
Treasury Board

Gouvernement du Québec

T.B. 200048, 15 July 2003

An Act respecting the Government and Public Employees Retirement Plan
(R.S.Q., c. R-10; 2002, c. 30)

Application of Title IV.2 of the Act — Amendments

Regulation to amend the Regulation respecting the application of Title IV.2 of the Act respecting the Government and Public Employees Retirement Plan

WHEREAS, under subparagraph 1 of the first paragraph of section 215.13 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10), the Government may, by regulation, determine the manner in which a person's pensionable salary, credited service and employee and employer contributions, together with the terms and conditions governing the payment of those contributions, are calculated for the purposes of the pension plan following the application of certain provisions of a person's conditions of employment;

WHEREAS, under paragraph 2 of section 215.13 of the Act, the Government may, by regulation, determine the measures to allow the transfer of the actuarial value of the benefits of a person entitled to a deferred pension;

WHEREAS, under paragraph 6 of section 215.13 of the Act, the Government may, by regulation, determine in respect of a person whose employer under the plan has not deducted from the pensionable salary an annual amount provided for in the pension plan whereas the person was an employee to whom the pension plan applied, the terms and conditions of payment of the necessary sums by the person, the person's spouse or successors and, as the case may be, the applicable rate of interest; the Government may prescribe the terms and conditions applicable to the redemption of a period of service prior to the period during which the person was a member of the plan. The government may also determine, notwithstanding sections 187 to 191.1 of the Act, the terms and conditions of payment of the contributory amounts by the employers, and the employers exempted from such payment;

WHEREAS, under the first paragraph of section 215.17 of the Act, regulations under Title IV.2 shall be made by the Government after the Commission administrative des régimes de retraite et d'assurances has consulted with the pension committees referred to in sections 164 and 173.1 of the Act;

WHEREAS, under the second paragraph of that section, the regulations may have effect a maximum of 12 months before they are made;

WHEREAS the pension committees have been consulted;

WHEREAS the Government made the Regulation respecting the application of Title IV.2 of the Act respecting the Government and Public Employees Retirement Plan by Order in Council 690-96 dated 12 June 1996, and its subsequent amendments;

WHEREAS it is expedient to amend the Regulation;

WHEREAS, under section 40 of the Public Administration Act (R.S.Q., c. A-6.01), the Conseil du trésor shall, after consulting with the Minister of Finance, exercise the powers assigned to the Government by an Act that establishes a pension plan applicable to personnel of the public and parapublic sectors, except for certain powers;

WHEREAS the Minister of Finance has been consulted;

THEREFORE, THE CONSEIL DU TRÉSOR DECIDES :

THAT the Regulation to amend the Regulation respecting the application of Title IV.2 of the Act respecting the Government and Public Employees Retirement Plan, attached hereto, is made.

ALAIN PARENTEAU,
Clerk of the Conseil du trésor

Regulation to amend the Regulation respecting the application of Title IV.2 of the Act respecting the Government and Public Employees Retirement Plan*

An Act respecting the Government and Public Employees Retirement Plan
(R.S.Q., c. R-10, s. 215.13, pars. 2 and 6 and s. 215.17; 2002, c. 30, s. 65)

1. Section 4.1 of the Regulation respecting the application of Title IV.2 of the Act respecting the Government and Public Employees Retirement Plan is amended by adding the following at the end:

“The first paragraph also applies in respect of the Pension Plan of Management Personnel effective, however, from 1 January 2001.”

2. Section 5 is amended

(1) by inserting “or, after 31 December 2000, ceases to be a member of the Pension Plan of Management Personnel” after “Civil Service Superannuation Plan” in the part of the first paragraph before subparagraph 1;

(2) by inserting the following subparagraph after subparagraph 1 of the third paragraph:

“(1.1) contributions to the Pension Plan of Management Personnel include the amounts referred to in section 73 of the Act respecting the Pension Plan of Management Personnel (R.S.Q., c. R-12.1), and in establishing the total of such contributions, the second paragraph of section 77 and section 79 of that Act are taken into account. In addition, where section 140 of that Act applies, the contributions and the actuarial value of the pension relating to the years and parts of a year of service credited under sections 126, 130 and 139 of that Act are excluded;”;

(3) by inserting “or by Schedule VII to the Act respecting the Pension Plan of Management Personnel according to the plan concerned” after “Retirement Plan” in the fourth paragraph;

(4) by inserting the following after the fourth paragraph:

“In the case of the Government and Public Employees Retirement Plan and the Pension Plan of Management Personnel, the 210-day period provided for in the first and second paragraphs applies from the date on which the person ceased to be a member of either of the plans for the last time.”

3. Section 6 is amended by adding the following at the end:

“The first paragraph also applies to any person who has obtained a pension credit under the Act respecting the Government and Public Employees Retirement Plan and who is referred to in section 3.2 of that Act.”

4. Section 8 is amended

(1) by inserting the following after the first paragraph:

“For the purposes of the first paragraph, where a person was a member of the Government and Public Employees Retirement Plan or the Pension Plan of Management Personnel before the date of the transfer and holds or again holds pensionable employment under either of those plans, the years or parts of a year of service that were credited before the transfer are credited to the pension plan of which the person is a member after that date and the rate of interest is determined pursuant to Schedule VI to the Act respecting the Government and Public Employees Retirement Plan or Schedule VII to the Act respecting the Pension Plan of Management Personnel according to the plan of which the person is a member.”;

(2) by replacing “first and second” in the third paragraph by “first, second and third”;

(3) by replacing “the first, second or third paragraph” in the fourth paragraph by “this section”;

(4) by adding the following at the end of the fourth paragraph:

“Where a person holds or again holds pensionable employment under the Government and Public Employees Retirement Plan or the Pension Plan of Management Personnel, the amount paid to the Commission shall be deposited into the pension fund concerned at the Caisse. Where applicable, the fourth paragraph of section 178 of the Act respecting the Pension Plan of Management Personnel applies, with the necessary modifications.”

* The Regulation respecting the application of Title IV.2 of the Act respecting the Government and Public Employees Retirement Plan, made by Order in Council 690-96 dated 12 June 1996 (1996, *G.O.* 2, 2759), was last amended by C.T. 195745 dated 21 December 2000 (2001, *G.O.* 2, 461). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2003, updated to 1 March 2003.

5. The following is inserted after section 8:

“**8.1.** Sections 6, 7 and 8 apply, with the necessary modifications, to any employee who is a member of the Pension Plan of Management Personnel who has obtained a pension credit under the Teachers Pension Plan or the Civil Service Superannuation Plan, having regard to section 28.5.12 of the Act respecting the Teachers Pension Plan and section 99.17.7 of the Act respecting the Civil Service Superannuation Plan, as the case may be.”

6. Section 9 is amended by inserting “or, after 31 December 2000, ceases to be a member of the Pension Plan of Management Personnel” after “Civil Service Superannuation Plan”.

7. The following is added after section 15:

“DIVISION V
PENSION PLAN OF MANAGEMENT PERSONNEL

15.1. The annual amount of a deferred pension under the Pension Plan of Management Personnel, payment of which is anticipated under this Chapter, shall be established as follows:

(1) by computing the pension in the same manner as the pension granted under that plan, irrespective of the limit provided for in subparagraph 2 of the first paragraph of section 51 of the Act respecting the Pension Plan of Management Personnel;

(2) by indexing annually the pension obtained under subparagraph 1 by the rate of increase in the Pension Index determined by the Act respecting the Québec Pension Plan (R.S.Q., c. R-9), from 1 January following the date on which the employee ceases to be a member of the plan until 1 January of the year in which the employee retires. However, the part of the pension that applies to the years of service credited after 31 December 1991 may not, on the date of the person’s retirement, exceed the amount obtained by adding the following amounts:

(a) the amount obtained by multiplying the upper limit for the benefits determined, applicable for the year in which the person retires and established under the Income Tax Act, by the number of years of service credited after 31 December 1991; and

(b) the amount obtained by computing the reduction provided for in section 57 of the Act respecting the Pension Plan of Management Personnel, counting only the years of service credited after 31 December 1991;

(3) by reducing the amount obtained under subparagraph 2, during the pension payment period, by $\frac{1}{4}$ of 1% per month, computed for each month between the date of the employee’s retirement and the date of the employee’s sixty-fifth birthday;

(4) by reducing the amount obtained under subparagraph 3 by the amount obtained under the first paragraph of section 57 of that Act, with the latter amount being indexed in the manner prescribed in subparagraph 2 and reduced in the manner prescribed in subparagraph 3; and

(5) by applying the second paragraph of section 76 of that Act to the amount obtained under subparagraph 4, on the date of the employee’s retirement, using the actuarial assumptions and methods provided for in Schedule III.

Where an employee makes the election provided for in section 63 of that Act, the pension obtained under the first paragraph shall be reduced by 2%.

15.2. The adjustment on 1 January following the date of the employee’s retirement as a result of the indexing prescribed in section 115 of that Act shall be made proportionately to the number of days for which the pension was paid during the year in which the employee retired in relation to the total number of days in that year.

15.3. Where the provisions of that Act pertaining to a pensioner’s return to work apply to the pension of an employee who anticipated payment thereof under this Chapter, that pension shall, for the purposes of section 155 of that Act, be recomputed as follows:

(1) by recomputing the pension in accordance with the provisions of the Pension Plan of Management Personnel to take into account the pensioner’s pensionable salary and the years of service credited for the period during which the pension ceases to be paid;

(2) by reducing the amount obtained under paragraph 1, during the pension payment period, by the percentage of actuarial reduction that applied to the pension on the date of retirement; and

(3) by reducing the amount obtained under paragraph 2 by the amount obtained under the first paragraph of section 57 of that Act, with the latter amount being reduced by the percentage referred to in paragraph 2.”

8. Chapter IV is revoked.

9. The following is added after section 38:

**“CHAPTER VI
SPECIAL PROVISIONS CONCERNING CERTAIN
CONTRIBUTIONS AND CONTRIBUTORY
AMOUNTS**

38.1. A person may be credited, in whole or in part, with the years of service accumulated as an employee of one of the employers designated in Schedule V in respect of which that employer has not withheld from the pensionable salary the annual amount provided for in the pension plans referred to in paragraphs 1 and 3 to 5 of Schedule I. To that end, the person shall pay an amount corresponding to the value of the contributions not withheld, in accordance with the terms and conditions determined in this Chapter.

For the purposes of the first paragraph, the person must, on 16 June 2000, satisfy one of the following conditions:

- (1) be a member of one of the plans referred to in the first paragraph;
- (2) be a pensioner under one of those plans; or
- (3) have ceased to be a member of one of those plans.

In addition, the years of service may be credited to the plan only to the extent that they have not otherwise been credited or counted.

38.2. An employee referred to in subparagraph 1 of the second paragraph of section 38.1 may be credited, in whole or in part, with the years of service in respect of which the annual amount has not been withheld, if the employee makes an application to that effect within 12 months of receiving the notice from the Commission informing the employee of the right to elect to have the provisions of this Chapter apply. In the case of an employee who, on 16 June 2000, is working for the same employer as the employer referred to in the first paragraph of section 38.1, the years of service shall be credited except on contrary notice from the employee received by the Commission before the date of the employee's retirement.

The amount referred to in section 38.1 shall be paid in a lump sum, by instalments spread out before the retirement date, or as a set-off on the amount of the pension.

If the employee ceases to be a member of the pension plan before being eligible for the pension and requests a refund of his or her contributions, the contributions referred to in the first paragraph are presumed paid for the purposes of establishing the rights arising out of the pension plan. However, the value of those contributions is not included in the amount refunded if the employee has not paid the cost. This rule also applies where a person elects to have the provisions of Chapter II apply, with the necessary modifications.

Where the 12-month period provided for in the first paragraph extends beyond 16 June 2005, the application must be received by the Commission at the latest by that date.

38.3. If the employee referred to in section 38.2 dies, the contributions not withheld are presumed paid to determine the spouse's entitlement to a pension.

If an employee who dies is not eligible for a pension, the third paragraph of section 38.2 applies for the purpose of establishing the rights of the spouse or, where there is no spouse, of the successors.

38.4. A person referred to in subparagraph 2 or 3 of the second paragraph of section 38.1 may also be credited, in whole or in part, with the years of service in respect of which the annual amount has not been withheld, if the person makes an application to that effect within 12 months of receiving a notice from the Commission informing the person of his or her right to have the provisions of this Chapter apply. The amount referred to in the first paragraph of section 38.1 shall be paid in a lump sum or, where applicable, as a set-off on the amount of the pension.

The 12-month period provided for in the first paragraph applies in accordance with the fourth paragraph of section 38.2.

In the case of a person referred to in subparagraph 3 of the second paragraph of section 38.1, the amount referred to in the first paragraph bears interest, compounded annually, from the expiry of the 12-month period provided for in the first paragraph, at the rate provided for, for each period, in Schedule VI to the Act respecting the Government and Public Employees Retirement Plan. However, interest ceases to be computed from the date on which the person again becomes a member of the Government and Public Employees Retirement Plan or of the Pension Plan of Management Personnel. In that case, section 38.2 applies.

38.5. A person who elects to have section 38.2 or 38.4 apply may also be credited, in whole or in part, with the years of service during which the Act respecting the Government and Public Employees Pension Plan did not apply to the person while that person held casual employment, in accordance with section 115.1 of that Act. Section 115.1, as it read on 31 May 2001, applies, except that the interest payable begins to accrue on the date on which the person became a member of the plan after the period of service the person is having credited. The amount required of the person may be paid by instalments or as a set-off on the amount of the person's pension and, in those cases, section 115.2 of that Act applies.

To benefit from the application of the first paragraph, the person must make an application to the Commission within the period provided for in section 38.2 or 38.4, as the case may be.

38.6. Where the years of service are credited in part only, they are credited in proportion to the amount paid by the person. In that case, the most recent service is credited first.

38.7. For the purposes of this Chapter, set-off on the sums owing by the person is effected on the amount of pension or arrears payable to the person by the withholding of an amount corresponding to 10% of the amount of pension or arrears, as the case may be.

The provisions of the Act that concern set-off apply, having regard to the first paragraph.

38.8. For the purposes of Chapter II of this Regulation and the provisions of the pension plan concerned, the contributions referred to in this Chapter are deemed to be received by the Commission at the mid-point of the year in which the instalments are made or from the date on which they are paid as a lump sum.

38.9. A person who has elected to have this Chapter apply may not so elect again.

38.10. The terms and conditions that apply under the pension plan concerned to the cost of redemption paid by instalments also apply to any amount owing under this Chapter that is paid by instalments.

38.11. The adjustment of the amount of a pension resulting from the application of this Chapter has effect from 16 June 2000 or, where the date of retirement is after that date, from the date of retirement.

38.12. The employers referred to in Schedule VI must pay to the Commission any contributory amount they should have paid under the applicable pension plan. However, no interest is payable.

38.13. In no case may the application of the provisions of this Chapter exceed the limits authorized under the Income Tax Act (R.S.C. 1985, c. 1 (5th Supplement)).

38.14. This Chapter applies, with the necessary modifications, to any person to whom the Pension Plan of Management Personnel applies after 31 December 2000. For the purposes of the third paragraph of section 38.4, however, the rate of interest is the rate determined pursuant to the Act respecting the Pension Plan of Management Personnel (R.S.Q., c. R-12.1) and for the purposes of section 38.5, the references to sections 115.1 and 115.2 of the Act respecting the Government and Public Employees Retirement Plan are references to sections 146 and 147 of the Act respecting the Pension Plan of Management Personnel.

38.15. The years or parts of a year referred to in sections 38.2 and 38.4 are considered to have been redeemed for the purposes of the provisions concerning the partition of benefits accrued under the pension plan concerned.”.

10. Schedule I to the Regulation is amended by inserting the following after paragraph 5:

“**5.1.** the Pension Plan of Management Personnel (2001, c. 31);”.

11. The following schedules are inserted after Schedule IV:

“**SCHEDULE V**
(s. 38.1)

DESIGNATED EMPLOYERS

(1) Académie des jeunes filles Beth Tziril for the period from 1 July 1995 to 31 December 1998;

(2) Académie Laurentienne (1986) inc. for the period from 1 July 1988 to 30 June 1990;

(3) Académie Sainte-Thérèse for the period from 1 July 1985 to 30 June 1989;

(4) Collège de secrétariat moderne inc. for the period from 1 July 1985 to 31 December 1997;

(5) Clinique juridique populaire de Hull for the period from 1 July 1975 to 31 December 1987;

(6) École Chrétienne Emmanuel for the period from 1 July 1984 to 31 December 1998;

(7) École Demosthène for the period from 1 July 1983 to 1 September 1988;

(8) Écoles Musulmanes de Montréal for the period from 1 July 1987 to 31 December 1998;

(9) École Pasteur for the period from 1 July 1983 to 1 September 1988;

(10) Services communautaires juridiques Pointe St-Charles et Petite Bourgogne for the period from 1 July 1975 to 1 January 1995;

(11) Syndicat de l'enseignement de Champlain for the period from 18 October 1974 to 31 December 1995.

SCHEDULE VI

(s. 38.9)

**EMPLOYERS REQUIRED TO PAY TO THE
COMMISSION ANY CONTRIBUTORY
AMOUNT THEY SHOULD HAVE PAID"**

12. This Regulation comes into force on the date it is made.

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