2. This regulation shall come into force on the fifteenth day following its publication in the *Gazette officielle du Québec*.

6529

Draft Regulation

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

Certain categories of pension plans
— Exemption from the application of the Act
— Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the "Regulation to amend the Regulation respecting the exemption of certain categories of pension plans from the application of the Supplemental Pension Plans Act", the text of which appears below, may be made by the government upon the expiry of 45 days following this publication.

The draft regulation is intended to facilitate the establishment of pension plans on the initiative of workers' associations. To this end, it defines the characteristics of a new category of defined benefit pension plans, called "member-funded pension plans", which it exempts from the application of several provisions of the Supplemental Pension Plans Act. The draft regulation provides that the funding of these plans is, except for the required employer contribution, charged to the active plan members. It also imposes some specific obligations on pension plans in this category that are related, notably, to plan funding and the payment of members' and beneficiaries' benefits, with a view to protecting the members' and beneficiaries' rights.

Further information may be obtained from Mr. Michel Groulx, Régie des rentes du Québec, Place de la Cité, 2600, boulevard Laurier, Sainte-Foy (Québec) G1V 4T3 (tel.: (418) 657-8732, fax: 659-8985, e-mail: michel.groulx@rrq.gouv.qc.ca).

Any person having comments to make on this matter is asked to send them in writing, before the expiry of the period mentioned above, to Mr. Pierre Prémont, President and General Manager of the Régie des rentes du Québec, Place de la Cité, 2600, boulevard Laurier, 5e étage, Sainte-Foy (Québec) G1V 4T3. Comments will be forwarded by the Régie to the Minister of Employment, Social Solidarity and Family Welfare, who is responsible for the application of the Supplemental Pension Plans Act.

CLAUDE BÉCHARD,
Minister of Employment, Social Solidarity and Family Welfare

Regulation to amend the Regulation respecting the exemption of certain categories of pension plans from the application of the Supplemental Pension Plans Act*

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

1. The title of the Regulation respecting the exemption of certain categories of pension plans from the application of the Supplemental Pension Plans Act is amended, in the English version, by inserting, after the word "application", the words "of provisions".

2. Section 38 of the Regulation is amended, in the English version, by replacing the words "constituting optional ancillary contributions" with the words "constituting optional ancillary benefits".

3. The Regulation is amended by adding the following division after section 47:

"**DIVISION IX**
MEMBER-FUNDED PENSION PLANS

§1. General provisions

48. This division refers to a pension plan called a "member-funded pension plan", which has the following characteristics:

(1) it is a contributory pension plan and either a defined benefit plan or a defined benefit-defined contribution plan;

(2) it came into effect after (*insert here the date of coming into force of this Regulation*);

* The last amendments to the Regulation respecting the exemption of certain categories of pension plans from the application 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 made by Order in Council 436-2004, dated 6 May 2004 (*G.O.* 2004, 2, 1615). For the preceding amendments, see *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2004, updated to 1 March 2004.

(3) it contains a provision whose effect is to prevent the employer who is party to the plan, or in the case of a multi-employer plan, even not considered as such under section 11 of the Act, the employers jointly or any one of them, from unilaterally amending or terminating the plan ;

(4) it provides that the cost of the plan's commitments, less the employer contribution fixed in the plan, is the sole responsibility of the plan's active members.

49. The following plans are outside the scope of this division :

(1) a pension plan in which the salary used for the purpose of calculating a member's pension corresponds to the average of his last salaries or to his highest salaries during a defined number of years ;

(2) an insured pension plan.

50. A member-funded pension plan may not be validly established by an amendment to a pension plan already in force whose purpose would be to convert such plan into a member-funded pension plan.

An amendment to a member-funded pension plan may not have the effect of converting such plan into a pension plan not belonging to that category of plans.

§2. Rules and conditions for exemptions

51. Member-funded pension plans are exempted from the following provisions of the Act :

— Establishment and effective date – subparagraphs 16 and 17 of the second paragraph of section 14 ;

— Contributions – sections 37, 39, 41, 42 and 44 ;

— Refunds and pension benefits – sections 60, 60.1 and 78 as well as subparagraph 2 of the first paragraph of section 93 ;

— Transfers of benefits and assets – sections 101 and 106 ;

— Funding and solvency – sections 130 to 133, 140 and 142 to 146 ;

— Confirmation of employer's right to appropriate surplus assets to payment of contributions – sections 146.4 to 146.9 ;

— Division and merger – section 196, with the exception of the third paragraph ;

— Payment of the benefits of members and beneficiaries – paragraphs 2 to 4 of section 200, section 207.5, the first and third paragraphs of section 210.1, the second paragraph of section 224, sections 228 to 230, 230.1, 230.2 to 230.8 and 240.2.

52. The following provisions of the Act apply to a member-funded pension plan, subject to the following changes :

(1) section 38, by striking out the words ", as the case may be," ;

(2) section 61, by replacing the first paragraph with the following paragraph :

"**61.** The value of a member's pension benefits shall be determined at the date of vesting, according to the actuarial assumptions and methods prescribed by regulation." ;

(3) section 69.1, by replacing subparagraph 3 of the first paragraph with the following paragraph :

"(3) the value assigned to his benefits for the purposes of their payment by supposing that he ceases to be an active member and exercises his right to the refund or transfer of his benefits on the date on which he applies for the payment of the benefit ;" ;

(4) section 81, by replacing the second paragraph with the following paragraph :

"The actuarially equivalent pension shall be determined on the basis of the actuarial assumptions referred to in section 61 that, on the date on which the member reached the normal retirement age, were used to determine the value of the pension benefits to which entitlement had been vested on that date." ;

(5) section 82.1, by replacing the third paragraph with the following paragraph :

"Values are established on the date on which payment of the disability pension is interrupted, according to the actuarial assumptions and methods referred to in section 61 that, on the said date, were used to determine the value of pension benefits." ;

(6) section 86, by replacing subparagraph 2 of the first paragraph with the following subparagraph :

"(2) if the member was not entitled to a pension before his death, the value to which he would have been entitled if he had ceased to be an active member on the day of his death for a reason other than his death and had then exercised his right to the refund or transfer of his benefits." ;

(7) section 98, by striking out the words "to which section 60 applies and" each time they appear in subparagraph *b* of subparagraph 2 and subparagraph 4 of the first paragraph ;

(8) section 122, by adding, at the end of the first paragraph, the following sentence :

"It must also contain an assumption for the indexation of the value of the benefits of all the plan's members and beneficiaries on 1 January of each year, according to the increase in the seasonally unadjusted Consumer Price Index for Canada, published by Statistics Canada for each month during the 12-month period ending on 31 December of the preceding year, up to a maximum of 4%." ;

(9) section 123, by inserting, in the second line of subparagraph 1,after the words "the valuation", the words "or in the form of a fixed amount for each active member" ;

(10) section 134, by replacing, each time that it appears in the first and third paragraphs, the number "133" with the number and words "74 of the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act" ;

(11) the title of chapter X.1 and sections 146.1 to 146.3, by replacing, each time that it appears therein, the word "employer" with the word "member" ;

(12) section 202 :

(a) by replacing, at the end of the second paragraph, the words ", with the authorization of and subject to the conditions determined by the Régie, at the date of the next full actuarial valuation of the plan" with the words "on the date and subject to the conditions fixed by the Régie" ;

(b) by striking out the third paragraph ;

(13) section 204, by replacing the first paragraph with the following paragraph :

"**204.** The person or body empowered to terminate the pension plan may do so only by means of a written termination notice sent to the affected members and beneficiaries, to every certified association representing members, to the employer, to the pension committee and, where applicable, to the insurer." ;

(14) section 212, by replacing, in the portion of the first paragraph that precedes subparagraph 1, the words "the pension benefits to which section 60 applies" with the words "pension benefits" ;

(15) section 226, by inserting, in the first line, after the word "retirement", the words "or upon the withdrawal of an employer who is party to a multi-employer pension plan".

53. The member-funded pension plan is exempted from the application of section 52 of the Regulation respecting supplemental pension plans.

54. The following provisions of the aforementioned Regulation apply to the member-funded pension plan, subject to the following changes :

(1) section 4 :

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

"6° the member contribution required under the plan, if such contribution is greater than the contribution provided for in sections 62 and 75 of the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act ;" ;

(b) by replacing, in subparagraph 15 of the first paragraph, the words and numbers "sections 133, 134 or 140 of the Act" with the words and numbers "section 134 of the Act and sections 74 or 75 of the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act ;" ;

(c) by replacing subparagraph 19 of the first paragraph with the following :

"(19) a description of the contribution adjustments resulting from the application of the second paragraph of section 63 of the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act ;" ;

(d) by striking out the second paragraph ;

(2) section 15.3 :

(a) by replacing the first and second paragraphs with the following paragraph :

"**15.3.** Where the payment of the early benefit referred to in section 69.1 of the Act is made from pension plan benefits accumulated by the member that are not referred to in section 15.1, the pension committee shall determine, at the payment date, a pension amount equal to "M" in the following formula:

$$R \times \frac{p}{v} = M$$

"R" is equal to the normal pension that, determined according to the value of the member's benefits at the payment date, would have been payable to the member at the normal retirement age in accordance with the conditions and characteristics provided for in the plan for such pension;

"p" is equal to the pension benefit paid;

"v" is equal to the value of the member's benefits determined in accordance with subparagraph 3 of the first paragraph of section 69.1 of the Act.";

(b) by replacing, each time that it appears in the third paragraph, the word "second" with the word "first";

(3) section 48, by replacing the first paragraph with the following paragraph:

"Interest calculated at the rate of return obtained on the investment of the plan's assets, less investment and administration costs, must be added to the amount granted to the spouse.";

4° section 54, by replacing the first paragraph with the following:

"**54.** The pension committee must, where no pension is being paid to the member at the date of execution of the partition or transfer of pension amounts, determine at such date an amount equal to "M" in the following formula:

$$A \times \frac{c}{p} = M$$

"A" is equal to the normal pension that, determined according to the value of the member's benefits at the date of execution of the partition or transfer, would have been payable to the member at the normal retirement age in accordance with the conditions and characteristics provided for in the plan for such pension;

"c" is equal to the sum that corresponds to the benefits granted to the spouse following the partition or transfer;

"p" is equal to the value taken into consideration for the purposes of the partition or transfer of the member's benefits.

The pension committee must keep a record of that amount.";

(5) section 56.0.3, by replacing the first paragraph with the following:

"**56.0.3**. Where the benefits attributed to the spouse are paid from the benefits of the member that are pension benefits within the meaning of section 33 and no pension is being paid to the member at the date on which the seizure is effected, the pension committee shall determine at that date a pension amount equal to "M" in the following formula:

$$R \times \frac{s}{v} = M$$

"R" is equal to the normal pension that, determined according to the value of the member's benefits at the date on which the seizure is effected, would have been payable to the member at the normal retirement age in accordance with the conditions and characteristics provided for in the plan for such pension;

"s" is equal to the amount paid in execution of the seizure;

"v" is equal to the value of the member's benefits taken into consideration for the purposes of the seizure.

The pension committee must keep a record of that amount.";

(6) section 56.1:

(a) by striking out paragraphs 1 and 6;

(b) by adding, at the end, the following paragraph:

"It must also indicate:

(1) that the plan is exempted from several provisions of the Act;

(2) that the cost of the plan's commitments, less the employer contribution, shall be borne by the plan's active members;

(3) that the benefits of the members and beneficiaries of the plan may be indexed only if the plan is fully funded and solvent;

(4) that the accumulated surplus assets at the termination of the plan is entirely allocated to the plan's members and beneficiaries and distributed among them pro rata to the value of their benefits.";

(7) section 57, by replacing subparagraph 1 of the second paragraph with the following subparagraph:

"(1) the value of the member's benefits at the end of that fiscal year as well as the value that he would have been able to transfer taking into account the plan's degree of solvency at that date, accompanied with a mention that the information is provided for information purposes and that the value of the benefits is subject to large variations by reason in particular of fluctuations in interest rates, variations in the degree of solvency as well as the payment conditions of the pension benefits;";

(8) section 58:

(a) by striking out subparagraph *g* of paragraph 4;

(b) by replacing paragraph (9) with the following paragraph:

"(9) the pension plan's degree of solvency that would have been taken into account for payment of the member's benefits if he had exercised his right to the refund or transfer of his benefits at the date on which he ceased to be an active member, accompanied with a mention that the plan was fully funded or partially funded, as the case may be, at the date of the last actuarial valuation of the entire plan;";

(9) section 59, by replacing subparagraph 1 of the second paragraph with the following subparagraph:

"(1) the value, at the end of the fiscal year, of the member's benefits as well as the value that he would have been able to transfer taking into account the plan's degree of solvency at that date, accompanied with a mention that the information is provided for information purposes and that the values are subject to large variations by reason in particular of fluctuations in interest rates, variations in the degree of solvency as well as the payment conditions of the pension benefits;";

(10) section 59.0.1, by striking out paragraph 6;

(11) section 59.0.2:

(a) by replacing subparagraph 1 of the first paragraph with the following subparagraph:

"1° the degree of solvency of the pension plan determined at the earlier of the date of the last actuarial valuation of the whole plan or the date of the end of the last completed fiscal year of the plan, and, where the degree is less than 100%, the measures taken to bring it up to 100%;";

(b) by replacing each time that they appear in subparagraph 5 of the first paragraph and in the second paragraph, the words "employer contribution" with the words "member contributions".

55. For the purposes of partition, transfer and seizure of the member's benefits, the value that must be considered to be the value of the member's total benefits or the value of the benefits accumulated during marriage is equal to the product of the value determined in accordance with the pertinent provisions of sections 35.2, 37, 39 and 41 to 45 of the Regulation respecting supplemental pension plans multiplied by the plan's degree of solvency at the date at which the member's benefits are determined. Only the value resulting from the operation prescribed in this section must be indicated in the first part of the statement provided for in section 35 of the Regulation.

§3. Specific rules

56. The notice provided for in section 16 of the Act must mention that the cost of the plan's commitments, less the employer contribution, will be borne by the plan's active members.

57. The application for registration filed pursuant to section 24 of the Act must be accompanied with a written declaration from each certified association representing workers eligible for plan membership or active plan members acknowledging that such association, acting on behalf of those it represents, gives its consent to the obligations incumbent on each such worker and member under, as the case may be, the plan or the amendment.

The first paragraph does not apply in the following cases:

(1) the pension committee attests that it has obtained the acknowledgment of each association and that the acknowledgment may, on request, be filed with the Régie;

(2) the amendment has been made mandatory by a new legislative or regulatory provision giving no latitude;

(3) the amendment results from the application of section 199 of the Act or section 77.

58. Where the pension plan concerns workers who are not represented by a certified association, a pension committee intending to apply for registration of a plan or an amendment that increases the commitments of the plan shall notify in writing each of those workers no later than 40 days prior to filing the application for registration with the Régie.

The prior notice of an application for registration of a plan shall mention that the cost of the plan's commitments, less the employer contribution, shall be borne by the plan's active members, that the benefits of the members and beneficiaries may be indexed provided the plan is fully funded and solvent and that the accumulated surplus assets at the plan's termination are, in whole, allocated to the members and beneficiaries of the plan and distributed among them pro rata to the value of their benefits. The prior notice of an application for registration of an amendment shall contain the information provided for in subparagraph 1 of the first paragraph of section 26 of the Act.

Such notices shall likewise inform the interested parties that they may, within 30 days following receipt of notice, make known, in writing, to the pension committee their opposition to the obligations incumbent on them under, as the case may be, the plan or the amendment.

The Régie may register a plan or an amendment only where the application for registration is accompanied with a written declaration from the pension committee attesting that less than 30% of the workers referred to in the first paragraph expressed their opposition in accordance with the third paragraph.

This section does not apply in the case of an amendment referred to in subparagraph 2 or 3 of the second paragraph of section 57.

59. The Régie may not register a pension plan referred to in this division or an amendment to such plan unless the report referred to in subparagraph 4 of the second paragraph of section 24 of the Act shows, as the case may be, that the pension plan for which an application for registration is made is fully funded and solvent on the date it comes into force or that the coming into force of the amendment for which an application for registration is made will not result in an insufficiency of assets in the fund of the plan that would prevent the plan from remaining fully funded and solvent.

60. The member contribution is the contribution that an active member is required to pay with a concurrent contribution by the employer.

The employer contribution is the contribution that the employer is required to pay.

61. The pension committee shall inform the active members of any change in the amount of the member contribution by providing to each member a written notice indicating the effective date of the change as well as the new contribution or the method for its calculation. The notice shall be provided no later than 30 days following the date on which collection of the new contribution begins.

62. An active member shall, in each fiscal year of the plan, pay the member contribution that, when added to the employer contribution and to the contributions of the other active members, is equal to the current service contribution determined in accordance with sections 124 and 125 of the Act.

A member's member contribution shall likewise include his share of any amortization amount determined in application of section 73 and of the sum payable to cover any amount determined pursuant to subparagraph 4 of the second paragraph of section 137 of the Act.

However, if the person or body who has the power to amend the plan so decides, the change in the member contribution related to an amortization amount determined in accordance with section 73 or in application of subparagraph 4 of the second paragraph of section 137 of the Act may be postponed, at the latest, to the date that is 12 months after the date of the actuarial valuation pertaining thereto. Where an increase is postponed, the sum of the contribution that would otherwise have been paid in the meanwhile, increased by the interest referred to in section 48 of the Act, may be divided uniformly over the remainder of the first five years which follow the valuation date.

63. The member contribution is paid in equal instalments, according to the periodicity provided for under the plan. However, if they relate to the current service contribution, such instalments may represent an hourly rate or a proportion of the remuneration. The rate or proportion shall be uniform unless it is established by reference to a variable authorized by the Régie.

Where the member contribution is not determined at the beginning of the fiscal year, the member shall, until an actuarial valuation report is transmitted to the Régie, continue to pay the contribution fixed for the preceding fiscal year. If the contribution so paid is less than what should have been paid according to the report, the portion still to be paid may be distributed uniformly over the period remaining until the date of the next actuarial valuation required in accordance with paragraph 3 of section 118 of the Act, plus, where applicable, the interest referred to in section 48. The amount of the contribution may also be adjusted if the contribution that should have been paid according to the report is less than what was paid.

64. The employer contribution shall be paid in as many equal monthly payments as there are months in the fiscal year of the plan, and not later than the last day of the month that follows each of these months. The monthly payments may, however, represent an hourly rate, a proportion of the remuneration or a percentage of the total payroll for the active members ; the rate, proportion or percentage shall be uniform unless it is established by reference to a variable authorized by the Régie.

65. Every contribution bears interest, from the first day of the month that follows the month during which it should have been paid into the pension fund or to the insurer, at the rate of return derived from the investment of the plan assets, less investment expenses and administration costs, or, if the plan so provides and to the extent that the contribution relates to refunds or pension benefits that remain insured, at the monthly rate of return on personal five-year term deposits with chartered banks, as compiled by the Bank of Canada.

66. Where a member who ceased to be an active member exercises his right to a refund or to the transfer of his benefits or where the member's spouse or successor exercises his right to the pension benefit provided for in section 86 of the Act, payment is made by supposing that the value of the benefits of the person concerned is equal to the greater of the following amounts :

(1) the amount represented by the product of the value of the pension benefit to which the person concerned is entitled multiplied by the plan's degree of solvency ;

(2) the amount represented by the product of the value of a pension payable to the member and determined in the manner provided for in the second paragraph of section 60.1 of the Act multiplied by the plan's degree of solvency.

(3) the amount represented by the sum of the amounts shown to the member's account for transfers, including transfers not referred to in section 98 of the Act, the amounts paid pursuant to an option giving the member the right to a pension benefit for service in respect of a period of employment in which no employer contribution was paid on his account and the total of the contribution that he paid, with the accrued interest.

Notwithstanding the second paragraph of section 5 of the Act, the plan may not have provisions that are more advantageous than those contained in the first paragraph.

67. The plan's degree of solvency taken into account for the purposes of applying section 65 is the most recent of the following : the degree as determined in the course of the last actuarial valuation of the plan, the degree established at the end of the plan's last complete fiscal year or the degree determined according to the periodicity provided for under the plan.

The pension committee shall establish or cause to be established the plan's degree of solvability at the end of each of the plan's fiscal years ending on a date other than the date of a valuation required pursuant to paragraph 3 of section 118 of the Act or at the date fixed in accordance with the established periodicity where such date precedes the ending date of a fiscal year provided for under the plan. For this purpose, the actuary responsible for preparing the report relating to an actuarial valuation required pursuant to paragraph 3 of section 118 of the Act shall define in the report a method which, taking into account the return obtained on the investment of the plan's assets and the change in the valuation rate, will allow the summary establishment of the degree of solvency at any time prior to the date of the next such valuation.

68. Except where an amendment has been made mandatory by the application of a new legislative or regulatory provision giving no latitude, a plan amendment that increases the plan's commitments may not come into force unless the plan remains fully funded and solvent once the commitments resulting from the amendment are taken into account.

69. A pension plan may, subject to section 68, be amended so that the value of the benefits of each of the members and beneficiaries is adjusted according to the rate of cumulative increase in the the seasonally unadjusted All-Items Consumer Price Index for Canada published by Statistics Canada for the 36-month period ending on the date of the last actuarial valuation of the whole plan or, if that date does not correspond to the end of a month, at the end of the month preceding that date. However, the annualized adjustment rate cannot be less than 0% or greater than 4%.

The amendment provided for in the first paragraph may not come into force on a date prior to the date of the last actuarial valuation of the whole plan or more than one year later than the date of that valuation.

Except where an amendment provided for in the first paragraph comes into force on the date of the last actuarial valuation of the whole plan or thereafter:

1° no other amendment increasing the benefits of the members or beneficiaries may be made to the plan;

2° no portion of the plan's surplus assets may be used to pay the member contributions.

The second paragraph of section 5 of the Act notwithstanding, no amendment may be made to the plan unless in conformity with the provisions of this section.

70. An amendment to a pension plan whose purpose is to adjust the value of the members' and beneficiaries' benefits in accordance with the first paragraph of section 69 applies to amounts determined in accordance with sections 15.3, 54 and 56.0.3 of the Regulation respecting supplemental pension plans.

71. Every period in which a member paid a contribution shall be taken into account for the purposes of calculating the pension payable to the member.

72. Every sum transferred to the pension plan, even otherwise than under chapter VII of the Act, shall be converted, at the date of the transfer, into a normal pension amount, on the basis of the actuarial assumptions used to verify the plan's funding for the purposes of the plan's most recent actuarial valuation.

73. The amortization amounts to be paid in connection with an unfunded actuarial liability shall, for each fiscal year or part of a fiscal year of the pension plan included in the amortization period, be expressed either in the form of a uniform percentage of each active members remuneration as determined on the basis of the total anticipated payroll for the active members or in the form of a uniform sum for each active member determined on the basis of the anticipated number of active members.

For the application of the first paragraph, the provisions related to the total payroll and the number of active members are the same as those used to verify the plan's funding for the purposes of the last actuarial valuation of the plan.

74. Where the member contribution provided for under the plan is greater than that required pursuant to section 62, the excess thereof may serve to reduce, in the following order, the amounts remaining to be paid in connection with:

(1) any amount determined pursuant to subparagraph 4 of the second paragraph of section 137 of the Act;

(2) any technical actuarial deficiency.

The reduction must, where applicable, be made at the time of the first actuarial valuation of the whole pension plan that follows the payment of excess contributions.

If the excess is insufficient to eliminate an unfunded liability or an amount referred to in the first paragraph, the reduction shall be applied proportionately to each amount remaining to be paid. In addition, if there is more than one liability or amount, the reduction shall be applied from the earliest to the most recent.

75. Any amount determined pursuant to subparagraph 4 of the second paragraph of section 137 of the Act shall, within five years after the date of the actuarial valuation, be paid into the pension fund by the members.

Section 128 and the first and second paragraphs of section 129 of the Act as well as section 64 of the Regulation apply, with the necessary modifications and as the case may be, to the determination or payment of such amount. Unless the pension plan sets a higher interest rate, any amount so determined and not paid into the pension fund bears interest, from the last day of the month following that for which it should have been paid, at the rate of return of the pension fund.

Such amount may be used to reduce proportionately and in accordance with section 74 the amortization amounts which, five years after the date of the actuarial valuation, remain to be paid in respect of any actuarial deficiency.

76. Sections 236 et 237 of the Act apply to the benefits and pensions of the members and beneficiaries affected by the withdrawal of an employer from a multi-employer pension plan.

77. Where, by reason of a decision concerning the certification of an employees' association, certain active members of a pension plan cease to meet the eligibility requirements fixed by the plan, the provisions of the Act and the regulations thereunder concerning the withdrawal of an employer that is party to a multi-employer pension plan apply, with the necessary modifications. In such case, the following are considered to be affected by the withdrawal:

(1) active members who cease to be employees eligible for membership in the plan by reason of the decision;

(2) non-active members who would have ceased to be employees eligible for membership in the plan if they had been active members on the date of the decision;

(3) beneficiaries whose benefits are derived from those of members who would have ceased to be eligible employees if they had been active members on the date of the decision.

However, where, by reason of the decision referred to in the first paragraph, the members referred to in this paragraph become eligible for another pension plan in the same category, the plan in which they cease to be active members must be the object of an amendment concerning the division of its assets and liabilities. If the person authorized under the plan to make such an amendment fails to do so within 30 days after the pension committee is informed of the decision, the committee must make it. The members and beneficiaries referred to in subparagraphs 1, 2 and 3 of the first paragraph must be included in the division.

78. The Régie may not authorize:

1° the division of the assets and liabilities of a member-funded pension plan among several plans where one or more of those plans do not belong to that category;

2° the merger of the assets and liabilities of a member-funded pension plan with those of a plan that does not belong to that category.

Where the assets and liabilities of a pension plan are divided and the plan was partially funded at the date of the division and where one or the other of the plans whose assets and liabilities are merged was partially funded at the date of the merger, the unfunded actuarial liability affecting any plan arising from such operation is considered to be a continuation of the unfunded liability previously determined and must be amortized within the period that remained for the amortization of such unfunded liability.".

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

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