

Gouvernement du Québec

O.C. 159-2007, 14 February 2007

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

Pension plans

— Exemption of certain categories from the application of the Supplemental Pension Plans Act
— Amendments

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

WHEREAS in accordance with 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 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 25 October 2006 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 and Social Solidarity:

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 attached hereto be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

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. The first paragraph of section 10 is amended by:

(1) replacing, in subparagraph 5 the words “Bank of Canada Review under identification number B-14045” with the words “Bank of Canada Banking and Financial Statistics in series V122515”;

(2) replacing, in subparagraph 14 of the English version, the word “our” with the word “or”.

3. The first paragraph of section 33 of the Regulation is amended by replacing the words “adopted by the Council of the Canadian Institute of Actuaries on 13 July 1993, which are described in part D of section 2 and in section 3 of the Institute’s standard of practice concerning recommendations for the calculation of transfer values for registered pension plans” with the words “described in part D of section 3 and in section 4 of the standard of practice entitled “Standard of Practice for Determining Pension Commuted Values” confirmed by the Board of Directors of the Canadian Institute of Actuaries on 15 June 2004”.

4. 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”.

* 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 regulations made by Orders in Council 798-2006, dated 22 August 2006 (*G.O.* 2006, 2, 3019) and 1098-2006, dated 29 November 2006 (*G.O.* 2006, 2, 3937). For the preceding amendments, see *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2006, updated to 1 September 2006.

5. The Regulation is amended by adding the following division after section 64:

**“DIVISION X
MEMBER-FUNDED PENSION PLANS**

§1. General provisions

65. This division refers to a pension plan called a “member-funded pension plan”, which has the following characteristics:

(1) it is a defined benefit pension plan that sets in advance the employer contributions and the normal pension or their calculation method;

(2) it came into effect after 15 March 2007;

(3) 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;

(4) 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 directly or indirectly amending or terminating the plan unilaterally;

(5) it provides who may terminate the plan and under what conditions;

(6) it provides that the employer may, for the purpose of respecting taxation rules, appropriate surplus assets to the payment of the employer contribution;

(7) it may not contain provisions that, in a defined benefit pension plan, are identical to those of a defined contribution plan;

(8) it stipulates that the members and beneficiaries alone are entitled to any surplus assets determined upon termination of the plan and that such assets shall be distributed among them pro rata to the value of their benefits;

(9) it stipulates that the members and beneficiaries affected by the withdrawal of an employer party to a multi-employer plan have the same rights with respect to the surplus assets allocated to their benefits group as the members and beneficiaries affected by the termination;

(10) it provides a rule to determine the date of withdrawal of an employer party to a multi-employer plan.

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

(1) a pension plan in which the remuneration used for the purpose of calculating a member’s pension corresponds to the average of his last remunerations;

(2) a pension plan in which the remuneration used for the purpose of calculating a member’s pension corresponds to his highest remunerations during a specified number of years;

(3) a pension plan under which the pension is automatically increased by using for its determination an index or rate provided for in the plan;

(4) an insured pension plan.

67. 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

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

— Pension plan — section 7;

— Establishment and effective date — subparagraph 16 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;

— Appropriation of surplus assets to the payments of employer contributions — sections 146.4 to 146.9;

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

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

69. The following provisions of the Act apply to a member-funded pension plan, with the changes mentioned below:

(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, after the first paragraph, the following paragraphs:

“The funding method must also contain an assumption for the indexation of the pensions 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%.

This requirement also applies to contributions used to redeem years of service.

The pension plan shall specify whether or not the pensions of all the retirees are insured by an insurer. Where they are insured, the plan shall indicate whether the assumption for indexation of the pensions applies only until retirement or continues to apply thereafter.

The pension committee that applies for registration of an amendment to provide that indexation of the pensions applies only until retirement, shall so inform the retirees by means of the notice provided for in paragraph 1 of section 26 of the Act.”.

(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 “91 of the Regulation respecting the exemption of certain categories of pension plans from the application of 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 198:

(a) by replacing the second sentence of the second paragraph with the following sentence: “The date may not be later than the end of the fiscal year that follows the one in which a final contribution is required with respect to the members attached to the employer.”;

(b) by adding, after the third paragraph, the following paragraph: “The holder of an insured annuity purchased directly from an insurer following an employer’s withdrawal from a multi-employer plan ceases to be a member of the plan.”;

(13) 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;

(14) 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.”;

(15) 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”;

(16) 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”.

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

71. The following provisions of the aforementioned Regulation apply to the member-funded pension plan with the changes mentioned below:

(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 79 and 92 of the Regulation respecting the exemption of certain categories of pension plans from the application of 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 91 or 92 of the Regulation respecting the exemption of certain categories of pension plans from the application of 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 80 of the Regulation respecting the exemption of certain categories of pension plans from the application of 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”.

72. 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*

73. 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.

74. 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 94.

75. Subject to taxation rules, a pension plan may include, workers represented or not represented by a certified association.

A pension committee intending to apply for registration either of a plan or of an amendment that increases plan commitments shall give 40 days advance notice in writing to each non-represented worker.

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 74.

76. 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.

This prohibition does not apply where the amendment is made necessary by the application of a new legislative or regulatory provision giving no latitude.

77. 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.

An additional voluntary contribution is a sum that a member contributes, without a concurrent contribution by the employer.

Additional voluntary contributions are, until retirement, credited to an account from which all other types of contributions are excluded.

78. 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.

79. 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 90 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 deter-

mined in accordance with section 90 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.

80. 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.

81. 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.

82. 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.

83. Where a member who ceases to be an active member exercises his right to a refund or to the transfer of his benefits the value of his benefits is equal to the greater of the following amounts:

(1) the value of the pension benefit to which he is entitled;

(2) the value of a pension payable to the member and determined in accordance with the second paragraph of section 60.1 of the Act.

The same rule shall apply to the member's spouse or assign who exercises his right to the benefit provided for in the first paragraph of section 86 of the Act.

Except in the event of plan termination or withdrawal of an employer party to a multi-employer plan, payment of benefits is calculated as the product of the value of the benefits thus determined multiplied by the plan's degree of solvency.

Such value may not be less than the following sums, with accrued interest:

(1) the sum of the amounts credited to the member following transfers, whether or not referred to in section 98 of the Act;

(2) the sums paid by the member under an option giving him entitlement to a benefit by reason of service in respect of a period of work during which no employer contribution was credited to him;

(3) the total of the contributions made by him.

All additional voluntary contributions shall be refunded, with interest, and without regard to the pension plans degree of solvency.

The second paragraph of section 5 of the Act not withstanding, the plan may not provide for provisions more advantageous than those provided for in this section.

84. The plan's degree of solvency taken into account for the purposes of applying section 83 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 most recent degree of solvency shall be determined at the day on which the pension committee receives an application to exercise the rights referred to in section 83.

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.

85. 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.

86. A pension plan may, subject to section 85, be amended so that the pension 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%.

However, where the pension plan under which retirees' pensions are insured and the assumption thereunder for indexation of the pensions of the aggregate benefits of the members and beneficiaries of the plan is made on the basis of funding based on indexation of the pensions until retirement, the first paragraph applies only to the benefits of the non-retired members.

The amendment provided for in the first and second paragraphs 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 and second paragraphs 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.

87. An amendment to a pension plan whose purpose is to adjust the members' and beneficiaries' benefits in accordance with the first and second paragraphs of section 86 applies to amounts determined in accordance with sections 15.3, 54 and 56.0.3 of the Regulation respecting supplemental pension plans.

88. Every period of a member's credited service shall be taken into account for the purposes of calculating the pension payable to the member.

89. 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.

The value of benefits transferred out of the plan shall be determined in accordance with sections 83 and 84.

90. 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.

91. Where the member contribution provided for under the plan is greater than that required pursuant to section 79, 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.

(3) any improvement unfunded actuarial liability.

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.

92. 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 active members.

Section 128 and the first and second paragraphs of section 129 of the Act as well as section 81 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 91 the amortization amounts which, five years after the date of the actuarial valuation, remain to be paid in respect of any actuarial deficiency.

93. 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.

94. Where, by reason of a decision concerning the certification of an employees' association or a decision of a given group of employees provided for under the pension plan, certain active members of a 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.

95. 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.”.

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

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Gouvernement du Québec

O.C. 193-2007, 21 February 2007

Environment Quality Act
(R.S.Q., c. Q-2)

**Waste water disposal systems for isolated dwellings
— Amendment**

Regulation to amend the Regulation respecting waste water disposal systems for isolated dwellings

WHEREAS, under subparagraph *c* of the first paragraph of section 31, paragraphs *g* and *i* of section 46 and paragraph *c* of section 87 of the Environment Quality Act (R.S.Q., c. Q-2), the Government may make regulations on the matters mentioned therein;

WHEREAS the Regulation respecting waste water disposal systems for isolated dwellings (R.R.Q., 1981, c. Q-2, r.8) provides in Division XV.5 for the conditions on which the effluent of a tertiary waste water treatment system with disinfection or phosphorous removal and disinfection may be discharged into the environment;

WHEREAS, after consideration of the public health concerns expressed because of various problems associated with the maintenance of those treatment systems, the Government by Order in Council 853-2006 dated 20 September 2006 made the Regulation to amend the Regulation respecting waste water disposal systems for isolated dwellings to prohibit, from 4 October 2006 to 28 February 2007, the installation of tertiary treatment systems with disinfection or phosphorous removal and disinfection if the disinfection system is ultraviolet radiation and the system’s effluent is directly or indirectly discharged into ditches or certain watercourses;

WHEREAS a working group composed of representatives of the Fédération québécoise des municipalités, the Union des municipalités du Québec, the Ministère des Affaires municipales et des Régions, the Ministère de la Santé et des Services sociaux and the Ministère du Développement durable, de l’Environnement et des Parcs recommended maintaining the prohibition so long as an appropriate framework has not been set in place;

WHEREAS, under section 12 of the Regulations Act (R.S.Q., c. R-18.1), a proposed regulation may be made without having been published, as provided for in section 8 of that Act, if the authority making it is of the opinion that the urgency of the situation requires it;