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Draft Regulation

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

An Act to amend the Supplemental Pension Plans Act, particularly with respect to the funding and administration of pension plans
(2006, c. 42)

Measures to reduce the effects of the financial crisis on pensions plans covered by the Supplemental Pension Plans Act

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 respecting measures to reduce the effects of the financial crisis on pensions plans covered by the Supplemental Pension Plans Act, appearing below, may be submitted to the Government for approval on the expiry of 45 days following this publication.

The purpose of the draft Regulation is to enable the implementation, as of 31 December 2008, of measures to reduce the effects of the financial crisis on defined benefit pension plans by prescribing funding rules that will be applicable to those plans.

Further information may be obtained by contacting Mario Marchand, Régie des rentes du Québec, Place de la Cité, 2600, boulevard Laurier, Québec (Québec) G1V 4T3; telephone: 418 657-8715, extension 3927; fax: 418 643-7431; e-mail: mario.marchand@rrq.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to André Trudeau, President and General Manager, Régie des rentes du Québec, Place de la Cité, 2600, boulevard Laurier, 5e étage, Québec (Québec) G1V 4T3. The comments will be forwarded by the Régie to the Minister of Employment and Social Solidarity, responsible for the administration of the Supplemental Pension Plans Act.

SAM HAMAD,
Minister of Employment and Social Solidarity

Regulation respecting measures to reduce the effects of the financial crisis on pensions plans covered by the Supplemental Pension Plans Act

Supplemental Pension Plans Act
(R.S.Q., c. R-15.1, s. 2, 2nd and 3rd pars.; 2009, c. 1. s. 1)

An Act to amend the Supplemental Pension Plans Act, particularly with respect to the funding and administration of pension plans
(2006, c. 42, s. 53)

DIVISION 1
SCOPE

1. This Regulation applies to every pension plan to which Chapter X of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1) applies.

DIVISION 2
FUNDING RELIEF MEASURES

2. An employer that is a party to a pension plan or, in the case of a multi-employer pension plan, even not considered as such under section 11 of the Act, the person or body empowered to amend the plan, may, in writing, instruct the pension committee that administers the plan to take one or more of the following measures for the purposes of the first complete actuarial valuation of the plan dated after 30 December 2008:

(1) the application of an asset valuation method that, in accordance with the conditions in section 3, levels the short-term fluctuations in the market value of the assets of the plan for the purposes of determining the value of those assets on a solvency basis;

(2) the elimination of amortization payments related to technical actuarial deficiencies and improvement unfunded liabilities, other than those related to an amendment made after 30 December 2008, determined in a previous actuarial valuation of the plan;

(3) the extension, in accordance with the rules in section 20, of the period provided in the Act to amortize the technical actuarial deficiencies resulting from the application of the funding relief measures.

3. The period used to level short-term fluctuations in the market value of the assets using the method referred to in paragraph 1 of section 2 is the period fixed in the instructions provided for in that section, subject to a 5-year maximum period.

The asset valuation method applied for the purposes of the actuarial valuation referred to in section 2 must be applied for the purposes of subsequent actuarial valuations.

DIVISION 3
APPLICABLE LEGISLATIVE PROVISIONS

4. If the date of the actuarial valuation referred to in section 2 is prior to 1 January 2010, the following rules apply, as of the valuation date, to a pension plan for which instructions are given under that section:

(1) the plan is exempt from the application of subparagraph 4 of the second paragraph of section 24, sections 39, 39.1, 41, 42, 101, 116 to 146 and 172 and paragraph 1 of section 258 of the Act;

(2) the provisions of the Act below apply to the plan subject to the following amendments:

(a) in the second paragraph of section 195, "subdivision 1 of Division II" is replaced by "sections 134 to 139";

(b) in the fifth paragraph of section 288.1.1, "31 December 2009" is replaced by "the date of the first complete actuarial valuation of the plan dated after 30 December 2008";

(3) the following provisions of the Act, as amended or enacted by chapter 42 of the Statutes of 2006, and with any amendments made by this Regulation, apply to the plan, subject to the amendments made to the Act by chapter 21 of the Statutes of 2008: sections 39, 39.1, 41, 42, 42.1, 101, 116 to 146 and 172, paragraph 1 of section 258 and section 306.7.1;

(4) section 288.3 of the Act, enacted by section 24 of chapter 21 of the Statutes of 2008, applies to the plan by replacing "1 January 2010" by "the date of the first complete actuarial valuation of the plan dated after 30 December 2008";

(5) section 305.2 of the Act, enacted by section 26 of chapter 21 of the Statutes of 2008, applies to the plan by replacing "must be later than 14 December 2009" by "may not be prior to the date of the first complete actuarial valuation after 30 December 2008, in the case of an amendment that is made or takes effect on or after that date";

(6) sections 4 and 41 of the Regulation to amend the Regulation respecting supplemental pension plans, published in the *Gazette officielle du Québec* of 1 April 2009 (2009, *G.O.* 2, 960) and with any amendments made by this Regulation, apply to the plan.

DIVISION 4
RULES SPECIFIC TO THE ACTUARIAL VALUATION REFERRED TO IN SECTION 2

5. Except for section 9, the provisions of this Division apply only for the purposes of the actuarial valuation referred to in section 2 for a pension plan for which instructions were given under that section.

6. The amortization amounts, among the following, that remain to be paid at the date of the valuation are considered to be amortization payments relating to a technical actuarial deficiency referred to in paragraph 1 of section 130 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006:

(1) the amortization amounts referred to in subparagraphs 2 and 3 of the second paragraph of section 137 of the Act, excluding those relating to an improvement unfunded actuarial liability, that were taken into account in the last complete actuarial valuation of the plan dated prior to 31 December 2008;

(2) the amortization amounts determined in the valuation referred to in subparagraph 1 for the purposes of section 140 of the Act.

The amortization amounts, among the following, that remain to be paid at the date of the valuation are considered to be amortization payments relating to an improvement unfunded actuarial liability within the meaning of paragraph 2 of section 130 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006:

(1) the amortization amounts referred to in subparagraphs 1 and 2 of the second paragraph of section 137 of the Act, excluding those relating to a technical actuarial deficiency, that were taken into account in the last complete actuarial valuation of the plan dated prior to 31 December 2008;

(2) the amortization amounts related to an unfunded liability referred to in the third paragraph of section 130 of the Act, and determined, if applicable, in an actuarial valuation of the plan carried out in accordance with that section at a date subsequent to the valuation referred to in subparagraph 1; the amounts referred to in this subparagraph need not be taken into account if an actuary certifies in the report on the valuation referred to in section 5 that none of those amounts were required to ensure the solvency of the plan at the date they were determined.

7. The actuarial valuation must determine an amount, called "financial crisis amount", that is equal to the difference between the following values:

(1) the market value of the plan's assets on 31 December 2007, adjusted to 31 December 2008 taking in account the inflows and outflows of the pension fund and using the rate of interest that applied on 31 December 2007 to establish on a solvency basis the value of the benefits of the plan's members to whom no pension was being paid on that date;

(2) the market value of the plan's assets on 31 December 2008.

Where applicable, the financial crisis amount bears interest, between 31 December 2008 and the valuation date, at the rate referred to in subparagraph 1 of the first paragraph.

Should the plan's assets on the valuation date, increased by the value of the amortization payments remaining to be paid to amortize a solvency deficiency and by the financial crisis amount, exceed the plan's liabilities, reduced by the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation, the amortization payments related to one or more actuarial deficiencies may be reduced by that excess. That reduction is to be applied by reducing the amortization payments related to the technical actuarial deficiency and, if that deficiency is eliminated, to the improvement unfunded actuarial liability related to an amendment made prior to 31 December 2008. If the excess is insufficient to eliminate the deficiency or the liability, the reduction is to be applied proportionately to each amortization payment remaining to be paid. In addition, if there is more than one deficiency or liability of the same nature, the reduction is applied beginning with the earliest and ending with the most recent.

8. If the technical actuarial deficiency referred to in paragraph 1 of section 130 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006, is less than or equal to the financial crisis amount, that deficiency is then called "financial crisis deficiency".

If the technical actuarial deficiency referred to in paragraph 1 of section 130 is greater than the financial crisis amount, that deficiency is apportioned into two technical actuarial deficiencies:

(1) a first deficiency, called "financial crisis deficiency", equal to the financial crisis amount;

(2) a second deficiency equal to the difference between the technical actuarial deficiency referred to in paragraph 1 of section 130 and that amount.

9. The report on the actuarial valuation must, upon being sent to the Régie, be accompanied by a writing whereby the person or body empowered to give instructions under section 2 or under section 6 of the 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 (2009, c. 1) certifies that the report complies with the instructions given to the pension committee, or that no instructions were given.

DIVISION 5
RULES APPLICABLE TO VALUATIONS AND ACTUARIAL REPORTS RELATED TO PLANS FOR WHICH INSTRUCTIONS WERE GIVEN UNDER SECTION 2

§1. General

10. An actuarial valuation must establish, in addition to what is prescribed by the Act, the amount referred to in section 230.0.0.9 of the Act, enacted by section 2 of chapter 1 of the Statutes of 2009, and any technical actuarial deficiency resulting from the application of the funding relief measures.

11. On the date of the actuarial valuation referred to in section 2, the amount referred to in section 230.0.0.9 of the Act is equal to zero.

On the date of any subsequent actuarial valuation, the amount is equal to "S" in the following formula:

A + B - C = S

"A" represents the amount in question established in the last actuarial valuation;

"B" represents the amortization payment determined for the financial crisis deficiency;

"C" represents the amount by which the amount of the amortization payments to be paid under subparagraph *b* of subparagraph 2 of the first paragraph of section 39 of the Act mentioned in paragraph 3 of section 4 exceeds the amount determined in paragraph 1 of section 21.

That amount and those amortization payments bear interest at the rate of return of the pension fund. Should the date of the actuarial valuation not correspond to the date of the end of a fiscal year of the plan, only the monthly payments related to amortization payments and the special amortization payments due on the valuation date are taken into account.

12. For the purposes of the second paragraph of section 128 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006:

(1) a solvency deficiency does not include a technical actuarial deficiency resulting from the application of the funding relief measures;

(2) the assets of the plan must also be increased by the amount referred to in section 230.0.0.9 of the Act and, where applicable, by the value of the remaining amortization payments related to the financial crisis deficiency.

13. Despite section 128 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006, the actuarial gains determined in accordance with that section, account being taken of section 12 of this Regulation, must be used to reduce the amortization payments related to the financial crisis deficiency.

Any reduction in the amortization payments related to that deficiency must be applied proportionately.

14. For the purposes of paragraph 1 of section 130 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006:

(1) a solvency deficiency does not include a technical actuarial deficiency resulting from the application of the funding relief measures;

(2) the amount referred to in section 230.0.0.9 of the Act and, where applicable, the value of the remaining amortization payments related to the financial crisis deficiency are also added to the plan's assets.

15. The value of the plan's assets, determined on a funding basis, may not be greater than the value that would be determined using the asset valuation method used in the last complete actuarial valuation prior to the valuation referred to in section 2.

§2. Special rules for technical actuarial deficiencies resulting from the application of the funding relief measures

16. Despite the first paragraph of section 123 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006, if instructions were given to the pension committee to apply the measure provided for in paragraph 1 of section 2, the assets of the pension plan concerned must, to determine the technical actuarial deficiencies resulting from the application of the funding relief measures, be established in accordance with the asset valuation method used for the purposes of the actuarial valuation referred to in section 2.

17. For the purposes of the second paragraph of section 128 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006, the following amortization payments are to be taken into account:

(1) if instructions were given to the pension committee to apply the measure provided for in paragraph 2 of section 2, amortization payments related to any deficiency concerning an amendment made after 30 December 2008, and those related to technical actuarial deficiencies resulting from the application of the funding relief measures;

(2) if not, amortization payments related to any improvement unfunded actuarial liability, those related to technical actuarial deficiencies resulting from deficiencies determined before the date of the actuarial valuation referred to in section 2, and those related to technical actuarial deficiencies resulting from the application of the funding relief measures.

18. Despite section 128 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006, amortization payments remaining to be paid in respect of a technical actuarial deficiency resulting from the application of the funding relief measures and determined in the actuarial valuation referred to in section 2 may be reduced by the actuarial gains determined in accordance with that section 128, taking into account section 17.

If the pension committee was given instructions to apply the measure provided for in paragraph 1 of section 2, the allocation of actuarial gains authorized by the first paragraph applies in respect of any technical actuarial deficiency resulting from the application of the funding relief measures and determined on the date of the actuarial valuation referred to in section 2 or on a later date. The reduction of amortization payments is applied beginning with the earliest deficiency and ending with the most recent.

Any reduction in amortization payments related to a deficiency must be applied proportionately.

19. For the purposes of paragraph 1 of section 130 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006, the following amortization payments are to be taken into account:

(1) if instructions were given to the pension committee to apply the measure provided for in paragraph 2 of section 2, amortization payments related to any deficency concerning an amendment made after 30 December 2008, and those related to technical actuarial deficiencies resulting from the application of the funding relief measures;

(2) if not, amortization payments related to any improvement unfunded actuarial liability, those related to technical actuarial deficiencies resulting from deficiencies determined before the date of the actuarial valuation referred to in section 2, and those related to technical actuarial deficiencies resulting from the application of the funding relief measures.

20. Despite section 142 of the Act, enacted by section 11 of chapter 42 of the Statutes of 2006, if the pension committee was given instructions to apply the measure provided for in paragraph 3 of section 2, the amortization period for a technical actuarial deficiency referred to in this subdivision expires at the end of a fiscal year ending not later than

(a) 10 years after the date of the valuation, if that date is prior to 31 December 2009;

(b) 9 years after the date of the valuation, if that date is prior to 31 December 2010 but later than 30 December 2009;

(c) 8 years after the date of the valuation, if that date is prior to 31 December 2011 but later than 30 December 2010.

§3. Amortization payments

21. During each fiscal year of the pension plan, the total of the amortization payments to be paid on a solvency basis is equal to the greatest of the following amounts:

(1) the total of the amortization payments related to solvency deficiencies and special amortization payments payable during the fiscal year, excluding amortization payments related to the financial crisis deficiency and amortization payments related to technical actuarial deficiencies resulting from the application of the funding relief measures;

(2) the total of the amortization payments related to technical actuarial deficiencies resulting from the application of the funding relief measures, increased,

(a) if instructions were given to the pension committee to apply the measure provided for in paragraph 2 of section 2, by the amortization payments related to improvement unfunded actuarial liabilities concerning amendments made after 30 December 2008 and by the special amortization payments payable during the fiscal year;

(b) if not, by the amortization payments related to improvement unfunded actuarial liabilities, by the special amortization payments payable during the fiscal year and by the amortization payments related to technical actuarial deficiencies resulting from deficiencies determined before the date of the actuarial valuation referred to in section 2.

22. Amortization payments concerning the financial crisis deficiency are not required to be paid into the pension fund.

§4. Report on actuarial valuation

23. The report on a pension plan's actuarial valuation dated prior to 1 January 2010 must be established in accordance with sections 1 and 2 of the draft Regulation to amend the Regulation respecting supplemental pension plans, published in the *Gazette officielle du Québec* of 1 April 2009 (2009, *G.O.* 2, 960), except paragraph 1 of section 4.5 made by section 1 of that draft Regulation.

24. The report on a pension plan's actuarial valuation must also contain

(1) for each solvency deficiency indicated in the report, other than a technical actuarial deficiency resulting from the application of the funding relief measures:

(a) the type of deficiency, specifying, in the case of a technical actuarial deficiency, whether it is the financial crisis deficiency;

(b) the date on which the deficiency was determined and the date on which the amortization period is scheduled to end;

(c) the monthly payments related to amortization payments to be made until the end of that period and their present value;

(2) for each solvency deficiency taken into account pursuant to subdivision 2:

(a) the type of deficiency;

(b) the date on which the deficiency was determined and the date on which the amortization period is scheduled to end;

(c) the monthly payments related to amortization payments to be made until the end of that period and their present value;

(3) the amount referred to in section 230.0.0.9 of the Act;

(4) the total of the amortization payments provided for in paragraph 1 of section 21 and the total of the amortization payments provided for in paragraph 2 of that section;

(5) if instructions were given to the pension committee to apply the measure provided for in paragraph 1 of section 2, a description of the asset valuation method used.

SUBDIVISION 6
END OF THE APPLICATION OF THIS REGULATION IN RESPECT OF A PENSION PLAN

25. Subject to section 27, the provisions of this Regulation cease to apply in respect of a pension plan for which instructions were given under section 2 on the earlier of the following dates:

(1) the date of the first actuarial valuation showing that the plan is solvent;

(2) the date fixed in a writing giving instructions to that effect and sent to the pension committee by the employer that is a party to a pension plan or, in the case of a multi-employer pension plan, even not considered as such under section 11 of the Act, by the person or body empowered to amend the plan. That date must fall on the date on which a fiscal year of the plan ends; or

(3) the date of the end of the plan's first fiscal year beginning after 31 December 2010.

26. On the date fixed pursuant to section 25, technical actuarial deficiencies, including the financial crisis deficiency and those resulting from the application of the funding relief measures, and improvement unfunded actuarial liabilities concerning amendments made before 31 December 2008, as well as amortization payments for those deficiencies and liabilities, are eliminated.

If paragraph 1 of section 25 applies, the amount referred to in section 230.0.0.9 of the Act is equal to zero.

DIVISION 7
FINAL

27. To calculate the amount referred to in section 230.0.0.9 of the Act if a participating employer withdraws from a pension plan for which instructions were given under section 2 or if such a plan is terminated, section 11 applies by replacing "date of any subsequent actuarial valuation", "date of the actuarial valuation" and "valuation date" by "date of the employer's withdrawal" or "date of the plan's termination", as the case may be.

If subdivision 4.0.1 of Division II of Chapter XIII of the Act applies to a pension plan after the date fixed pursuant to section 25 for that plan, the amount referred to in section 230.0.0.9 of the Act bears interest between that date and the date of the employer's withdrawal or plan's termination at the rate of return of the pension fund.

28. Section 49 of the Act to amend the Supplemental Pension Plans Act, particularly with respect to the funding and administration of pension plans (2006, c. 42) does not apply to a pension plan for which instructions were given under section 2.

29. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec* but has effect from 31 December 2008.

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Draft Regulation

Court Bailiffs Act
(R.S.Q., c. H-4.1)

Tariff of fees and transportation expenses of bailiffs — 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 Tariff of fees and transportation expenses of bailiffs, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The Tariff of fees and transportation expenses of bailiffs has not been revised since 1999. Amendments are made to increase all the fees under the Tariff by 15% and to allow bailiffs to claim fees not currently in the Tariff for certain acts.

Further information may be obtained by contacting Anne Richard, Direction générale des services de justice, 1200, route de l'Église, 7e étage, Québec (Québec) G1V 4M1; telephone: 418 644-7700, extension 20191; fax: 418 644-9968.