
Regulations and other acts

Gouvernement du Québec

O.C. 415-2004, 28 April 2004

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

An Act to facilitate the establishment of a pension plan for employees working in childcare services
(R.S.Q., c. E-12.011)

Charter of Ville de Montréal
(R.S.Q., c. C-11.4; 2003, c. 3)

Supplemental Pension Plans Act — Exemption of certain pension plans

IN THE MATTER OF the Regulation respecting the exemption of certain pension plans from the application of provisions of the Supplemental Pension Plans Act

WHEREAS in accordance with the second paragraph of section 2 of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1), the Government may, by regulation and on the conditions it determines:

— exempt any pension plan or category of pension plan it designates from the application of all or part of the Act, particularly by reason of the special characteristics of the plan or category or by reason of the complexity of the Act in relation to the number of members in the plan;

— prescribe special rules applicable to the plan or category;

WHEREAS in accordance with section 8 of the Act to facilitate the establishment of a pension plan for employees working in childcare services (R.S.Q., c. E-12.001), a regulation made under the second paragraph of section 2 of the Supplemental Pension Plans Act relating to the pension plan referred to in section 1 of the Act to facilitate the establishment of a pension plan for employees working in childcare services may, if it so provides, have retroactive effect from a date prior to the date of its coming into force;

WHEREAS in accordance with section 37.1 of Schedule C of the Charter of Ville de Montréal (R.S.Q., c. C-11.4), enacted by section 2 of chapter 3 of the statutes of 2003, a regulation under the second paragraph of section 2 of the Supplemental Pension Plans Act relating to the pension plans referred to in section 135.1 of that Act may have retroactive effect from any date that it determines and may also, from any date that it determines and that may be prior to the date of its coming into force, amend or repeal any provision contained in sections 135.1 to 135.5 and 306.2 to 306.6 of the Supplemental Pension Plans Act and in sections 29 to 32 of the Act respecting the negotiation of agreements concerning the reduction of labour costs in the municipal sector (1998, c. 2);

WHEREAS in accordance with the third paragraph of section 2 of the Supplemental Pension Plans Act, a regulation made under the second paragraph of that section in relation to a pension plan administered by the Commission de la construction du Québec or a mandatary of the Commission de la construction du Québec may, if it so provides, have retroactive effect from a date that is prior to the date of its coming into force;

WHEREAS pursuant to sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the draft regulation attached hereto was published in Part 2 of the *Gazette officielle du Québec* on 30 December 2003 with a notice that it could be made by the Government upon expiry of a period of 45 days following that publication;

WHEREAS it is expedient to make the Regulation with an amendment;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Employment, Social Solidarity and Family Welfare:

THAT the Regulation respecting the exemption of certain pension plans from the application of provisions of the Supplemental Pension Plans Act attached hereto be made.

ANDRÉ DICAIRE,
Clerk of the Conseil exécutif

Regulation respecting the exemption of certain pension plans from the application of provisions of the Supplemental Pension Plans Act

Supplemental Pension Plans Act
(R.S.Q., c. R-15.1, s. 2)

An Act to facilitate the establishment of a pension plan for employees working in childcare services
(R.S.Q., c. E-12.011, s. 8)

Charter of Ville de Montréal
(R.S.Q., c. C-11.4, Schedule C (s. 37.1); 2003, c. 3, s. 2)

DIVISION I PROVISIONS CONCERNING THE RÉGIME DE RETRAITE DU PERSONNEL DES CPE ET DES GARDERIES PRIVÉES CONVENTIONNÉES DU QUÉBEC

1. The Régime de retraite du personnel des CPE et des garderies privées conventionnées du Québec is exempted from the following provisions of the Supplemental Pension Plans Act:

- (1) subparagraph 3 of the second paragraph of section 24;
- (2) sections 142 to 146;
- (3) sections 198 to 203.

DIVISION II PROVISIONS CONCERNING CERTAIN PENSION PLANS TO WHICH THE VILLE DE MONTRÉAL IS PARTY

2. This division applies to the following pension plans:

- (1) the Régime de retraite des contremaîtres de la Ville de Montréal, registered with the Régie des rentes du Québec under number 27693;
- (2) the Régime de retraite des fonctionnaires de la Ville de Montréal, registered under number 27543;
- (3) the Régime de retraite des professionnels de la Ville de Montréal, registered under number 28739;
- (4) the Régime de retraite des cadres de la Ville de Montréal, registered under number 27542.

3. The second paragraph of section 132 and section 133 of the Supplemental Pension Plans Act notwithstanding, the contribution paid by Ville de Montréal to the pension fund of a plan in execution of an agreement referred to in the resolutions of the Council of the Ville de Montréal bearing the numbers CM03 0504 and CM03 0618 and made between the Ville de Montréal and the person, or if such be the case, the worker's association representing the majority of the plan's members, adjusted where required according to the said agreement, shall be used for the immediate reduction of the outstanding amortization amounts related to the initial unfunded actuarial liability identified in the report on the most recent complete actuarial valuation of the plan submitted to the Régie prior 1 July 2003.

4. Any excess amount determined by the application of the first paragraph of section 134 of the Supplemental Pension Plans Act shall, if need be, and sections 133 and 134 of the Act notwithstanding, be allocated to the redemption of the bond credited to the pension fund of the plan concerned as a result of the execution of the agreement referred to in section 3 until the value as at 1 July 2003 of the excess amounts thus allocated is equal to the amount related to the plan among the following amounts:

- (1) in the case of the plan referred to in paragraph 1 of section 2: \$16 974 000;
- (2) in the case of the plan referred to in paragraph 2 of section 2: \$27 195 000;
- (3) in the case of the plan referred to in paragraph 3 of the said section: \$37 191 000;
- (4) in the case of the plan referred to in 4 of the said section 2: nil.

5. Sections 133 and 134 of the Supplemental Pension Plans Act notwithstanding, where the value as at 1 July 2003 of the excess amounts determined by applying the first paragraph of section 134 of the Act to a pension plan reaches the amount indicated in section 4 with respect to the said plan, a portion equal to 40% of any excess amount thus determined shall be allocated to increasing the benefits of the plan's members and beneficiaries, the balance of such excess being allocated, if need be, to the redemption of the bond referred to in section 4.

The first paragraph applies with respect to a pension plan until the later of the following events: the value referred to therein reaches the amount set for that plan by the second paragraph of section 32 of the Act respecting the negotiation of agreements concerning the reduction of labour costs in the municipal sector (1998, c. 2) or the bond credited to the pension fund of the plan concerned as a result of the execution of the agreement referred to in section 3 has been redeemed in full.

6. The first paragraph of section 172 of the Supplemental Pension Plans Act applies to the said pension plans by replacing the percentage “10%” by the percentage “17.5%”.

7. The said pension plans are exempted from the application of sections 135.2 to 135.5 and 306.2 to 306.6 of the Supplemental Pension Plans Act.

8. Section 32 of the Act respecting the negotiation of agreements concerning the reduction of labour costs in the municipal sector (1998, c. 2), as amended by section 6 of the Act to amend various legislative provisions concerning municipal affairs (2003, c. 3), is further amended by inserting the following paragraphs, after the first paragraph:

“As at 1 July 2003, the value of the actuarial gains to be used for the purposes provided for in the first paragraph is, for the following plans referred to in the first paragraph, set at the following corresponding amount:

1° the pension plan referred to in paragraph 1: \$32 719 000;

2° the pension plan referred to in paragraph 3: \$219 669 000;

3° the pension plan referred to in paragraph 5: \$83 951 000;

4° the pension plan referred to in paragraph 6: \$33 793 000.

Upon agreement thereto between the Ville de Montréal and the person, or if such be the case, worker’s association representing the majority of the members of a pension plan referred to in the second paragraph, such gains may likewise be used, in accordance with the terms and conditions set out in a regulation made pursuant to section 2 of the Supplemental Pension Plans Act, to provide for the redemption of a bond referred to in such regulation or to pay the employer portion of the current service contribution. Where such gains are not sufficient to redeem in full such bond, gains determined subsequently may also, insofar as the agreement so provides,

be used to provide for the redemption of the bond or to increase the benefits of the plan’s members or beneficiaries, until the balance of the bond is nil.”.

DIVISION III

PROVISIONS CONCERNING THE SUPPLEMENTAL PENSION PLAN FOR EMPLOYEES OF THE QUÉBEC CONSTRUCTION INDUSTRY

9. The Supplemental Pension Plan for Employees of the Québec Construction Industry, registered with the Régie des rentes du Québec under number 25299, is, on the conditions set forth hereinafter, exempted from the application of the following provisions:

(1) subparagraph 13 of the second paragraph of section 14, subparagraph 3 of the second paragraph of section 24, sections 26, 48, 51, 60.1, 66.1, 69.1, 77, 89.1, 91.1 and 92.1, the third paragraph of section 99, sections 166 and 198 to 203 of the Supplemental Pension Plans Act;

(2) section 44 of the Act, provided any contribution referred to therein bears interest, from the first day of the month following the one in which it must be paid into the pension fund, at the rate of return obtained on the investment of the assets credited to the account to which it must be paid, or in the case of a member contribution that must be paid to the general account, at the rate obtained monthly on five-year personal term deposits in chartered banks, as compiled by the Bank of Canada;

(3) section 66 of the Act, provided a member who ceased to be an active member but who is not entitled to a pension benefit is entitled to the refund of his member contributions, with accrued interest;

(4) section 69 of the Act, provided that every member who ceases to be an active member after having accumulated at least 2,800 hours worked as an active member is entitled to a deferred pension at least equal to the sum of the basic pension from the general account and the pension related to his complementary account;

(5) the first paragraph of section 71 of the Act, provided every member who ceases to be an active member after having accumulated at least 2,800 hours worked as an active member and whose period of continuous service ended within the ten years preceding the date on which he reaches the normal retirement age is entitled to an early pension;

(6) section 78 of the Act, provided the member is entitled to the refund of all the contributions paid in his behalf during the postponement period;

(7) the third paragraph of section 87 and the provisions of the first paragraph of section 88.1 of the Act that allow the spouse of a member to waive the benefits granted him under section 87 of the Act, provided the said spouse has the right to waive, to the benefit of such member, the right to receive a portion of the pension provided for in the second paragraph of section 87;

(8) the provisions of the first paragraph of section 88.1 of the Act that allow the spouse of a member to renounce the rights accorded to said spouse pursuant to section 86 of the Act;

(9) the second sentence of the first paragraph of section 99 of the Act but only to allow further restriction of the transfer right of a member who is entitled to an early pension;

(10) section 112 of the Act, provided the Commission de la construction du Québec transmits:

(a) within nine months following the end of each of the Plan's fiscal year, to each active member, a statement containing the information referred to in section 112 of the Act and, where appropriate, the notice provided for in the second paragraph of that section;

(b) every five years, to each non-active member and beneficiary, a statement and a notice containing information similar to that contained, respectively, in the statement and notice provided for in subparagraph *a*, which applies with the required adaptations;

(11) the third paragraph of section 299 of the Act, with respect to the right of the spouse of a member to renounce the pension benefit referred to therein;

(12) section 15 of the Regulation respecting supplemental pension plans approved by Order in Council 1158-90, dated 8 August 1990, provided the Commission has made with the Régie des rentes du Québec an agreement related to the application of section 165 of the Act and provided such agreement is in effect;

(13) the provisions of Division V of the Regulation that prescribe the determination in months of the period between two dates, provided such determination is made on the basis of the hours worked credited to the worker between those dates;

(14) sections 56.2 to 59.0.2 of the Regulation, provided the information provided for in sections 57, 58, excluding the information provided for in subparagraph *n* of paragraph 5 of that section, and 59 of the Regulation as it read on 30 December 2002 is provided to those concerned thereby;

(15) subparagraphs *b* and *c* of subparagraph 8 of section 58 as well as subparagraphs *e* and *f* of subparagraph 4 of section 59 of the Regulation, provided the information provided for by those provisions are provided to the applicant for a refund or transfer of his benefits or the payment of a pension benefit.

10. The following provisions of the Supplemental Pension Plans Act apply to the plan, subject to the following changes:

(1) section 46, by replacing, in the first paragraph, the words "the actuary" with the words "a person who is a member of the Canadian Institute of Actuaries";

(2) section 60.1, by replacing, in the second paragraph, the words "the date the member ceases to be an active member" with the words "the end of the member's last period of active membership in the plan";

(3) section 66, by replacing, in the first paragraph, the words "ceases to be an active member" with the words "applies for a refund";

(4) section 111, by replacing, in the second paragraph, the number "90" with the number "120";

(5) section 290.1, by replacing, in the first paragraph, the number "2001" with the number "2006".

11. For applying sections 60 and 61 of the Supplemental Pension Plans Act where a member has had several periods of active membership in the plan, the sum of the member's member contributions and the value of any pension benefit to which he is entitled shall be determined at the last date as of which he became entitled to such pension benefit, taking into account his accrued benefits and the member contributions that he has paid with respect to all of such periods, with the exception of any periods for which he has already obtained a refund or transfer of his benefits.

12. A member or spouse who has become entitled to a pension whose value is less than 4% of the Maximum Pensionable Earnings established pursuant to the Act respecting the Québec Pension Plan (R.S.Q., c. R-9) for the year in which he becomes entitled to such pension, may elect, before payment of the pension begins, to receive instead a lump-sum payment.

13. The spouse of a member is entitled to a refund of the value of the benefits payable to him as a result of the member's death if such value is less than 20% of the Maximum Pensionable Earnings established pursuant to the Act respecting the Québec Pension Plan for the year

in which the member died. The spouse may not exercise that right once a pension arising from the death begins to be paid to him.

Where the conditions set forth in the first paragraph are met, the Commission may likewise make a full payment of the spouse's benefits by refunding to him the sum corresponding to the value of his pension. Beforehand, the Commission must ask the spouse by notice in writing to make known to it his instructions as to the method of refund; failing receipt of a reply with 30 days from the transmission of such notice, the Commission may make the refund. The notice transmitted to the spouse must mention that eventuality.

14. The Commission may, upon application of the spouse who benefits therefrom, make a refund of the residual value of a pension that began to be paid prior to the coming into effect of this section, provided the value is less than 20% of the Maximum Pensionable Earnings established pursuant to the Act respecting the Québec Pension Plan for the year in which the refund application is made.

DIVISION IV FINAL PROVISIONS

15. This Regulation replaces the Order in Council number 215-98 dated 25 February 1998 respecting the exemption of the Supplemental Pension Plan for Employees in the Québec Construction Industry from the application of certain provisions of the Supplemental Pension Plans Act.

16. The following provisions have effect from:

(1) 26 April 1998, the provisions of paragraph 1 of section 9 with respect to section 91.1 and the third paragraph of section 99 of the Supplemental Pension Plan Act, paragraph 6 of the same section, paragraph 1 of section 10 and section 11;

(2) 1 January 2001, the provisions of paragraph 1 of section 9 with respect to sections 60.1, 66.1, 89.1, 92.1 and 198 to 203 of the Supplemental Pension Plans Act, paragraphs 2, 3, 7, 8, 10 and 11 of the same section, paragraphs 4 and 5 of section 10 and section 12;

(3) 31 December 2002, the provisions of paragraph 14 of section 9;

(4) 1 April 2003, the provisions of Division I;

(5) 1 July 2003, the provisions of Division II.

17. Section 6 will cease to have effect with respect to a pension plan to which Division II applies upon the expiry of the period prescribed for transmitting to the Régie the report on the complete actuarial valuation of the plan the date of which is after 1 July 2003 and that shows, for the first time, that the bond referred to in section 4 has been fully redeemed.

Furthermore, the following provisions will cease to have effect:

(1) 1 July 2004, paragraphs 3, 4 and 5 of section 9 and the provisions of section 12 respecting a member;

(2) 1 January 2005, the provisions of paragraph 1 of section 9 respecting section 92.1 of the Supplemental Pension Plans Act;

(3) 1 July 2005, the provisions of paragraph 1 of section 9 respecting section 89.1 of the Supplemental Pension Plans Act and the provisions of paragraph 2 of the same section that refer in particular to the member contribution that must be paid into the general account of the plan's pension fund;

(4) 1 January 2006, the provisions of paragraph 1 of section 9 respecting section 60.1 of the Supplemental Pension Plans Act, paragraphs 8, 11 and 14 of the same section, paragraph 3 of section 10 as well as the provisions of section 12 respecting a spouse;

(5) 1 July 2006, the provisions of paragraph 1 of section 9 respecting sections 66.1 and 91.1 of the Supplemental Pension Plans Act;

(6) 31 December 2007, the provisions of section 14.

18. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, with the exception of paragraph 3 of section 9, which will have effect from 1 July 2004 and paragraph 15 of section 9, paragraph 2 of section 10 and sections 13 and 14, which will have effect from 1 January 2006.