



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 1

(2009, chapter 1)

An Act to amend the Supplemental Pension Plans Act and other legislative provisions in order to reduce the effects of the financial crisis on plans covered by the Act

Introduced 14 January 2009**Passed in principle 14 January 2009****Passed 15 January 2009****Assented to 15 January 2009**

EXPLANATORY NOTES

This Act proposes various measures to reduce the effects of the financial crisis on supplemental pension plans.

To that end, the Act amends the Supplemental Pension Plans Act to make it possible for certain members and beneficiaries of a pension plan, whose benefits can only be paid in part following the termination of their plan or the withdrawal of a participating employer, to apply for the payment of their benefits through a pension paid by the Régie des rentes du Québec out of the assets of the plan. The Act defines the conditions to which this measure is subject and determines the powers and obligations of the Régie and the Government with a view to the implementation of the measure.

The Act also provides that the new standards of practice for determining pension commuted values, established by the Canadian Institute of Actuaries and in force from the spring of 2009, may be applied for the purposes of the actuarial valuation of the pension plans as of 31 December 2008. It also provides that the report on the actuarial valuation of a pension plan transmitted to the Régie must be accompanied by a summary drawn up on the form provided by the Régie.

Lastly, the Act provides that certain regulations of the Régie and the Government could be given retroactive effect and sets the limits of the retroactivity.

LEGISLATION AMENDED BY THIS ACT:

- Supplemental Pension Plans Act (R.S.Q., chapter R-15.1);
- Act to amend the Supplemental Pension Plans Act, particularly with respect to the funding and administration of pension plans (2006, chapter 42).

REGULATION AMENDED BY THIS ACT:

- Regulation respecting supplemental pension plans (Order in Council 1158-90, 1990, G.O. 2, 2318).

Bill 1

AN ACT TO AMEND THE SUPPLEMENTAL PENSION PLANS ACT AND OTHER LEGISLATIVE PROVISIONS IN ORDER TO REDUCE THE EFFECTS OF THE FINANCIAL CRISIS ON PLANS COVERED BY THE ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 2 of the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1) is amended by inserting “may, if it so provides, have retroactive effect from a date that is prior to the date of its coming into force but not prior to 31 December of the year preceding the year in which it was published in the *Gazette officielle du Québec* under section 8 of the Regulations Act (chapter R-18.1). The regulation, if it is made” after “under the second paragraph” in the third paragraph.

2. The Act is amended by inserting the following after section 230:

“§4.0.1. — *Payment options in the event of insufficient assets*

“230.0.0.1. This subdivision applies to pension plans to which Chapter X applies if

(1) the pension plan is amended to allow for the withdrawal of a participating employer by reason of the bankruptcy or insolvency of the employer or is terminated by reason of the bankruptcy of the employer;

(2) the date of withdrawal of the employer or the date of termination of the plan is subsequent to 30 December 2008 but prior to 1 January 2012; and

(3) on the date of withdrawal of the employer or termination of the plan, the assets do not permit payment in full of the benefits of the members and beneficiaries affected by the withdrawal or termination.

“230.0.0.2. A member or beneficiary affected by the withdrawal of an employer or the termination of a plan who, on the date of the withdrawal or termination, would have been entitled to a pension had the member or beneficiary applied and whose benefits are reduced by reason of insufficient assets may choose one of the following methods for the payment of benefits:

(1) a transfer referred to in section 98; or

(2) a pension paid out of the assets administered by the Régie under section 230.0.0.4.

“230.0.0.3. A member or beneficiary affected by the withdrawal of an employer or the termination of a plan, to whom a pension is being paid on the date of withdrawal or termination and whose benefits are reduced by reason of insufficient assets, may request that his or her pension be guaranteed by an insurer or choose one of the following methods for the payment of benefits:

(1) a replacement pension purchased under section 92; or

(2) a pension paid out of the assets administered by the Régie under section 230.0.0.4.

“230.0.0.4. The Régie shall exercise the powers of the pension committee with respect to the members and beneficiaries of a pension plan who chose the method of payment stipulated under paragraph 2 of section 230.0.0.2 or paragraph 2 of section 230.0.0.3 and over the assets of the plan that correspond to the part of the benefits of the members and beneficiaries payable under section 218. The pension committee, or the person or body to which such powers have been delegated or granted, becomes, to the same extent, disqualified from exercising such powers.

In the exercise of such powers, the Régie shall have the same obligations and liability as the pension committee.

“230.0.0.5. Despite any other provision, with regard to the assets of a pension plan administered by the Régie, only the members referred to in section 230.0.0.4 are considered members of the plan.

“230.0.0.6. Unless the Régie elects to assume them, the expenses relating to the administration of the plan by the Régie are borne by the part of the pension fund it administers.

“230.0.0.7. The Régie may, in accordance with the terms and conditions prescribed by regulation of the Government, amend the pension plan to improve the benefits of the members and beneficiaries referred to in section 230.0.0.4.

“230.0.0.8. Section 243 does not apply to a decision made by the Régie in the capacity of a trustee or while exercising the powers conferred on it by this subdivision.

“230.0.0.9. The Régie must have an insurer guarantee the pension it pays to the members and beneficiaries referred to in section 230.0.0.4 not later than the end of the fifth fiscal year of the pension plan that follows the fiscal year during which the Régie began exercising the powers of the pension committee with respect to those members and beneficiaries. It may

also, before the expiry of that time limit, have an insurer guarantee any pension it pays, in particular when the amount of the pension is set at an amount equal to or greater than the amount the member or beneficiary was or would have been entitled to before the withdrawal of the employer or the termination of the plan.

The second, third and fourth paragraphs of section 237 then apply, with the necessary modifications.

The amount of the pension guaranteed by an insurer under the first paragraph must be equal to or greater than the amount of the pension that would have been paid if the plan's assets had been increased, on the date of termination, by an amount equal to the difference between the contributions required under this Act and those required under a regulation made under section 2 in order to reduce the effects of the financial crisis.

“230.0.0.10. If the assets of the plan administered by the Régie are insufficient to pay the pensions as required, to have them guaranteed by an insurer or to pay the expenses relating to the administration, the Government shall pay the required sums to the Régie out of the consolidated revenue fund.

“230.0.0.11. The Government may make any regulation required for the purposes of this subdivision. It may, in particular,

(1) set the rules applicable to the determination of the value of the benefits accrued to the members and beneficiaries and to the distribution of the assets and liabilities of a pension plan to determine which part of the pension fund of the plan must be administered by the Régie; and

(2) prescribe the terms and conditions that make it possible to improve the benefits of the members and beneficiaries referred to in section 230.0.0.4.”

3. Section 244 of the Act, amended by section 40 of chapter 42 of the statutes of 2006 and section 22 of chapter 21 of the statutes of 2008, is again amended by inserting the following paragraph after the third paragraph:

“To the extent that it relates to the application, with or without amendment, of a standard of practice of the Canadian Institute of Actuaries, a regulation under this section is not subject to the requirements of sections 8 and 17 of the Regulations Act (chapter R-18.1) as regards publication and the date of coming into force and may, if it so provides, have retroactive effect to a date that is prior to the date of its coming into force but not prior to the date the standard is approved by the Actuarial Standards Board of the Canadian Institute of Actuaries.”

4. Section 11 of the Act to amend the Supplemental Pension Plans Act, particularly with respect to the funding and administration of pension plans (2006, chapter 42), amended by section 33 of chapter 21 of the statutes of 2008, is again amended by adding the following paragraph at the end of the section 119 it enacts:

“All reports on an actuarial valuation transmitted to the Régie must be accompanied by a summary drawn up on the form provided by the Régie, along with the attestations and documents mentioned in the form.”

5. Section 67.4 of the Regulation respecting supplemental pension plans, approved by Order in Council 1158-90 (1990, G.O. 2, 2318), is replaced by the following:

“67.4. The assumptions referred to in the first paragraph of section 61 of the Act are those described in sections 3830 and 3840 of the standards of practice of the Canadian Institute of Actuaries, taking into account the amendments approved by the Actuarial Standards Board of the Institute on 8 December 2008, it being understood that a sex-specific mortality table must be used.

These assumptions apply taking into account the rules set out in paragraphs 3820.09 to 3820.11 of section 3820 of the standards of practice.”

6. Section 67.4 of the regulation, enacted by section 5 of this Act, may, even before 1 April 2009, be applied for the purposes of the valuation of the obligations arising from the plan in the course of an actuarial valuation of the plan undertaken after 30 December 2008, if the employer — or, in the case of a multi-employer pension plan, even where it is not considered as such under section 11 of the Supplemental Pension Plans Act, the participating employers jointly, — sends the pension committee a writing instructing it to that effect.

7. The first regulation made by the Government under section 230.0.0.11 of the Supplemental Pension Plans Act enacted by section 2 of this Act is not subject to the publication requirement set out in section 8 of the Regulations Act (R.S.Q., chapter R-18.1).

Despite section 17 of that Act, such a regulation comes into force on the date of its publication in the *Gazette officielle du Québec*, or on any later date set in the regulation. However, once it is published and if it so provides, it may apply from any date not prior to 31 December 2008.

8. This Act comes into force on 15 January 2009, except section 4, which comes into force on 1 January 2010 and section 5, which comes into force on 1 April 2009. However, sections 2 and 6 have effect from 31 December 2008.