d'habitation du Québec, for the purposes of any actuarial valuation of the plan undertaken after 30 December 2011, subparagraph 1 of the first paragraph of section 135 of the Act mentioned in paragraph 3 of section 2, as replaced by section 20, is replaced by the following:

“(1) the technical actuarial deficiency that, at the date of an actuarial valuation of the pension plan, corresponds to the surplus liabilities of the plan, after deducting the value of the additional obligations arising from an amendment to the plan considered for the first time during the valuation, over the sum of the general account, the value of the amortization payments remaining to be paid to amortize an improvement unfunded actuarial deficiency determined during a prior actuarial valuation, and the value of the amortization payments remaining to be paid to amortize a technical actuarial deficiency determined during an actuarial valuation undertaken prior to 31 December 2008; the value of the payments is established by using an interest rate identical to the rate used to establish the plan’s liabilities;”.

§3. Other transitional and final provisions

39. Despite sections 7 and 9, an actuarial valuation considering for the first time an amendment having an impact on the funding of a pension plan may be a partial actuarial valuation whose date differs from the date of the end of a fiscal year of the plan if the following conditions are met:

(1) the date of the valuation corresponds to the date of coming into effect of the amendment and occurs after 30 December 2008 and prior to (*insert the date of republication of this Regulation*);

(2) the date on which the amendment occurred is prior to 1 January 2010;

(3) no complete actuarial valuation has been made at the date of the end of the fiscal year of the plan preceding the date of the partial valuation;

(4) the partial valuation report is sent to the Régie before 30 April 2010.

The partial actuarial valuation determines according to the rules applicable before 31 December 2008 the value of the additional obligations arising from the amendment or the variation of the current service contribution resulting therefrom.

40. Where the date of the coming into effect of an amendment or the date on which it occurs is after 31 December 2009, the date of an actuarial valuation referred to in the first and second paragraphs of section 121 of the Act as replaced by section 9 must be after 14 December 2009.

41. A bond remitted before 31 December 2009 to a pension fund of a pension plan pursuant to section 255 of the Act to amend various legislative provisions concerning municipal affairs (2004, c. 20) may, at its term, be replaced by a new bond that meets the conditions set forth in the second and third paragraphs of that section.

42. The provisions of 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) do not apply to a pension plan to which this Regulation applies.

43. Despite section 8, a pension committee has until 30 April 2010 to send to the Régie des rentes du Québec the actuarial valuation report of a pension plan whose date is after 30 December 2008 and prior to 30 September 2009.

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

45. Division IX of the Regulation respecting the exemption of certain categories of pension plans from the application of provisions of the Supplemental Pension Plans Act, made by Order in Council 1160-90 dated 8 August 1990, is revoked.

46. Section 1 of the Regulation respecting the exemption of certain pension plans from the application of provisions of the Supplemental Pension Plans Act, made by Order in Council 415-2004 dated 28 April 2004, is amended

(1) by replacing paragraphs 1.1 and 2 by the following:

“(1.1) the provisions mentioned in the Regulation respecting the funding of the pension plans of the municipal and university sectors, made by Order in Council xx (*insert the number of the Order in Council making the Regulation and the date on which it is made*), in accordance with the terms and conditions provided for in that Regulation and by considering that pension plan as a multi-employer pension plan for which the employer employing the greatest number of active members is a university;

(2) sections 142 to 146 of the Act, in their version prior to 1 January 2010, and sections 143 to 146 of the Act, as enacted by chapter 42 of the Statutes of 2006.”;

(2) by adding the following at the end:

“However, the instructions in section 28 of the regulation mentioned in paragraph 1.1 may only be given by the Minister responsible for the administration of the Act to facilitate the establishment of a pension plan for employees working in childcare services (R.S.Q., c. E-12.011).”.

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

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

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