

A firefighter who acts as an officer in charge of response management, namely a firefighter who supervises and directs the work of firefighters at a fire scene and who began to hold that function between 17 September 1998 and 31 August 2006 has 48 months from 1 September 2006 to obtain an Officier I or Officier non urbain certificate in accordance with the requirements of section 8 of this Regulation.

A firefighter who acts as chief officer whose main duty is to supervise and direct the work of other officers and who began to hold that function between 17 September 1998 and 31 August 2006 has 48 months from 1 September 2006 to obtain an Officier non urbain, Officier I or Officier II certificate in accordance with the requirements of section 9 of this Regulation.

13. For the purposes of this Regulation, the population served by a fire safety service is considered to be the population of the local municipality having the largest population if two or more local municipalities are served by the fire safety service.

14. A firefighter who is a member of a fire safety service serving a population that has increased so that its service is subject to additional training requirements has 24 months to comply with the new requirements from the date of the Order in Council determining the population, made in accordance with section 29 of the Act respecting municipal territorial organization (R.S.Q., c. O-9).

15. Sections 1, 2, 4, 4.1 and 5 of the Regulation respecting the training of members of fire departments, made by Order in Council 1083-98 dated 21 August 1998, are revoked as of 1 September 2004 and section 3 of the Regulation is revoked as of 1 September 2006.

16. This Regulation comes into force on 1 September 2004, except sections 1, 8 and 9 which come into force on 1 September 2006 and sections 4 to 7 which come into force on 1 September 2007.

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Gouvernement du Québec

O.C. 436-2004, 6 May 2004

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 provisions of the Supplemental Pension Plans Act

WHEREAS in accordance with 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 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 10 September 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 amendments to take into account comments made by interested parties;

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

THAT the Regulation to amend the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act attached hereto be made.

ANDRÉ DICAIRE,
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)

1. The title of the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act is replaced with the following title:

“Regulation respecting the exemption of certain categories of pension plans from the application of the Supplemental Pension Plans Act”.

2. Section 8 of the is amended:

(1) by striking out, under the heading “Establishment and effective date”, the number “1”;

(2) by striking out, under the heading “Amendment”, the words “the second and third paragraphs of section 20”;

(3) by replacing, under the heading “Contributions”, the words “the first and second paragraphs of section 37, excluding the words “with a concurrent contribution by the employer” in the first paragraph, sections” with the words sections 37,”;

(4) by replacing the heading “Division and merger”, with the following heading:

“Division and merger — section 197;”;

(5) by replacing, under the heading “Miscellaneous and transitional provisions” the words “sections 264,” with the words “section 264, with the understanding that the second paragraph thereof applies only with respect to the contributions and other sums credited to the locked-in account of the member, as well as sections”.

3. Section 10 of the Regulation is amended:

(1) by striking out, in the portion of the first paragraph preceding subparagraph 1, the number “1”;

(2) by replacing subparagraphs 2 and 3 of the first paragraph with the following subparagraphs:

“(2) that the employer may stipulate the member contribution;

(3) that the member may determine annually, or if the plan so provides, more frequently, the additional voluntary contribution that he undertakes to make, by giving written notice thereof to the employer, who shall collect such additional voluntary contribution;

(3.1) that the sum of the contributions that may be paid on behalf of a member may not be subject to limits lower than those allowed under the taxation rules (Income Tax Act, Revised Statutes of Canada (1985) ch. 1, 5th suppl., subparagraphs 147.1 (8) and (9));”;

(3) by replacing, in subparagraph 5 of the first paragraph, the words “or payment of the account, the administrator of the plan shall transfer or pay those contributions as it did for the account” with the words “refund or payment of the balance of the member’s accounts, the administrator of the plan shall transfer or pay those contributions as it did for the accounts in which they were to be entered”;

(4) by adding, after subparagraph 5 of the first paragraph, the following subparagraph:

“(5.1) that the member is entitled, at any time and upon application, to a refund of all or part of his not locked-in account or to the transfer of all or part of that account to a pension plan of his choice, provided such plan is a plan within the meaning of the third paragraph of section 98 of the Act or to a registered retirement income fund as defined in section 1 of the Taxation Act (R.S.Q., c. I-3) and such refund or transfer shall be made within 60 days following the member’s application;”;

(5) by replacing subparagraph 6 of the first paragraph with the following subparagraph:

“(6) that within 90 days following the sending of the statement required in the event of cessation of active membership, an account of a member who is no longer an active member shall:

(a) where such account is locked-in, be transferred to a pension plan within the meaning of the third paragraph of section 98 of the Act, selected by the member or, failing such selection, by the financial institution;

(b) where such account is not locked-in, either be transferred to a pension plan within the meaning of the third paragraph of section 98 of the Act or to a registered

* The last amendments 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 (*G.O.* 1990, 2, 2333), were made by the regulation approved by Order in Council 1151-2002, dated 25 September 2002 (*G.O.* 2002, 2, 5369). For the preceding amendments, see the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2004, updated to 1 March 2004.

retirement income fund as defined in section 1 of the Taxation Act, selected by the member, or be refunded to the member. Where the member omits to give instructions as to the payment of his account before the expiry of the 60-day period mentioned above, the financial institution may make such payment in the manner that it deems appropriate;”;

(6) by replacing subparagraph 9 of the first paragraph with the following subparagraph:

“(9) that the balance of the member’s accounts, with accrued interest to the date of payment, shall, upon the member’s death, be paid to his spouse or, failing that, to his successors;”;

(7) by replacing subparagraph 11 of the first paragraph with the following subparagraph:

“(11) that the member may demand a lump-sum payment of his locked-in account if a physician certifies that his physical or mental disability reduces his life expectancy and that such payment be made within 60 days following the member’s application therefor;”;

(8) by inserting before the word “account” the word “locked-in”, in subparagraph 12 of the first paragraph;

(9) by replacing subparagraphs 13 and 14 of the first paragraph with the following subparagraphs:

“(13) that the member whose active membership has ceased may demand the refund of his locked-in account where that account is less than 20% of the Maximum Pensionable Earnings under the Québec Pension Plan (R.S.Q., c. R-9) for the year in which he became entitled to such refund and that the refund be made within 90 days following the application of the member therefor;

(14) that a transfer referred to in subparagraphs 5.1, 6 or 12 may, at the discretion of the financial institution and in the absence of contrary stipulations, be made by remitting the investment securities related to the account;”;

(10) by striking out subparagraph 15 of the first paragraph;

(11) by replacing subparagraph *a* of subparagraph 18 of the first paragraph with the following subparagraphs:

“(a) a copy of the portion of the plan that sets out the provisions applying to all the employers and a copy of the portion that sets out the dispositions specific to the employer concerned;

(a.1) the annual statement and the financial report referred to in section 161 of the Act;”;

(12) by replacing, in subparagraph 22 of the first paragraph, the words “the assets entered in his account” with the words “his accounts”;

(13) by replacing, in the portion of subparagraph 23 of the first paragraph preceding subparagraph *a*, the word “account” with the word “accounts”;

(14) by adding, at the end of subparagraph *c* of subparagraph 23 of the first paragraph, the words “or segregated funds”;

(15) by replacing subparagraphs 24 and 25 of the first paragraph with the following subparagraphs:

“(24) that the financial institution that administers the plan shall keep in its books, for each member, a “locked-in” account and a “not locked-in” account;

(25) that, in each member’s locked-in account, shall be entered:

(a) his member contributions, unless the employer stipulates that they be entered in the not locked-in account;

(b) the contributions made to his benefit by the employer;

(c) the dividends, refunds and other advantages granted with respect to the account;

(d) where the financial institution allows their transfer to the plan:

i. the sums transferred from a retirement savings instrument that provides that such sums be converted into a life pension;

ii. the sums transferred from a deferred profit sharing plan as defined in section 1 of the Taxation Act (R.S.Q., c. I-3), into which they were paid by an employer and in respect of which the employer stipulates that they be entered in such account;

(25.1) that, in each member’s not locked-in account, shall be entered:

(a) his member contributions, provided the employer so stipulates;

(b) his additional voluntary contributions;

(c) the dividends, refunds and other advantages granted with respect to the account;

(d) the sums, other than those referred to in subparagraph *d* of paragraph 25, that are transferred with the financial institution's consent;

(25.2) that no sum may be transferred between the locked-in account and not locked-in account of the member;"

(16) by replacing in subparagraph 27 of the first paragraph the words "under section 11 and paragraphs 2 and 28" with the words "under subparagraphs 26 and 28 and the first paragraph of section 11";

(17) by replacing subparagraph 29 of the first paragraph with the following subparagraphs:

"(29) that, subject to the third paragraph of section 11.1, no amendment to the plan that cancels refunds or pension benefits, limits eligibility therefor or reduces the amount or value of the members' benefits may become effective before the 30th day following, in the case of an amendment established by a collective agreement or an arbitration award in lieu thereof or rendered compulsory by an order or decree, the effective date of the agreement, award, order or decree and in all other cases, the date of sending of the notice provided for in section 26 of the Act;

(29.1) that an amendment referred to in subparagraph 29 applies only to service rendered after the date on which it takes effect;

(29.2) that the restrictions provided for in subparagraphs 29 and 29.1 do not apply in the cases referred to in subparagraphs 1 and 2 of the second paragraph of section 20 of the Act;"

(18) by replacing the second paragraph with the following paragraph:

"Notwithstanding the second paragraph of section 5 of the Act, the plan may not provide for the payment or refund of a member's locked-in account except in conformity with subparagraphs 9, 11 and 13 of the first paragraph."

4. Section 11 of the Regulation is amended:

(1) by adding, after paragraph 3, the following paragraphs:

"(3.1) the contributory or non-contributory nature of the plan and, in the case of the former, the member contribution or the method for its calculation;

(3.2) for the members as a whole, the account, either locked-in or not locked-in, in which will be entered, if any, the member contributions, and the account in which will be entered the amounts transferred from a deferred profit sharing plan;"

(2) by adding, after paragraph 5, the following paragraph:

"Unless prevented by an agreement, the employer may also stipulate that he will pay, in addition to the contribution referred to in paragraph 3, an additional contribution for which he shall specify the amount or the calculation method as well as the payment method in a written notice sent to the financial institution and to each of the members on behalf of whom such additional contribution will be paid. Such additional contribution is deemed to be an employer contribution only for the purposes of the provisions of sections 44 to 53 of the Act that apply to the plan pursuant to section 8 of the Regulation. Moreover, such additional contribution may not be taken into account in determining whether, within the meaning of section 34 of the Act, a plan provides for benefits similar to the benefits of another plan."

5. The Regulation is amended by inserting, after section 11, the following section:

"**11.1.** A simplified pension plan may contain standard provisions and variations thereof that an employer may stipulate with respect to the regular intervals for the collection or the payment of contributions or to one or the other of the matters referred to in section 11.

The employer's stipulations with respect to the matters referred to in the first paragraph, where such stipulations are compatible with the plan's standard provisions or variations thereof that have been registered with the Régie, are exempted from the application of sections 19 and 24 of the Act as well as from the provisions of sections 1.1 and 2.1 of the Regulation respecting supplemental pension plans that relate to the registration of an amendment to a plan.

Stipulations that, pursuant to the second paragraph, are exempted from the application of the provisions of the Act or Regulation referred to in this paragraph take effect on the date indicated in a notice that the financial institution shall send to the members and whose contents and method of sending shall be in conformity with the rules provided for in section 26 of the Act. Except in the case provided for in subparagraph 1 of the second paragraph of section 20 of the Act and where the affected members have given consent, such stipulation, where it has the effect of an amendment referred to in subparagraph 29 of the first paragraph of section 10 of the Regulation,

applies only to service rendered after the effective date indicated in the notice in respect thereof, and such date may not be prior to the 30th day following:

(1) in the case of a stipulation established by a collective agreement or arbitration award in lieu thereof or rendered compulsory by an order or decree, the effective date of the agreement, award, order or decree;

(2) in all other cases, the date of sending of the notice.”.

6. Section 13 of the Regulation is amended by replacing the number “90” with the number “60”.

7. Section 16 of the Regulation is replaced with the following sections:

“**16.** The statement that the financial institution must send to the member in application of section 112 of the Act shall indicate the amount of the additional contribution that the employer paid to the member’s benefit during the fiscal year and show the information provided for in paragraphs 10 to 14 of section 57 and in section 59.1 of the Regulation respecting supplemental pension plans so that the member can know the results of the changes during the fiscal year in his locked-in and not locked-in accounts.

16.1. The financial institution must append to the annual statement that it sends pursuant to section 161 of the Act a list showing the name and date of joining or withdrawal, as the case may be, of each employer who became or ceased to be a party to the plan during the fiscal year covered by the statement.

16.2. In the event of a plan’s merger, the financial institution must provide to each of the members affected by the merger, within 30 days thereof, a statement updating, as at the date of the merger, the information contained in the last annual statement or in any other statement subsequent thereto and covering the same subjects that was sent to the member.

16.3. The financial institution that administers a simplified pension plan shall keep for each employer party to the plan a register in which shall be entered:

(1) the date on which the employer joined the plan and that on which he withdrew from the plan;

(2) a list of the amendments made to the portion of the plan that contains the provisions specific to the employer;

(3) a copy of the notices sent pursuant to the third paragraph of section 11.1.”.

8. The Regulation is amended by inserting, after division IV, the following division:

“DIVISION IV.1

PAYMENT OF THE BENEFITS OF THE ACTIVE MEMBERS UPON CONVERSION OF A PENSION PLAN INTO A SIMPLIFIED PENSION PLAN

19.1. This division applies only to a pension plan referred to in paragraph 2 or 3 of section 116 of the Act.

19.2. A pension plan terminated by means of a notice that, in addition to respecting the requirements of section 204 of the Act, stipulates that the plan is terminated in order to be converted into a simplified pension plan established with the financial institution indicated therein is, provided the provisions of section 19.3 of the Regulation are met, exempted from the application of section 236 of the Act with respect to the uninsured benefits of the members who are active members on the date of termination and who join the simplified pension plan.

The sender of the notice provided for in the first paragraph shall, without delay, provide a copy to the Régie.

19.3. The plan’s termination date may not be more than 60 days after the date on which the notice provided for in section 19.2 is sent.

The date on which the employer party to the terminated plan joins the simplified pension plan mentioned in the notice may not be later than the day following the plan’s termination date.

19.4 The uninsured benefits of the members referred to in section 19.2 shall be paid by transferring the value of such benefits to the simplified pension plan established with the financial institution mentioned in the notice provided for in that section.”.

9. Section 32 of the Regulation is amended, in the English version:

1° by replacing, in the first sentence of the first paragraph, the word “surplus” with the word “excess”;

2° by replacing, in the second sentence of the first paragraph, the words “The surplus optional ancillary benefits” with the words “The excess optional ancillary contributions”;

3° by replacing, in the fourth paragraph, every occurrence of the word “surplus” with the word “excess”.

10. Section 35 is amended in the English version by inserting, in paragraph 3 after the second occurrence of the word “the”, the word “excess”.

11. The amendments required in order for a simplified pension plan in force on the date of the coming into force of this Regulation to be brought into conformity with the provisions amended by this Regulation shall be filed with the Régie for registration or, where such filing is not required, made the object of the notice provided for in the third paragraph of section 11.1 of the Regulation as introduced by section 5 of this Regulation, within 12 months following the date mentioned above. Such amendments must take effect no later than the date of expiry of the time herein allotted.

Nevertheless, where a plan covers workers governed by a collective agreement, an arbitration award in lieu thereof or an order or decree imposing a collective agreement which are in force on the date of the coming into force of this Regulation, the amendments concerning the specific stipulations of an employer bound by such agreement, award, order or decree shall be filed with the Régie for registration or, where such filing is not required, made the object of the notice provided for in the third paragraph of section 11 of the Regulation as introduced by section 5 of this Regulation, within three months after the date of the signing of a new collective agreement, of the rendering of the arbitration award in lieu thereof, of the extension or renewal of the order or decree or of the coming into force of a replacement order or decree. The amendments must take effect no later than the date of expiry of the agreement or the award, or the date of expiry, extension or renewal of the order or decree.

12. Any contrary provision notwithstanding, the following shall be entered in the member’s not locked-in account:

1° the total assets accumulated in the member’s account prior to the creation of his not locked-in account;

2° the sums and benefits paid or transferred in order to be entered in the member’s account before the financial institution that administers the plan was informed of the effective date of the plan provisions requiring such sums and benefits to be entered in the member’s not locked-in account.

13. This regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec* except for section 7, to the extent that it introduces section 16.1, which comes into force on 31 December 2004.