

Regulations and Other Acts

Gouvernement du Québec

O.C. 787-97, 18 June 1997

An Act respecting the Government and Public Employees Retirement Plan
(R.S.Q., c. R-10)

Special provisions

— Non-unionizable employees

Regulation respecting special provisions applicable to non-unionizable employees who are members of the Government and Public Employees Retirement Plan

WHEREAS under the first paragraph of section 215.0.0.1 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10), enacted by section 44 of Chapter 53 of the Statutes of 1996, Title IV.0.1 of the Act applies to non-unionizable employees who are members of the Government and Public Employees Retirement Plan on 31 December 1996, to persons who become non-unionizable employees after that date and to persons who belong to a category or subcategory of employees determined by regulation;

WHEREAS the second paragraph of section 215.0.0.1 provides that, to benefit from the provisions of Title IV.0.1 or from provisions enacted under that Title, the employees referred to in the first paragraph of that section must comply with the rules, conditions and procedures prescribed by regulation;

WHEREAS under section 215.0.0.2 of the Act, enacted by section 44, the Government may determine, by regulation, in respect of the employee to whom Title IV.0.1 of the Act applies, special provisions which may vary from those provided in the Government and Public Employees Retirement Plan, except the provisions under Chapter VII.1 of Title I of the Act;

WHEREAS under section 215.0.0.4 of the Act, enacted by section 44, Government regulations under Title IV.0.1 of the Act shall be made after the Commission administrative des régimes de retraite et d'assurances has consulted with the Comité de retraite du régime de retraite des employés du gouvernement et des organismes publics in respect of non-unionizable employees and the regulations may have effect 12 months or less before they are adopted;

WHEREAS that pension committee has been consulted;

WHEREAS it is expedient to make the Regulation respecting special provisions applicable to non-unionizable employees who are members of the Government and Public Employees Retirement Plan, attached to this Order in Council;

IT IS ORDERED, therefore, on the recommendation of the Minister for Administration and the Public Service, Chairman of the Conseil du trésor:

THAT the Regulation respecting special provisions applicable to non-unionizable employees who are members of the Government and Public Employees Retirement Plan, attached hereto, be made.

MICHEL CARPENTIER,
Clerk of the Conseil exécutif

Regulation respecting special provisions applicable to non-unionizable employees who are members of the Government and Public Employees Retirement Plan

An Act respecting the Government and Public Employees Retirement Plan
(R.S.Q., c. R-10, ss. 215.0.0.1, 215.0.0.2 and 215.0.0.4; 1996, c. 53, s. 44)

1. This Regulation makes special provisions applicable to non-unionizable employees who are members of the retirement plan provided for in Title I of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10), taking into account Title IV.0.1 of that Act.

The non-unionizable employees referred to in this Regulation are persons who are appointed or hired to hold a non-unionizable position designated in Schedule I and who have the classification associated with that position.

2. This Regulation applies to the following persons, to the extent provided for therein:

(1) persons who, on 31 December 1996, are members of the plan as non-unionizable employees and hold a non-unionizable position;

(2) persons who, after that date, become non-unionizable employees and hold such a position.

For the purposes of the first paragraph, the persons designated by the Government are also considered as non-unionizable employees, if their conditions of employment so provide. The positions held by those persons, on the date of their designation, are non-unionizable positions for the purposes of this Regulation.

The persons referred to in the first paragraph are deemed to hold such a position if they benefit from the measures respecting stability of employment provided for in their conditions of employment.

3. The person referred to in the first paragraph of section 2 shall be a member of the plan in respect of unionizable employees in the non-unionizable position he holds while being simultaneously a member of the Pension Plan of Certain Teachers, the Teachers Pension Plan or the Civil Service Superannuation Plan during a period of unpaid leave in respect of the position covered by one of those plans. The foregoing also applies, subject to section 9, in respect of the person referred to in subparagraph 2 of the first paragraph of section 2 as long as he holds a non-unionizable position which corresponds to less than 40 % of the regular time of a full-time employee holding such a position.

4. The provisions of this Regulation apply from 1 January 1997 to persons referred to in subparagraph 1 of the first paragraph of section 2. Those persons shall, to retain their right to benefit from those provisions, hold a non-unionizable position for a period of at least 24 consecutive months which began on the date they hold such a position but not sooner than 1 January 1995.

5. The provisions of this Regulation apply from the date on which the persons referred to in subparagraph 2 of the first paragraph of section 2 hold a non-unionizable position which corresponds to at least 40 % of the regular time of a full-time employee holding such a position.

In order for those persons to retain the right to benefit from those provisions, their service credited in such a position shall not be less, during each year or part thereof comprised within a period of at least 24 consecutive months, than 40 % of the service credited to a full-time employee holding such a position during those years or parts of a year. The days and parts of a day during which a person is not covered by the plan do not entail suspension or termination of that period.

6. The persons who do not meet the conditions provided for in section 4 or 5 lose the right to benefit from the provisions of this Regulation

(1) on the date they cease to hold their non-unionizable position, in the case referred to in section 4;

(2) on the date of the end of the year or part thereof during which the service credited to him is less than the percentage provided for in the second paragraph of section 5 or on the date they cease to be members of the plan if they were not members at the end of that year or part thereof, whichever comes first, in the case referred to in that section.

Where applicable, the persons referred to in the first paragraph shall be members, from the date following the date retained pursuant to that paragraph, to the plan in respect of unionizable employees.

7. For the purposes of sections 4 and 5, the only periods to be considered are periods for which the employee contributed or was exempt, as well as those for which a female employee was granted a maternity leave. Any other period during which an employee is absent without pay shall not be considered and shall only entail, where applicable, suspension of the calculation of the 24-month period provided for in those sections if the employee ceases to meet the conditions provided for therein by reason of such an absence.

8. The person referred to in section 4 or 5 who dies before the 24-month period provided for in those sections is completed and who, at the time of his death, had not lost the right to benefit from the provisions of this Regulation is deemed to have acquired the right to benefit therefrom.

9. The person who met the conditions provided for in section 4 or 5 shall benefit from the provisions of this Regulation in respect of all the positions he holds and that are covered by the plan from the date following the 24-month period provided for in those sections and that person shall, from that date, be a member of the plan in respect of non-unionizable employees in those positions.

10. From 1 January 1997 and subject to section 9, the deduction provided for in section 29 of the Act shall be equal to 6.35 % on the part of the pensionable salary which exceeds 35 % of the maximum pensionable earnings within the meaning of the Act respecting the Québec Pension Plan (R.S.Q., c. R-9).

11. A person who met the conditions provided for in section 4 or 5 and who ceases to be covered by the plan shall continue to benefit from the provisions of this Regulation if he holds a non-unionizable position again. The foregoing also applies if that person holds an unionizable position within 180 days of the date on which he ceased to be covered by the plan.

12. A person who met the conditions provided for in section 4 or 5 and who receives benefits under the mandatory basic long-term salary insurance plan applicable to management staff in the public and parapublic sectors shall continue to be a member of the plan in respect of non-unionizable employees and to benefit from the provisions of this Regulation as long as he receives such benefits where his employer has terminated the employment relationship. The insurer shall pay the contributions which would have been paid by that person and they shall be credited to the account of the person.

13. If the total credited service is reduced pursuant to section 20 of the Act and if an employee benefits from the provisions of this Regulation during a part of a year, he may not have credited to himself, during that part of a year, more service than the number of contributory days comprised in that part of a year. The foregoing also applies, adapted as required, in respect of the other part of that year during which he does not benefit from those provisions.

14. The special provisions made pursuant to section 10.1 of the Act and applicable to employees who belong to a category of employees determined pursuant to that section shall continue to apply in their respect notwithstanding any incompatible provision in this Regulation.

15. This Regulation comes into force on the date of its making by the Government, but has effect from 1 January 1997.

SCHEDULE I

(s. 1)

NON-UNIONIZABLE POSITIONS

The following positions are non-unionizable positions for the purposes of this Regulation:

I. in the public and parapublic sectors and in bodies whose employees are appointed and remunerated in accordance with the Public Service Act (R.S.Q., c. F-3.1):

(1) management positions or senior executive positions determined according to the classification plans for managers established by the authorities designated for each of the public and parapublic sectors;

(2) the following positions in the public service sector:

(a) human resources management consultant;

(b) labour commissioner;

(c) Attorney General's substitute;

(d) mediator and conciliator;

(II) in government corporations and government bodies in which the conditions of employment and remuneration standards and scales of the staff are determined by the Government or approved by the Conseil du trésor under section 22 of the Financial Administration Act (R.S.Q. c. A-6):

(1) the positions identified in the classification plans for managers approved by the Conseil du trésor and subject to the conditions of employment of managers, where applicable. Those positions must be comparable to management positions in the public service, determined according to the classification plans for the managers in that sector;

(2) mediators of the Conseil des services essentiels;

(3) human resources management consultants who are subject to the conditions of employment of the managers in the body;

III. for the members of the staff of a minister's office or the office of a person referred to in section 124.1 of the Act respecting the National Assembly (R.S.Q., c. A-23.1) and of the other members of the National Assembly:

— the position of chief of staff and, where applicable, the positions of deputy chiefs of staff where their conditions of employment provide that they shall benefit from the conditions of employment of senior managers in the public service;

IV. any other person who holds a position or employment not provided for in paragraphs I to III and who belongs to a class of employees designated pursuant to section 10.1 of the Act;

V. in private institutions and for all other employers covered by the plan:

— positions comparable to management positions in the public and parapublic sectors determined in relation to the classification plans for managers established by the authority designated in the sector in question.

1524