

Gouvernement du Québec

O.C. 280-99, 24 March 1999

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

Plans exempted from the application of certain provisions of the Act
— Amendments

IN THE MATTER OF the Regulation to amend the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act

WHEREAS pursuant to the second paragraph of section 2 of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1), as amended by section 1 of chapter 45 of the Statutes of 1993, the Government may, by regulation and on the conditions it sets, exempt from the application, in whole or in part, of the Act any category of pension plan;

WHEREAS pursuant to sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the draft Regulation to amend the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act was published in Part 2 of the *Gazette officielle du Québec* on 9 September 1998, together with a notice indicating that it could be submitted to the Government for adoption on the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation, with amendments to take into account the comments expressed by interested persons;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Social Solidarity:

THAT the Regulation to amend the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act, attached to this Order in Council, be made.

MICHEL NOËL DE TILLY,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act*

Supplemental Pension Plans Act
(R.S.Q., c. R-15.1, s. 2, 2nd para.; 1993, c. 45, s. 1)

1. The Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act is amended by adding, after section 20, the following division:

“DIVISION VI
MULTI-EMPLOYER PLANS

21. A multi-employer pension plan registered before 1 January 1990 which has the characteristics mentioned in section 22 and which is the object of an amendment referred to in the first paragraph of section 23 is exempted, from the registration of said amendment and on the conditions set out in section 24, from the application of the provisions of sections 39 and 127, the second paragraph of section 137, the first and third paragraphs of section 140, section 142, the second paragraph of section 143, sections 144 to 146 and 165.1, sections 198 to 201 as to the right to partially terminate the plan and as to the employer’s right to totally terminate the plan in the absence of any explicit provision of the plan authorizing the same, sections 214 to 218, the first paragraph of section 220, sections 223 to 233, chapter XIV.1 and section 317 of the Supplemental Pension Plans Act as well as the application of section 52 of the Regulation respecting supplemental pension plans to the extent that the said act makes reference, by the application of section 101 of the Act, to provisions of the Act from which the plan is otherwise already exempted.

22. The characteristics that a multi-employer plan referred to in section 21 must have are the following:

1° the plan is a defined benefit-defined contribution plan;

2° the plan has, on the date of transmission of the application for registration of the amendment intended to exempt it from the application of the provisions men-

* The last amendment to the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act, approved by Order in Council 1160-90, dated 8 August 1990 (1990, *G.O.* 2, 2333), was made by the regulation approved by Order in Council 1466-95, dated 8 November 1995 (1995, *G.O.* 2, 3160). For earlier amendments, see *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 1998, updated to 1 September 1998.

tioned in the said section, at least seven employers who have 15 or more active members in their service;

3° according to the provisions of the plan, no employer has the power to amend the plan, directly or indirectly, subject in the latter case, to the consent required under paragraph 3 of section 24 of the Act;

4° the plan is not governed by any law that is similar to the Supplemental Pension Plans Act and emanates from any legislative authority other than the Parliament of Québec, and only workers referred to in section 1 of the Act may be members of the said plan.

23. A plan amendment intended to exempt the plan from the application of the provisions mentioned in section 21 must meet the following conditions:

1° the mention "Multi-employer Plan Exempted from the Application of Certain Provisions of the Supplemental Pension Plans Act" appears on the title page or the cover of the plan text;

2° anyone who has the power to amend the plan and, unless the plan, as it stood on 15 November 1988, has no provision allocating, in whole or in part, surplus assets to one or more of the employers in the event of the plan's total termination, all the employers who are parties to the plan consent in writing to the proposed exemption and a copy of their consent accompanies the application for registration of the amendment;

3° the members of the plan were notified in writing of the effects of the proposed exemption, notably the effects listed in the following subparagraphs, and a copy of the notice is provided to the Régie and the employers who are parties to the plan:

(a) that the employer's obligation to fund the plan is limited to payment of the employer contribution provided for by the plan;

(b) that the exemption from the application of the provisions of section 39, the first paragraph of section 140 and sections 146 and 228 of the Act involve a higher risk that the members' benefits may be reduced in the event of insufficient employer contributions, withdrawal of an employer or total termination of the plan;

(c) that the rights which they could have been granted under section 211 of the Act in the event of partial plan termination will not be granted;

(d) that, in the event of total plan termination, the surplus assets in their entirety will be allocated to the members and beneficiaries;

4° an actuarial valuation of the plan as at the end of the last fiscal year preceding the transmission of the application for registration of the amendment shows that the degree of solvency of the plan as at that date, calculated in accordance with chapter X of the Act, the following rules and those set by paragraphs 4 to 7 and 10 of section 24 and, where the said degree is not a whole number, rounded down to the next whole number, is equal to or greater than 120 % or where the date in question is 31 December 1998, 115 %:

a) the value of the additional voluntary contributions and the benefits arising from provisions that are similar to those of a defined contribution plan must be subtracted from the assets and liabilities;

b) any provision of the plan, except those arising from the application of section 60 of the Act, that would require that the value of a benefit be at least equal to a given percentage of the member contributions may not be taken into account;

5° the pension committee certifies that all the information, notices and documents required under the Act and that are related to the plan in respect of the period prior to the date of registration of the amendment for plan exemption were sent to the Régie and that every amendment to the plan made prior to that date and concerning that period was the object of an application for registration;

6° the Régie notified the pension committee that no question related to the plan is pending before it;

Paragraphs 1 and 2 of section 19 and section 30 of the Act do not apply to the amendment referred to in the first paragraph. Moreover, notwithstanding the said paragraphs of section 19, no amendment to the plan for which the application for registration is presented after the date of registration of the amendment referred to in the first paragraph may come into force on a date prior to the said date.

24. The conditions for the exemption of the plan are the following:

1° notwithstanding sections 69 and 295 of the Act, the right to a deferred pension at least equal to the normal pension is granted to every member who ceases to be an active member after the date of transmission of the application for registration of the amendment referred to in the first paragraph of section 23, for recognized service prior to as well as after that date;

2° the plan must be the object of an actuarial valuation in accordance with chapter X of the Act, in addition to the dates referred to in section 118 of the Act, as at the

date of the end of any fiscal year following the date of an actuarial valuation that shows a degree of solvency for the plan that is less than 100 % and the report required by section 119 of the Act must be sent to the Régie during the same period as that for the report related to an actuarial valuation provided for in paragraph 3 of section 118;

3° the pension committee shall send to the Régie, in the three months following the ending date of each fiscal year for which the plan is not the object of an actuarial valuation of the entire plan, an actuary's certificate that the degree of solvency of the plan is equal to or greater than 100 % as at that date; otherwise, the plan must be the object of an actuarial valuation as at the ending date of the fiscal year concerned and the report required under section 119 of the Act must be sent to the Régie within the period provided for in paragraph 2;

4° notwithstanding the third paragraph of section 129 of the Act, the amortization period for any unfunded actuarial liability may not exceed six years;

5° the plan may not be partially solvent unless the lack of assets required for solvency is offset by the value determined as at the date of the actuarial valuation, pursuant to the third paragraph of section 137 of the Act:

(a) of the amounts provided for amortizing, during the three years following that date, any unfunded actuarial liability;

(b) of the amounts that remain to be paid to amortize a sum determined by applying subparagraph *c* in the course of a previous actuarial valuation;

(c) of the difference between the assets, augmented by the amounts referred to in subparagraphs *a* and *b*, and the liabilities;

6° any amount determined by applying subparagraph *c* of paragraph 5 shall, in the three years following the date of the actuarial valuation, be paid into the pension fund and be used, proportionally and in accordance with section 133 of the Act, with the exception of paragraph 1 of the first paragraph, to diminish the amortization amounts which, three years after the date of the actuarial valuation, remain to be paid for the unfunded actuarial liabilities; the provisions of the second paragraph of section 140 of the Act applying to any sum thus determined;

7° for the determination of the solvency of the plan in accordance with section 138 of the Act, the liabilities must, for each member or beneficiary, be at least equal to the liabilities that would result from the use of the following assumptions:

(a) in the case of a non-indexed pension: an interest rate of 6 %. However, for the first 15 years following the valuation date the interest rate shall be determined on the basis of a rate corresponding to the average, for the months included in the period of 36 months preceding the valuation date, of the nominal, end-of-month interest rates on negotiable bonds issued by the Government of Canada, the term of which is more than 10 years, as compiled by Statistics Canada and published by the Bank of Canada under reference numbers B14013, B113867 or B114022, depending on the frequency of publication, by successively applying to the said interest rate the following adjustments:

i. a reduction or increase of 0,25 % depending respectively on whether payment of the pension has or has not begun;

ii. conversion of the reduced or increased rate, which is based on interest compounded semi-annually, to an annual effective interest rate;

iii. rounding of the effective interest rate to the nearest multiple of 0,25 %;

(b) in the case of an indexed pension, the interest assumption provided for in subparagraph *a*, accompanied with an assumption for increasing the indexation factor in order to render coherent these assumptions as a whole, both for the first 15 years following the valuation date and thereafter, subject to measures that the Régie may impose in applying section 248 of the Act;

8° where the report on an actuarial valuation of the plan shows that the employer contribution provided for in the plan is less than the current service contribution reduced by the member contributions and increased by the amount referred to in paragraph 6 and the amortization amounts determined according to section 131 of the Act, the pension committee shall present to the Régie, during the four months following the expiry of the period provided for in section 119 of the Act or paragraph 2 for sending the said report to the Régie, an application for registration of an amendment to the plan that concerns notably contributions, pension benefits and refunds and of which the effect is to ensure that the employer contribution becomes sufficient;

9° where the requirements of paragraph 8 are not met, the employers who are parties to the plan shall be deemed to have failed to pay into the pension fund their employer contributions and the Régie may then totally terminate the plan by applying the second paragraph of section 199 of the Act;

10° in addition to the requirements of Division III of chapter II of section 130 of the Act as well as sections 5 and 6 of the Regulation respecting supplemental pension plans, an amendment that increases the value of the commitments arising from the plan may not be made to the plan unless, taking into account the said amendment, the plan is solvent and unless either the report on the actuarial valuation of the entire plan so indicates or such fact is certified by an actuary in a report that defines the assumptions used to that end;

11° the plan may not be the object of division or merger unless it ceases to be exempted from the application of the provisions referred to in section 21;

12° unless the plan provides otherwise, only the pension committee may totally terminate the plan;

13° the plan's total surplus assets are, in the event of total termination and notwithstanding any provision to the contrary, allocated by right to the members and beneficiaries, including those who conserve such status pursuant to on or the other of sections 240.2, 308.3 or 310.1 of the Act or of section 76.1 of the Regulation respecting supplemental pension plans, in proportion to the value of their benefits.

14° where, following total termination, the plan's assets do not allow full payment of the benefits of the members and beneficiaries, payment shall be made, notwithstanding any provision to the contrary, in proportion to the value of the benefits of each member and beneficiary.

15° any amount recovered after the date of the plan's total termination as contributions due and unpaid on that date shall be used to pay the benefits of the members and beneficiaries referred to in paragraph 13 or 14, depending on whether or not the plan has surplus assets following payment of the amount recovered, proportionally to the value of the benefits of the said members and beneficiaries.

25. When a multi-employer plan no longer satisfies one of the characteristics referred to in section 22 or the condition set in paragraph 1 of the first paragraph of section 23, it ceases to be exempt from the application of the provisions referred to in section 21.”

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

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M.O., 98020

Order of the Minister for Wildlife and Parks dated 4 March 1999

An Act respecting the conservation and development of wildlife
(R.S.Q., c. C-61.1)

CONCERNING the Regulation respecting the classes of licences to keep animals in captivity and their term

THE MINISTER FOR WILDLIFE AND PARKS,

CONSIDERING THAT under section 54.1 of the Act respecting the conservation and development of wildlife (R.S.Q., c. C-61.1), replaced by section 7 of Chapter 29 of the acts of 1998, the Minister may, by regulation,

“(1) fix the kinds and classes of licences and certificates, in particular for residents and non-residents, and limit the number of licences of each class for an area, territory or place the Minister indicates;

(2) determine the content and term of a licence or certificate and the manner of issuing, replacing and renewing a licence or certificate according to the category of persons concerned or according to the species of wildlife sought or the age or sex of the animals.”

CONSIDERING THAT under section 35 of the Act modifying the Act respecting the conservation and development of wildlife and the Act respecting commercial fisheries and aquaculture (1998, c. 29), which provides that the regulations made by the Government with respect to the fixing of classes and determination of terms of licences, in accordance with paragraphs 8 and 10 of section 162 of the Act respecting the conservation and development of wildlife, before June 17, 1998 continue to be in force until they are replaced or repealed by an order of the Minister;

CONSIDERING the Regulation respecting animals in captivity made by Order in Council 1029-92 dated July 8, 1992;

CONSIDERING THAT section 164 of the Act respecting the conservation and development of wildlife is replaced by section 23 of Chapter 29 of the Acts of 1998 which provides that a regulation made by the Minister under section 54.1 among others is not subject to the publication requirements set out in section 8 of the Regulations Act (R.S.Q., c. R-18.1);

CONSIDERING THAT it is expedient to replace certain provisions of the Regulation respecting animals in captivity with respect to the classes of licences and their