

WHEREAS under section 24 of Chapter 69 of the Statutes of 1995, a regulation under subparagraph 6.1 of the first paragraph of section 91 of the Act respecting income security, enacted by paragraph 2 of section 20 of Chapter 69 of the Statutes of 1995, and under subparagraph 13 of the first paragraph of section 91 of the Act respecting income security and the second paragraph of section 91, as amended by paragraph 6 of section 20 of Chapter 69 of the Statutes of 1995, is not subject to the publication requirement and to the period of coming into force prescribed in sections 8 and 17 of the Regulations Act (R.S.Q., c. R-18.1);

WHEREAS it is expedient to make the Regulation;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Income Security:

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

MICHEL CARPENTIER,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting income security

An Act respecting income security (R.S.Q., c. S-3.1.1, s. 91, 1st par., subpars. 6.1, 13, and 2nd par.; 1995, c. 69, s. 20, pars. 2 and 6 and s. 24)

1. The Regulation respecting income security, made by Order in Council 922-89 dated 14 June 1989 and amended by the Regulations made by Orders in Council 1917-89 dated 13 December 1989, 1051-90 dated 18 July 1990, 1733-90 and 1734-90 dated 12 December 1990, 1793-90 dated 19 December 1990, 567-91 dated 24 April 1991, 1721-91 dated 11 December 1991, 285-92 dated 26 February 1992, 379-92 and 380-92 dated 18 March 1992, 868-92 dated 10 June 1992, 1155-92 dated 5 August 1992, 1798-92 and 1799-92 dated 9 December 1992, 123-93 dated 3 February 1993, 825-93 dated 9 June 1993, 1287-93 dated 8 September 1993, 1780-93 dated 8 December 1993, 159-94 dated 19 January 1994, 249-94 dated 9 February 1994, 827-94 dated 8 June 1994, 1160-94 dated 20 July 1994, 260-95 dated 1 March 1995, 1354-95 dated 11 October 1995 and 202-96 dated 14 February 1996 is further amended by adding the following after section 6:

“**6.1** For the purposes of paragraph 6 of section 7 of the Act enacted by paragraph 2 of section 1 of Chapter 69 of the Statutes of 1995, the scales of needs are those

prescribed in sections 7, 8, 8.1 and 9, which are increased, where applicable, by the amounts prescribed in section 10.2.

For the purposes of this provision, the liquid assets referred to in sections 69 to 72 and the increases in the liquid assets prescribed in sections 68.1 and 68.2 are excluded.”

2. Section 20 is amended by adding the following at the end of the third paragraph:

“Notwithstanding the foregoing, the liquid assets referred to in section 68 are taken into account in that calculation. The amount of the cheques outstanding on the date of the application and intended to pay the rent, electricity and heating shall be subtracted therefrom, provided they are cashable during the month the application was made; the amount of the income taken into account for the purposes of the second paragraph shall be subtracted therefrom, provided it was deposited in a financial establishment.”

3. This Regulation comes into force on 1 April 1996.

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Gouvernement du Québec

O.C. 267-96, 28 February 1996

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

Rules of proof and procedure of the Pension Plans Review Committee

Rules of proof and procedure of the Pension Plans Review Committee

WHEREAS in accordance with section 250 of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1), the Régie des rentes du Québec formed the Pension Plans Review Committee according to the delegation of powers by the Régie des rentes du Québec pursuant to sections 250 and 251 of the Supplemental Pension Plans Act;

WHEREAS under subparagraph 13 of the first paragraph of section 244 of the above-mentioned Act, the Régie des rentes du Québec may, by regulation, determine the rules of proof and procedure for any matter within its competence, the applicable time limits and the required documents;

WHEREAS the Régie des rentes du Québec made the Rules of proof and procedure of the Pension Plans Review Committee, attached to this Order in Council, on 11 September 1995;

WHEREAS under the third paragraph of section 244 of the above-mentioned Act, the regulations of the Régie des rentes du Québec shall be submitted to the Government for approval;

WHEREAS in accordance with section 10 of the Regulations Act (R.S.Q., c. R-18.1), the Rules of proof and procedure of the Pension Plans Review Committee were published in Part 2 of the *Gazette officielle du Québec* of 22 November 1995 with a notice that, upon the expiry of 45 days following that publication, they could be submitted to the Government for approval;

WHEREAS it is expedient to approve the Rules of proof and procedure of the Pension Plans Review Committee;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Income Security:

THAT the Rules of proof and procedure of the Pension Plans Review Committee, attached to this Order in Council, be approved.

MICHEL CARPENTIER,
Clerk of the Conseil exécutif

Rules of proof and procedure of the Pension Plans Review Committee

Supplemental Pension Plans Act
(R.S.Q., c. R-15.1, s. 244, 1st par., subpar. 13)

DIVISION I GENERAL

1. These Rules apply to the review of decisions by the Pension Plans Review Committee, formed pursuant to an act of delegation of powers by the Régie des rentes du Québec in accordance with sections 250 and 251 of the Supplemental Pension Plans Act.

The purpose of these Rules is to ensure the smooth and expeditious course of the proceedings as well as respect for the principles of natural justice.

2. The Committee has sole authority over the procedure and the proof; it is not subject to the Code of Civil Procedure.

3. No written proceeding made in accordance with these Rules may be deemed to be void or be rejected for irregularity.

DIVISION II PROCEDURE

§1. *Application for review*

4. The application for review shall be submitted in writing to the Committee. It shall include:

(1) the name, address and telephone number of the applicant and those of the advocate representing him, if any;

(2) the name of the pension plan and its registration number;

(3) the number and date of the decision whose review is applied for;

(4) a brief statement of the facts and reasons put forward in support of the application for review as well as the conclusions sought;

(5) the name and address of the employer who is a party to the pension plan.

5. The pension committee shall provide the Committee, within the time that the Committee fixes, with the following information:

(1) the names and addresses of the pension plan's active and non-active members or, if the Committee so specifies, the names and addresses of those affected by the decision under review;

(2) the names and addresses of the members of the pension committee, indicating by whom each was designated;

(3) in the case of a plan established under a collective agreement or an arbitration award in lieu thereof or rendered compulsory by an order or decree, the name and address of every employees' association representing the pension plan's members.

6. The Committee shall send an acknowledgment of receipt to the applicant for review and notify the pension committee, the employer and, in the case of a plan established under a collective agreement or an arbitration award in lieu thereof or rendered compulsory by an order or decree, every employees' association representing the pension plan's members.

7. The Committee may, as a matter of course or on application, summarily decide that an application for review is inadmissible, notably for one of the following reasons:

- (1) the application was not made within the time prescribed in section 242 of the Act;
- (2) the application is incomplete or the reasons are not sufficiently stated;
- (3) the application is manifestly frivolous or dilatory;
- (4) the decision concerned is the subject of recourse in another proceeding;
- (5) the application must be the object of the decision of an initial proceeding.

Before declaring an application inadmissible, the Committee shall give the interested parties the opportunity to make their views known in writing. In the case referred to in subparagraph 2, it shall first notify the applicant of the insufficiency of his application and grant him an extension of 15 days to better state or complete his application.

§2. Extension or deferment

8. An application for the extension provided for in section 242 of the Act or an application to be exempted from the consequences of a failure to act within the prescribed time shall be made in writing to the Committee.

It shall include:

- (1) the name, address and telephone number of the applicant and those of the advocate representing him, if any;
- (2) the name of the pension plan and its registration number;
- (3) the number and date of the decision to which the application pertains;
- (4) a brief statement of the reasons for which the applicant failed to act sooner;
- (5) the name and address of the employer who is a party to the plan.

9. The Committee or one of its members shall send an acknowledgment of receipt to the applicant and notify

the pension committee, the employer and, in the case of a plan established under a collective agreement or an arbitration award in lieu thereof or rendered compulsory by an order or decree, every employees' association representing the pension plan's members.

It may request them or other interested parties to make their views known in writing, invite them to a hearing, or defer the matter until the merits of the application for review have been studied.

§3. Intervention

10. Any interested party may intervene in the review, at any time prior to the taking under advisement, to oppose it or to support it, by submitting to the Committee in writing an application to intervene. The Committee may, however, allow an intervention to be made orally during a hearing.

The application to intervene shall include:

- (1) the name, address and telephone number of the applicant and those of the advocate representing him, if any;
- (2) the number and date of the decision to which the application for review pertains;
- (3) a brief statement of the facts and reasons put forward in support of the application.

11. The Committee shall send an acknowledgment of receipt to the intervener and notify the applicant for review and the other interveners.

§4. Interlocutory applications

12. An interlocutory application, including an application for inadmissibility, amendment, continuance of proceedings, extension or deferment of the time period provided for in these Rules or an application whose object is the provisional execution of a decision, shall be made in writing to the Committee. The Committee may, however, allow an interlocutory application to be made orally during a hearing.

It shall include:

- (1) the name, address and telephone number of the applicant and those of the advocate representing him, if any;
- (2) the number and date of the decision to which the application for review pertains;

(3) a brief statement of the facts and reasons put forward in support of the interlocutory application.

13. The Committee shall send an acknowledgment of receipt to the applicant and notify the applicant for review and all interveners.

It may request them or other interested parties to make their views known in writing, invite them to a hearing, or defer the matter until the merits of the application for review have been studied.

§5. Signature and serving of the applications

14. Every application to the Committee shall be signed by the applicant or the advocate representing him and shall be accompanied with a declaration by the applicant attesting to the truth of the allegations whose proof is not already on file.

It shall also be accompanied with a list and copies of all the documents that support it.

15. The applicant shall serve his application, using one of the means provided for in section 50, to every person designated by the Committee in the acknowledgment of receipt.

§6. Representation by an advocate

16. Any interested party has the right to be represented by an advocate of his own choosing or to be assisted by one.

17. The advocate who represents an interested party shall file a written entry of appearance.

18. An advocate who ceases to represent an interested party shall file a declaration indicating the date on which his representation ended.

19. In order to dismiss his advocate, an interested party shall file a notice to that effect. Notice may also be given orally at the hearing.

§7. Pre-hearing conference

20. The Committee may, at any time prior to the hearing, invite in writing or orally the applicant for review and the interveners, or the advocates representing them, to a pre-hearing conference.

It may decide to hold the pre-hearing conference before all the members of the Committee or a single member, on the date and at the time and place it determines. It may also decide to hold the conference by any other

means that allows the participants to communicate with each other.

21. The main purposes of the pre-hearing conference are:

(1) to determine the questions to be argued during the hearing;

(2) to evaluate the appropriateness of amending the procedures to make them clear and specific;

(3) to facilitate the exchange of documents;

(4) to plan the course of the proceedings and proof during the hearing;

(5) to admit certain facts or the proof thereof;

(6) to examine any other question likely to simplify or expedite the course of the hearing;

(7) to collect the information needed to contact the interested parties.

22. The admission of facts during a pre-hearing conference shall be reduced to a written declaration signed by the persons participating in the conference. The declaration shall be filed and shall serve as proof of the facts admitted.

DIVISION III **CONVOCATION AND INFORMATION**

23. Where the interested parties can adequately make their views known in writing, the Committee, if it does not hold a hearing, shall send them a notice indicating:

(1) the subject of the review;

(2) that its decision will be rendered without a hearing;

(3) that they may make their views known to the Committee by submitting notes and citations within the time that it fixes, which shall be at least 30 days;

(4) that if they wish to receive a copy of the decision, they must make a request therefor to the Committee.

24. A person who submits notes or citations shall send a copy of them by registered mail to any person designated by the Committee.

25. Where a hearing is necessary, the Committee shall, at least 30 days prior to the hearing, send the interested parties a notice indicating:

(1) the subject of the review and the date, time and place of the hearing;

(2) that the Committee may proceed without further delay or notice where an interested party is not present for the hearing;

(3) that the presence of witnesses falls to the interested parties;

(4) that if they wish to make their views known to the Committee, they must, within the time fixed by the Committee, make an application to intervene;

(5) that if they wish to receive a copy of the decision, they shall make a request therefor to the Committee.

26. The Committee may, however, reduce the time allowed for submitting notes and citations or the notice period for a hearing in the following cases:

(1) the decision under review concerns the provisional administration of the plan;

(2) the provisional execution of the decision under review has been requested or the Régie has ordered provisional execution of the decision;

(3) all interested parties have mutually consented to it.

DIVISION IV HEARING

27. The hearing is open to the public; however, the Committee may, as a matter of course or on application, order the hearing to proceed *in camera* if it deems it to be necessary. It may also order that witnesses be excluded.

28. The Committee or one of its members may, by simple notice, summon before it any person to give testimony or to submit any document it deems useful.

29. The Committee may also, as a matter of course or on application, summon witnesses in accordance with the procedure provided for by the Act respecting public inquiry commissions (R.S.Q., c. C-37). The summons must be served at least five clear days prior to the hearing. However, in the event of urgency, the Committee may reduce the time to 12 hours.

The summons shall be signed by one of the members of the Committee; it is filled out and served by the person who requested it, at his expense, and he has the obligation of proving the date of receipt.

30. The Committee may, as a matter of course or on application, postpone or adjourn the hearing, on the conditions that it fixes.

An application for postponement of the hearing shall be made in writing at least 10 days prior to the date of the hearing.

31. If at the opening of the hearing, a person to whom the notice provided for in section 25 was sent fails to appear, the Committee may proceed in the manner that it deems to be most just; it may notably proceed in his absence without further delay or notice.

32. The applicant and each intervener may present their proof and make their views known; they may also cross-examine the witnesses.

33. The Committee may provide for the recording of the depositions on magnetic media or by any other means that it deems appropriate. Any interested party may, at his expense, obtain a transcription or copy of the recorded depositions.

Where the Committee does not provide for the recording of the depositions, it may authorize recording by the means that it determines, at the expense of the person who makes the request therefor.

34. The Committee's secretary shall draw up a record of the proceedings. He shall include therein the following information:

(1) the names of the members of the Committee;

(2) the date, place and time of the beginning and end of each day of hearing;

(3) the names and addresses of the applicant for review, the interveners and the advocates representing them, as well as those of the witnesses heard;

(4) where applicable, that a recording of the hearing was made;

(5) the identification and classification number of the documents produced;

(6) the decisions of the Committee rendered without rising;

(7) any admission or partial or complete agreement;

(8) the fact that the case has been taken under advisement.

Any admission or agreement shall be dictated to the Committee's secretary and drawn up by him; it must be signed by the author of the admission or the parties to the agreement.

35. The Committee may order, on the conditions it fixes, that matters in which the questions raised are substantially the same or matters that may suitably be joined, whether or not they are raised by the same persons, be heard during the same hearing.

DIVISION V PROOF

36. Subject to section 39, the file of the pension plan in the keeping of the Direction des régimes de retraite of the Board is part of the proof.

37. The burden of proof falls to the person who applies for the review of a decision, unless otherwise provided in law.

38. The Committee, respecting the principles of natural justice, can receive any useful or relevant proof, including hearsay, where it offers reasonable guarantees of credibility; subject to section 39, it is not subject to the rules and techniques of proof applied by courts of justice.

It is, however, subject to the rule of the preponderance of the evidence.

39. Proof is inadmissible before the Committee where it would be inadmissible before a court of justice by reason of the laws governing professional secrecy or the laws ensuring the confidentiality of documents.

40. A person who has the intention of invoking or using a document or an expert's report, shall file with the Committee five copies thereof no later than 10 days prior to the date fixed for the opening of the hearing. He shall, in the same period, send a copy thereof to the other persons admitted to make their views known.

The Committee may, to forestall a denial of justice, allow any document or expert's report to be submitted during the hearing; it shall then, on request, allow the persons admitted to make their views known to study it and make comments on it within the time that it fixes.

41. Subject to section 23, the Committee may not require or receive information or documents outside the hearing or during advisement, nor base its decision on proof received without the knowledge of the applicant for review and the interveners.

It may not base its decision on facts brought up as a matter of course by a member without first inviting the applicant for review and the interveners to make representations, except those among them who have waived making known their pretensions.

42. The Committee may, according to the circumstances, have recourse to the professional knowledge and skills of its members in basing its decision.

43. The Committee may, as a matter of course or on application, at any time prior to rendering its decision on the merits of the application for review, order the reopening of the inquiry on the conditions it fixes, notably if an interested party has been prevented, by surprise or for any other reason deemed sufficient, from adducing complete proof. It shall then give notice thereof to the interested parties.

The application for reopening the inquiry shall be made in writing and shall contain a statement of the reasons put forward in its support.

DIVISION VI DECISION

44. The Committee shall base its decision on its inquiry, the proof received and the documents in the case file as constituted.

45. The decision on the merits of an application shall be signed by the members of the Committee to whom the matter was submitted.

46. The Committee may change a decision that it has rendered with a view to correcting a clerical or writing error.

47. The original of the Committee's decision on the merits of the application shall be filed and a certified copy shall be sent to the applicant for review, to the interveners and to any other interested parties who have made a request therefor.

DIVISION VII INDEPENDENCE AND IMPARTIALITY

48. The Committee is not bound by the administrative directives adopted by the Board.

49. A member of the Committee shall abstain from participating in a hearing or decision in the event of a reasonable apprehension of partiality that may arise from, among other things:

- (1) a conflict of interest;
- (2) being at the same time in a position of interested party and decision-maker;
- (3) personal, family, social, work or business relations with one of the interested parties;
- (4) prior public declarations or stands taken that directly relate to the case;
- (5) expressions of hostility or favouritism toward an interested party.

The reasonable apprehension of a Committee member's partiality shall be raised as soon as the hearing begins or as soon as an interested party knows of circumstances that could give rise to it.

DIVISION VIII MISCELLANEOUS

50. All communications sent to the Committee shall be addressed to the Committee's secretary.

The date of receipt of a document sent to the Committee by mail is deemed to be the date of its postmark.

51. A document, including a summons, may be served on an interested party by registered mail, certified letter, bailiff or any other means that allows the date of its receipt to be proved.

52. The Committee may use the means of notification provided for in section 252 of the Act for sending a decision, order or notice to members or beneficiaries.

53. Where there is a total or partial settlement of a case, the parties to the settlement shall submit to the Committee a declaration to that effect, signed by them and the advocates representing them.

54. The Committee may close its case on the filing of a declaration of total settlement or discontinuance.

DIVISION IX COMING INTO FORCE

55. These Rules come into force on the fifteenth day following the date of their publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

O.C. 269-96, 28 February 1996

An Act respecting liquor permits
(R.S.Q., c. P-9.1)

Duties and costs payable — Amendments

Regulation to amend the Regulation respecting duties and costs payable under the Act respecting liquor permits

WHEREAS under paragraph 4 of section 114 of the Act respecting liquor permits (R.S.Q., c. P-9.1), the Régie des alcools, des courses et des jeux may make regulations determining the amount of the costs and duties that are payable under the Act respecting liquor permits or standards permitting to establish such amount and prescribing the terms and conditions of payment;

WHEREAS under section 116 of the Act, any regulation made by the Régie des alcools, des courses et des jeux must be submitted to the approval of the Government, which may then amend it;

WHEREAS the Regulation respecting duties and costs payable under the Act respecting liquor permits was approved by Order in Council 826-90 dated 13 June 1990 and amended by Order in Council 1116-92 dated 29 July 1992;

WHEREAS the Régie des alcools, des courses et des jeux made, at its session of 6 October 1995, the Regulation to amend the Regulation respecting duties and costs payable under the Act respecting liquor permits, attached to this Order in Council;

WHEREAS it is expedient to amend the Regulation in order to determine the amount of the costs and duties that are payable for an application for the approval of an advertisement and for an application for a tasting authorization;

WHEREAS it is expedient to amend certain sections of the Regulation in order to review the amount of the duties and costs payable under the Act respecting liquor permits;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the text of the Regulation attached to this Order in Council was published in Part 2 of the *Gazette officielle du Québec* of 20 December 1995 with a notice that it could be approved by the Government upon the expiry of 45 days following that publication;