

## Regulations and other Acts

Gouvernement du Québec

**O.C. 1073-2009**, 7 October 2009

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

### Supplemental pension plans — Amendments

Regulation to amend the Regulation respecting supplemental pension plans

WHEREAS, under subparagraphs 1, 2.1, 4, 6, 7, 8, 8.0.1, 11 and 14 of the first paragraph of section 244 of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1) amended by section 40 of chapter 42 of the Statutes of 2006 and by section 35 of chapter 21 of the Statutes of 2008, the Régie des rentes du Québec may, by regulation,

— determine the form and content of any document, certificate or attestation prescribed by the Act and the regulations;

— specify the conditions under which an employer may provide the pension committee with a letter of credit, as well as the form, amount and terms of such a letter;

— determine, for the purposes of section 92 of the Act, under what conditions a pension may be replaced, the terms and conditions of the replacement pension contract and the methods, assumptions, rules or factors applicable in computing the maximum annual amount of pension;

— determine, for the purposes of section 98 of the Act, the plans or annuity contracts not governed by this Act that are included in the expression “pension plan” and the norms applicable to such plans or contracts, or make all or part of this Act and the regulations applicable to them;

— determine, for the purposes of section 108, 109 or 110 of the Act, the rules applicable to the determination of the benefits of the member and their value before and after partition of such benefits, a seizure for non-payment of support or payment of a compensatory allowance, and to the payment of benefits awarded to the spouse, in particular, the rules governing the transfer of the sums of money to which the spouse is entitled, the interest payable thereon and the information to be provided to the spouse within the prescribed time, and the obligations incumbent upon the person responsible for managing the sums thus transferred;

— determine any document which may be examined pursuant to section 114 of the Act;

— for the purposes of section 128 of the Act, determine the items contributing to the establishment of the reserve and the manner in which the provision for adverse deviation is calculated;

— determine the methods, assumptions, rules or factors which are applicable or prohibited for the purpose of calculating any contribution or benefit, refund, interest rate or rate of return and, where applicable, their actuarial value;

— prescribe the fees payable for the financing of expenses incurred by the Régie for the administration of the Act and the regulations and for any formality prescribed by the Act or the regulations, including fees which may be imposed as a penalty for a delay in carrying out such a formality or failure to provide within the time allotted any information or document provided for in the Act or required by the Régie;

WHEREAS, on 12 December 2008, the Régie adopted the Regulation to amend the Regulation respecting supplemental pension plans;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation attached to this Order in Council was published in Part 2 of the *Gazette officielle du Québec* of 1 April 2009 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS, on 26 August 2009, the Régie made the Regulation, with amendments that take into account the comments made by interested persons;

WHEREAS it is expedient to approve the Regulation;

IT IS ORDERED, therefore, on the recommendation of the Minister of Employment and Social Solidarity:

THAT the Regulation to amend the Regulation respecting supplemental pension plans, attached to this Order in Council, be approved.

GÉRARD BIBEAU,  
*Clerk of the Conseil exécutif*

## Regulation to amend the Regulation respecting supplemental pension plans\*

### Supplemental Pension Plans Act

(R.S.Q., c. R-15.1, s. 244, 1st par., subpars. 1, 2.1, 4, 6, 7, 8, 8.0.1, 11 and 14; 2006, c. 42, s. 40; 2008, c. 21, s. 35)

**1.** The Regulation respecting supplemental pension plans is amended by replacing section 4 by the following:

“**4.** A report on a complete actuarial valuation referred to in section 120 of the Act must contain the information and statements of the actuary provided for in Section 3600 of the standards of practice of the Canadian Institute of Actuaries, according to the revised version approved on 27 December 2007 by the Actuarial Standards Board of the Canadian Institute of Actuaries, the information provided for in sections 4.1 to 4.6 and the following information:

(1) the name of the plan and the number assigned to it by the Régie;

(2) the date of the actuarial valuation;

(3) the number of active members apportioned, where applicable, according to whether their benefits are accumulated under defined benefit provisions or money purchase provisions within the meaning of section 965.0.1 of the Taxation Act (R.S.Q., c. I-3) or both types of provisions, the number of non-active members to whom no pension is being paid and the number of the other non-active members and beneficiaries whose benefits are covered by the actuarial valuation;

(4) a summary of the provisions of the plan that must be taken into account for the purposes of the valuation, including those bearing on contributions, normal retirement age, conditions to be met to be entitled to an early pension, pension indexation formula, assumptions used in accordance with the second paragraph of section 61 of the Act and the refunds and benefits payable under the pension plan;

(5) the name of the signatory, the signatory’s professional title, the name and address of the signatory’s office and the date of signing.

**4.1.** With respect to the portion of the actuarial valuation of the plan performed on a solvency basis, the report must contain the following information:

(1) the value of the plan’s assets, the value of the plan’s liabilities established without reference, if applicable, to any amendment to the plan considered for the first time at the valuation date, and the actuarial assumptions and methods used to determine those values;

(2) the value of the plan’s liabilities distributed among the group of active members of the plan, the group of non-active members to whom no pension is paid and the group of the other non-active members and beneficiaries, the actuarial assumptions and methods used to determine the value, and the degree of solvency of the plan;

(3) the estimated amount of the administration costs referred to in the first paragraph of section 123 of the Act;

(4) where the plan provides for obligations to which the last sentence of the first paragraph of section 124 of the Act applies:

(a) a description of the obligations;

(b) the scenario used by the actuary to determine the plan’s liabilities and, where that scenario results in liabilities that are less than the value of the obligations arising from the plan assuming that the plan is terminated on the valuation date in such circumstances that the benefits accrued to the members must be estimated at their maximum value, such maximum value;

(5) the description of the approach used to estimate the premium referred to in section 126 of the Act;

(6) where the plan is both solvent and funded, that amortization payments remain to be paid in connection with an improvement unfunded actuarial liability determined in a prior actuarial valuation and that the provision for adverse deviation provided for in section 128 of the Act is not calculated at the valuation date, certification from the actuary certifying that a calculation of the provision at that date would have determined that the plan’s assets were lower than the liabilities increased by the provision for adverse deviation.

**4.2.** Where the provision for adverse deviation is calculated, the report must contain the following information:

\* The Regulation respecting supplemental pension plans, approved by Order in Council 1158-90 dated 8 August 1990 (1990, *G.O.* 2, 2318), was last amended by the regulation approved by Order in Council 204-2005 dated 16 March 2005 (2005, *G.O.* 2, 703) and by section 5 of chapter 1 of the Statutes of 2009. For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2009, updated to 1 March 2009.

(1) its amount, with an indication of the shares attributable to elements “R” and “S” of section 60.3;

(2) the amount of elements “R” and “S” of section 60.3 and the amount of element “D” determined in accordance with section 60.4;

(3) element d<sup>s</sup> of section 60.4 and the actuarial assumptions and methods used to determine the element;

(4) the amount determined in accordance with paragraph 1 of element “V” of section 60.4 and element “d<sup>m</sup>” of that section;

(5) the maximum amount of surplus assets that may be appropriated to the payment of employer contributions, determined in accordance with section 146.3.4 of the Act

(6) the maximum amount of the reduction to which the pension committee may agree under section 15.0.0.5;

(7) the maximum amount of the reduction to which the pension committee may agree under the first paragraph of section 15.0.0.6, specifying that the amount is established on the assumption that the surplus assets of the plan will be in no way appropriated to the payment of employer contributions.

**4.3.** With respect to the portion of the plan’s actuarial valuation performed on a funding basis, the report must contain the following information:

(1) the value of the plan’s assets, the value of the liabilities determined without reference to any amendment to the plan considered for the first time at the valuation date and the actuarial assumptions and methods used to determine those values;

(2) the value of the plan’s liabilities distributed among the group of active members of the plan, the group of non-active members to whom no pension is paid and the group of the other non-active members and beneficiaries, and the actuarial assumptions and methods used to determine the value;

(3) the amount established in accordance with the first paragraph of section 135 of the Act.

**4.4.** Where the actuarial valuation determines the value of the additional obligations arising from an amendment to the plan considered for the first time, the report must also contain the following information:

(1) a summary of the amendment covered by the valuation and the date and effective date of the amendment;

(2) the value, determined on a solvency basis, of the additional obligations arising from the amendment;

(3) where the provision for adverse deviation is calculated, the amount of surplus assets determined on a solvency basis that may be appropriated to the payment of that value;

(4) the special amortization payment determined under section 132, where applicable;

(5) the value, determined on a funding basis, of the additional obligations arising from the amendment;

(6) the amount of surplus assets determined on a funding basis that may be appropriated to the payment of that value.

**4.5.** With respect to unfunded actuarial liabilities, the report must contain the following information:

(1) for each solvency deficiency determined under section 130 of the Act:

(a) the type:

(b) the date of its determination and the date of the end of the period provided for its amortization;

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

(2) a description of the amendments made under section 131 of the Act to the solvency deficiencies indicated in the last report on an actuarial valuation of the plan;

(3) the amount of the funding deficiency, the date of the end of the period provided for its amortization and the monthly amounts related to the amortization payments to be paid until that date.

**4.6.** The report must contain the following financial information:

(1) the service contribution projected for the fiscal year or part of a fiscal year immediately following the actuarial valuation and the rule used to determine the service contribution;

(2) the rule used to determine the service contributions for the two subsequent fiscal years;

(3) the amounts to be paid respectively by the employer and by the members, and, for each amount, in the case of a defined benefit plan for which certain provisions are

identical to those of a defined contribution plan, the share that must be paid for those provisions and the share that must be paid for the defined benefit provisions;

(4) the employer contribution provided for in the plan, if it is greater than the contribution provided for in section 39 of the Act;

(5) a description of the adjustments to the contributions arising from the application of the third paragraph of section 41 of the Act;

(6) the amount of the letter of credit, or the total amount of such letters, and the amount taken into account in the assets to determine the plan's solvency.”.

**2.** Section 5 is replaced by the following:

“**5.** A report on a partial actuarial valuation carried out under the conditions provided for in the second paragraph of section 118 of the Act must contain the information provided for in sections 5.1 to 5.4 and the following information:

(1) the name of the plan and the number assigned to it by the Régie;

(2) the date of the actuarial valuation;

(3) the name of the signatory, the signatory's professional title, the name and address of the signatory's office and the date of signing;

(4) a certification of the actuary certifying that a complete actuarial valuation of the plan carried out at the valuation date would have shown that the plan is both solvent and funded.

The certifications provided for in this section and in sections 5.1 and 5.2 must be established on the basis of a conservative estimate made by the actuary.

**5.1.** Where the provision for adverse deviation is calculated on the basis of estimates authorized by section 60.5, the report must contain the following information:

(1) the amount;

(2) a certification of the actuary certifying that a complete actuarial valuation of the plan carried out at the valuation date would have established an amount for the provision for adverse deviation equal to or less than the amount indicated in paragraph 1;

(3) the maximum amount of surplus assets that may be appropriated to the payment of employer contributions;

(4) the maximum amount of the reduction to which the pension committee may agree under section 15.0.0.5;

(5) the maximum amount of the reduction to which the pension committee may agree under the first paragraph of section 15.0.0.6, specifying that the amount is established on the assumption that the surplus assets of the plan will be in no way appropriated to the payment of employer contributions;

(6) a certification of the actuary certifying that, should complete actuarial valuation be carried out, the resulting amounts would be at least equal to those indicated in paragraphs 3 to 5.

**5.2.** Where the actuarial valuation determines the value of the additional obligations arising from an amendment to the plan considered for the first time, the report must also contain the following information:

(1) a summary of the amendment that is the subject of the valuation, the date and effective date of the amendment;

(2) the value of the additional obligations arising from the amendment, determined on a solvency basis and on a funding basis;

(3) where the provision for adverse deviation is calculated on the basis of estimates authorized by section 60.5,

(a) the amount of surplus assets that may be appropriated to the payment of the value of the additional obligations arising from the amendment, determined on a solvency basis, and the amount determined on a funding basis;

(b) a certification of the actuary certifying that a complete actuarial valuation carried out at the valuation date would have established amounts at least equal to the amounts referred to in subparagraph a;

(4) where the provision for adverse deviation is not calculated, a certification of the actuary certifying that a calculation of the provision carried out at the valuation date would have established that the plan's assets are less than the liabilities increased by the provision for adverse deviation.

**5.3.** With respect to unfunded actuarial liabilities, the report must contain the following information:

(1) for each improvement unfunded actuarial liability determined under section 130 of the Act,

(a) the date on which it was determined and the date of the end of the period provided for its amortization;

(b) the monthly amounts related to the amortization payments to be paid until the end of that period and their present value;

(2) a description of the amendments made under section 131 of the Act to the solvency deficiencies indicated in the last report on an actuarial valuation of the plan.

**5.4.** The report must contain the following financial information:

(1) any adjustment made to the rule referred to in paragraph 2 of section 4.6 that is related to the fiscal year immediately following the actuarial valuation, to take into account any amendment considered for the first time upon that valuation;

(2) the amounts that must be paid respectively by the employer and by the members, and, for each amount, in the case of a defined benefit plan for which certain provisions are identical to the provisions of a defined contribution plan, the share that must be paid for those provisions and the share that must be paid for the defined benefit provisions;

(3) the employer contribution provided for in the plan, if the contribution is greater than the contribution provided for in section 39 of the Act;

(4) the amount of the letter of credit, or the total amount of such letters, and the amount taken into account in the assets for the purpose of determining the plan's solvency;

(5) a description of the adjustments to the contributions arising from the application of the third paragraph of section 41 of the Act.”.

**3.** Section 7 is revoked.

**4.** Section 14 is amended by adding the following after the third paragraph:

“In the event of failure to produce the report referred to in section 120 of the Act or a document that must accompany the report, additional fees equal to 20% of the fees calculated in the manner prescribed by section 13.0.1 taking into account the number of members and beneficiaries indicated in the annual statement of information related to the last fiscal year of the plan ended on the date of the actuarial valuation, must be paid to the Régie for each complete month of delay, up to the amount of the latter fees.”.

**5.** The following is inserted after section 15:

**“DIVISION II.0.0.1  
LETTER OF CREDIT**

**15.0.0.1.** The letter of credit referred to in section 42.1 of the Act is an irrevocable standby letter of credit. It is established in accordance with form 3.

Despite any stipulation to the contrary, such a letter of credit is subject to the statutes of Québec and is governed by the International Standby Practices, 1998 (ICC, No. 590) insofar as those practices are compatible with the provisions of this Regulation.

**15.0.0.2.** The letter of credit must be issued by a financial institution that meets the following requirements:

(1) it is authorized to issue letters of credit in Québec or elsewhere in Canada where an agreement referred to in section 249 of the Act applies;

(2) any of the following credit rating organizations gives it the rating indicated on the same line as the organization's name in the following table, or a higher rating:

<b>Credit rating organization</b>	<b>Rating</b>
Dominion Bond Rating Service	A
Fitch Ratings	A
Moody's Investors Service	A2
Standard & Poor's	A

**15.0.0.3.** The date of expiry of the letter of credit must correspond to the date of the end of a fiscal year of the pension plan.

**15.0.0.4.** The pension committee must, at the written request of the employer, agree to reduce the amount of the letter of credit in the following cases:

(1) the employer pays to the pension fund an amount at least equal to the amount of the reduction requested;

(2) the report on the last actuarial valuation of the pension plan the date of which is not prior to the date of the end of the last fiscal year of the plan shows that the assets, alone or increased by the amount by which the amount of the letter of credit exceeds the amount taken into account pursuant to the third paragraph of section 123 of the Act, are greater than liabilities increased by the provision for adverse deviation.

**15.0.0.5.** Where the plan's assets increased by the amount by which the amount of the letter of credit exceeds the amount taken into account pursuant to the third paragraph of section 123 of the Act are greater than the plan's liabilities increased by the provision for adverse

deviation, the reduction provided for in paragraph 2 of section 15.0.0.4 may not be greater than the lesser of the following amounts:

(1) the amount by which the amount of the letter of credit exceeds the amount taken into account pursuant to the third paragraph of section 123 of the Act;

(2) the amount by which the plan's assets increased by that excess amount exceeds the plan's liabilities increased by the provision for adverse deviation.

**15.0.0.6.** Where the plan's assets alone exceeds the liabilities increased by the provision for adverse deviation, the reduction provided for in paragraph 2 of section 15.0.0.4 may not be greater than that excess amount.

However, if the employer appropriates all or part of the excess assets to the payment of employer contributions, the maximum amount of that reduction is equal to the remaining assets after deduction from the liabilities of the provision for adverse deviation and the total amounts indicated in a written notice that the employer must send to the pension committee with the reduction request and in which the employer specifies

(1) the amount that will be appropriated to the payment of employer contributions for the period comprised between the date of the latest actuarial valuation of the plan and the date on which the first fiscal year of the plan ends following the date of that valuation, taking into account section 41 of the Act;

(2) the amount that will be appropriated to the payment of employer contributions for the first nine months of the fiscal year that follows the fiscal year referred to in subparagraph 1.

If the amount of the letter of credit may be reduced under the provisions of both section 15.0.0.5 and this section, the reduction requested must be carried out in accordance with section 15.0.0.5.

**15.0.0.7.** Where the reduction in the amount of the letter of credit to which the pension committee agreed pursuant to paragraph 2 of section 15.0.0.4 has an effect on the amount taken into account under the third paragraph of section 123 of the Act and the report on the last actuarial valuation referred to in paragraph 2 of section 15.0.0.4 is subsequently amended or replaced, the value of the plan's assets determined on a solvency basis must be established, for the purposes of the amendment or replacement, taking into account the reduction of the amount of the letter of credit.

**15.0.0.8.** In the event of non-renewal of the letter of credit, the financial institution that has issued the letter must pay the amount of the letter to the pension fund.

The payment is not required if the pension committee sends, at least 30 days before the date of expiry of the letter, a written notice to that effect to the financial institution. A copy of that notice must immediately be sent to the Régie.

**15.0.0.9.** Where the pension committee becomes aware that a letter of credit provided to the committee no longer meets the standards of this Regulation, the committee must immediately inform the employer. The employer may, within 30 days of the notice, provide the pension committee with a new letter of credit or an amount equivalent to the amount of the letter. In such cases, the pension committee must agree to the cancellation of the non-complying letter of credit. In any other case, it must require payment thereof from the expiry of the 30-day period.

**15.0.0.10.** Without prejudice to the provisions of section 15.0.0.4, in the event of termination of a pension plan, the pension committee must, within the time prescribed in the first paragraph of section 207.2 of the Act and after a 10-day notice to the employer, request the payment of the letter of credit up to the amount by which the plan's liabilities exceed the assets at the termination date, increased by the interest calculated at the rate determined pursuant to section 61 of the Act and that applied on that date.

The pension committee must agree to the cancellation of the letter of credit for the amount remaining to be paid.”

## **6.** Section 19 is amended

(1) by replacing “assigns” in subparagraph 4 of the first paragraph by “successors”;

(2) by replacing “annulment of marriage or, in the case of an unmarried spouse” in subparagraph 6 of the first paragraph by “nullity of marriage, nullity or dissolution of a civil union or, in the case of a spouse who is not a married or civil union spouse”;

(3) by replacing “provided” in subparagraph 7.1 of the first paragraph in the English text by “unless”.

**7.** Section 21 is amended by replacing “by Statistics Canada and published in the Bank of Canada Review under identification number B-14013” in the first paragraph by “monthly by Statistics Canada and published in the Bank of Canada Banking and Financial Statistics, Series V122487”.

**8.** Section 24.1 is amended by inserting “, during the same year” after “coming” in the paragraph preceding paragraph 1.

**9.** Section 29 is amended

(1) by replacing “annulment of marriage or, in the case of an unmarried spouse” in subparagraph 7 of the second paragraph by “nullity of marriage, dissolution or nullity of civil union or, in the case of a spouse who is not a married or civil union spouse”;

(2) by replacing “provided” in subparagraph 8 and “provided that” in subparagraph 8.1 of the second paragraph in the English text by “unless”;

(3) by replacing “provided that” in the English version of subparagraph 8.1 of the second paragraph by “unless”.

**10.** Section 30 is amended

(1) by striking out “life” in paragraph 5;

(2) by replacing “annulment of marriage or, in the case of an unmarried spouse” in subparagraph 6 of the second paragraph by “nullity of marriage, dissolution or nullity of civil union or, in the case of a spouse who is not a married or civil union spouse”.

**11.** Section 33 is amended

(1) by adding the following at the end of the definition of “pension benefits”: “and includes benefits relative to excess member contributions, with accrued interest, up to the ceiling set in section 60 of the Act, and benefits relative to the additional pension benefit provided for in section 60.1 of the Act”;

(2) by inserting the following definition after “period of membership”:

““valuation date” means

(1) for the purposes of preparing the statement referred to in section 108 of the Act,

(a) the date of the institution of the action, if the application for the statement is made after the institution of an action provided for in the first paragraph of section 108;

(b) the date the member and the member’s spouse ceased to live together, if the application for the statement is made on the occasion of mediation concerning a family matter;

(c) the date set for determining the net value of family patrimony, if the application for the statement is made during a joint procedure before a notary for the dissolution of a civil union;

(d) the date of the cessation of the conjugal relationship, if the application for the statement is made following the cessation of the conjugal relationship of spouses who are not married or civil union spouses;

(2) for any other purposes, the date set for the valuation of the member’s benefits in the pension plan by the judgment, transaction contract or agreement giving rise to the partition or transfer of the benefits or, if there is no provision in the judgment, contract or agreement, the date provided for by the act governing the partition of the spouses’ property. (date de l’évaluation)”;

(3) by inserting “, dissolution or nullity of a civil union,” after “marriage” in the definition of “date of institution of the action”;

(4) by replacing “where the member is active at the date of institution of the action or, in the case of spouses who are not married or civil union spouses, at the date of cessation of the conjugal relationship, the date on which he ceases to be active corresponds to the date of institution of the action or, where applicable, to the date of cessation of the conjugal relationship” in the definition of “period of membership” by “where the member is active on the valuation date, the date on which the member ceased to be an active member corresponds to the valuation date”;

(5) by striking out “, 35.2” after “35” in the second paragraph.

**12.** The following is inserted after section 33:

“**33.1.** For the purposes of sections 34 to 45 regarding married spouses whose marriage entailed the dissolution of their civil union:

(1) the date of the marriage is replaced by the date of the civil union;

(2) the period of the marriage begins on the date of the civil union.”.

**13.** Section 34 is amended

(1) by replacing “of cessation of their conjugal relationship” in subparagraph 2 of the first paragraph” by “on which they ceased to live together”;

(2) by inserting the following after subparagraph 2 of the first paragraph:

“(2.1) in the case of civil union spouses:

(a) proof of the date of their civil union;

(b) any of the following documents, as the case may be:

i. proof of the date on which the action was instituted;

ii. where the application is made on the occasion of a mediation, a joint declaration of the date on which the spouses ceased to live together;

iii. where the application is made during a joint procedure before a notary for the dissolution of the civil union, a joint declaration of the date set for determining the net value of family patrimony;”;

(3) by replacing “de facto spouses” in subparagraph 3 of the first paragraph by “spouses who are not married or civil union spouses”;

(4) by adding the following at the end of the second paragraph:

“The application made during a joint procedure before a notary for the dissolution of the civil union must also contain a written confirmation of a notary to the effect that he or she received a mandate in connection with the joint procedure.”.

**14.** Section 35 is amended

(1) by replacing subparagraph 1 of the second paragraph by the following:

“(1) the total benefits accumulated by the member from the date on which he or she became a member of the plan until the valuation date, and the value of those benefits;”;

(2) by inserting “or civil union” after “married” in the part of subparagraph 4 of the second paragraph preceding subparagraph *a*;

(3) by inserting “or civil union” after “marriage” in subparagraph *a* of subparagraph 4 of the second paragraph;

(4) by inserting “or civil union” after the word “marriage” everywhere it appears in subparagraph *b* of subparagraph 4 of the second paragraph.

**15.** Section 35.1 is amended

(1) by replacing paragraph 2 by the following:

“(2) in the case of married or civil union spouses, the date of the marriage or civil union and the valuation date;”;

(2) by replacing “unmarried spouses” in paragraph 3 by “spouses who are not married or civil union spouses”;

(3) by replacing paragraph 10 by the following:

“(10) in the event that, before producing the statement, the member’s pension was determined to take into account entitlement of his or her spouse to the pension referred to in section 87 of the Act, a brief description of the rights and obligations arising from section 89.1 of the Act.”.

**16.** Section 35.2 is revoked.

**17.** Section 36 is replaced by the following:

“**36.** The total benefits accumulated by the member must be distributed according to their nature as capital benefits or pension benefits.

**36.1.** The total benefits accumulated by the member correspond either to the bridging benefit, to the retirement, disability or replacement pension to which the member is entitled at the valuation date, or, if the member is not entitled to one of the pensions at the valuation date, to the deferred pension to which the member would be entitled if he or she terminated active membership on that date.

Where applicable, the following amounts established on the valuation date with accrued interest or the benefit that may be constituted by those amounts and interest and to which the member is entitled on that date or would be entitled if he or she terminated active membership on that date are included in the total benefits accumulated by the member:

(1) voluntary contributions credited to the member;

(2) excess member contributions over the limit set in section 60 of the Act;

(3) the additional pension benefit provided for in section 60.1 of the Act;

(4) the amounts previously transferred even otherwise than under section 98 of the Act.”.

**18.** Section 37 is amended

(1) by replacing the first paragraph by the following:

“**37.** The value of the member’s total benefits corresponds to the value of the capital benefits and of the pension benefits accumulated at the valuation date.”;



(2) by adding “, it being understood that the progression of the member’s remuneration after that date is not taken into account to determine that value” at the end of the second paragraph:

(3) by replacing the part of the third paragraph preceding the formula by the following:

“The value of a deferred pension whose payment has not begun is determined according to the following formula.”;

(4) by replacing the fourth paragraph by the following:

“However, in the case of a member whose benefits correspond to a deferred pension to which the member would be entitled if the member terminated active membership on the valuation date, the value of the benefits related to the additional benefit referred to in section 60.1 of the Act and, unless the member has received payment of the benefit provided for in subdivision 0.1 of Division III of Chapter VI of the Act, the value of the benefits related to member contributions, with accrued interest, in excess of the limit set in section 60 of the Act are established assuming that the value of the deferred pension to which the member is entitled in accordance with the terms of subparagraph 1 of the first paragraph of section 60 of the Act and, for the purpose of calculating elements A and B of section 60.1 of the Act, is, with respect to the member’s service credited for the period during which section 60 of the Act applied with respect to the member, the value established according to the formula provided for in the third paragraph of this section.”.

**19.** The following is inserted after section 37:

“**37.1.** Where the valuation date corresponds to a date other than the date of the institution of the action and the value of the member’s benefits at the valuation date is not known, the value of the member’s total benefits corresponds to amount E in the following formula:

$$V \times \frac{P}{X} = E$$

“V” represents the value established in accordance with section 37 on the date of the institution of the action or on the date on which the transaction contract has been executed before a notary or, failing that, on the date of application for the statement;

“p” represents the number of months in the period of membership relative to the benefits included between the date on which the member’s membership began and the valuation date;

“X” represent the number of months in the period of membership relative to the benefits included between the date on which the member’s membership began and the date on which value “V” is established.”.

**20.** The heading of subdivision 4 of Division “V” is amended by adding “or civil union” after “marriage”.

**21.** Section 38 is replaced by the following:

“**38.** Where the member is entitled to a retirement, disability or replacement pension at the valuation date, the value of the benefits accumulated by the member on the date of his or her marriage or civil union is established assuming that the member is also entitled to such a pension for the service credited until that latter date.”.

**22.** Section 39 is amended

(1) by inserting “or civil union” after “marriage” in the part of the first paragraph preceding paragraph 1;

(2) by inserting the words “or civil union” after the word “marriage” everywhere it appears in subparagraphs 1 and 2 of the first paragraph;

(3) by replacing “date on which proceedings were instituted”, “date of the institution of proceedings”, “date of institution of proceedings”, “date on which proceedings were instituted” and “date of institution of the action” in subparagraphs 1 and 2 of the first paragraph by “valuation date”;

(4) by replacing “Bank of Canada Review under identification number B-14045” in the third paragraph by “Bank of Canada Banking and Financial Statistics, Series V122515”.

**23.** Section 40 is amended

(1) by inserting “or civil union” after “marriage”;

(2) by inserting “or civil union” after “marriage”;

(3) by replacing “date of institution of the action” by “valuation date”.

**24.** Section 41 is amended

(1) by inserting “or civil union” after “marriage” in the part preceding the formula;

(2) by replacing the words “date of institution of the action” everywhere they appear in elements “G”, “T” and a by “valuation date”;

(3) by inserting “or civil union” after “marriage” in element a;

(4) by inserting “or civil union” after “marriage” in element “A”.

**25.** Section 42 is replaced by the following:

“**42.** Where the member’s benefits have been partitioned or transferred to a spouse on a date prior to the valuation date, the value of the benefits accumulated during the most recent marriage or civil union must be determined as follows:

(1) where the residual value of the capital benefits or the amount of the residual pension arising from the partition or transfer is known, it corresponds to amount “N” in the following formula:

$$[G - R] \times \frac{M}{Q} = N$$

“G” represents the total residual value of the capital benefits or, in the case of pension benefits, the value of the total residual pension, at the valuation date;

“R” represents

(1) in the case of capital benefits, their residual value at the date of the valuation of the previous partition or transfer, increased by interest calculated at the rate provided for in the second paragraph of section 39, for the period between that date and the valuation date;

(2) in the case of pension benefits, the value, at the valuation date, of the residual pension calculated at the date of the valuation of the previous partition or transfer;

“M” represents the number of months of membership in the period of the most recent marriage or civil union;

“Q” represents the number of months of membership between the date of the valuation of the previous partition or transfer and the valuation date;

(2) where the residual value of the capital benefits or the amount of the residual pension arising from that partition or transfer is not known, it corresponds to the total residual value of the member’s benefits, adjusted pro rata to the number of months of the most recent marriage or civil union included in the period of membership over the total number of months elapsed before and during that marriage or civil union and included in that period of membership.”.

**26.** Section 43 is amended

(1) by inserting “or civil union” after “recent marriage”;

(2) by inserting “or civil union” after “that marriage”.

**27.** Section 44 is replaced by the following:

“**44.** Where the valuation date corresponds to a date other than the date of institution of the action and the value of the member’s benefits at the valuation date is not known, the value of the benefits accumulated by the member during the marriage or civil union is established by taking into account the following rules:

(1) the value of the capital benefits accumulated during the marriage or civil union is determined in the manner provided for in subparagraph 2 of the first paragraph of section 39 or, where applicable, section 42;

(2) for any purposes other than calculating the number of months in the period of membership included between the date of the marriage or civil union and the valuation date, the date of institution of the action, the date on which the transaction contract is executed before a notary or, failing that, the date of the application for the statement is considered the valuation date for the purposes of sections 36.1 to 43.”.

**28.** Section 45 is replaced by the following:

“**45.** The total value of the benefits accumulated by the member during the member’s marriage or civil union is equal to the sum of the value of the capital benefits and of the pension benefits accumulated during the marriage or civil union.”.

**29.** Section 46 is replaced by the following:

“**46.** The application for partition or transfer of the member’s benefits must be submitted with a copy of the following documents:

(1) if it follows a judgment pronouncing separation from bed and board, divorce, nullity of marriage or dissolution or nullity of civil union or ordering payment of a compensatory allowance,

(a) that judgment and any other judgment related to the partition or transfer of the member’s benefits;

(b) the certificate of non-appeal;

(c) where applicable, the agreement entered into by the spouses on the partition or transfer of the member’s benefits;

(2) if it follows the dissolution of a civil union by notarized joint declaration, the declaration and the transaction contract;

(3) if it follows the cessation of the conjugal relationship of spouses who are not married or civil union spouses, the agreement entered into by the spouses on the partition of the member's benefits.”.

**30.** Section 47 is amended by replacing “value of the benefits claimed” in the first paragraph by “amount claimed”.

**31.** Section 48 is amended

(1) by replacing “to the amount” in the first paragraph by “to the sum”;

(2) by replacing the second paragraph by the following:

“Interest accrues from the valuation date.”.

**32.** Section 49 is amended

(1) by adding “or civil union” at the end of the first paragraph;

(2) by replacing the second paragraph by the following:

“Where the judgment, the agreement entered into by married or civil union spouses, or the notarized transaction contract does not provide for the amount or the portion of the value of the member's benefits allocated to the spouse, the value of the benefits that the member accumulated during the marriage or civil union is divided equally between the spouses.”.

**33.** Section 50 is amended

(1) by replacing “corresponding to the benefits granted to the spouse” in the part of the first paragraph preceding subparagraph 1 by “allocated to the spouse, increased by the interest”;

(2) by replacing subparagraph 2 of the first paragraph by the following:

“(2) provided that the plan so allows,

(a) where the spouse already has benefits under the plan, transfer the sum to the account of the spouse;

(b) where the spouse does not have benefits under the plan, grant to the spouse, who then is deemed to be a member, benefits under the plan”;

(3) by replacing subparagraphs *a* and *b* of subparagraph 3 of the first paragraph by the following:

“(a) the partitioned or transferred benefits correspond to a refund to which the member would have been entitled at the valuation date, it being understood that subject to subparagraph *b*, the amount granted to the spouse may not be paid to the spouse in a proportion greater than the proportion in which the member's benefits could have been refunded to the member;

(b) on the date of the application, that amount in question is less than 20% of the maximum pensionable earnings determined under the Act respecting the Québec Pension Plan for the year in which the transfer of partition is applied for;”;

(4) by replacing the second paragraph by the following:

“Where the spouse fails to indicate to the pension committee the payment method selected from those mentioned in the first paragraph,

(1) the interest referred to in section 48 ceases to accrue on the expiry of the period during which the committee must act according to that paragraph and begins to accrue again, if applicable, only at the date on which the spouse indicates his or her selection;

(2) the pension committee may, on its own initiative and as soon as the period expires, transfer on behalf of the spouse the sum to be paid into one of the plans referred to in subparagraph 1, 2 or 3 of the first paragraph, as the case may be.”.

**34.** Section 52 is replaced by the following:

“**52.** Sections 143 and 145 to 146 of the Act apply, with the necessary modifications, to the sum that may be the subject of a measure provided for in subparagraph 1 or 3 of the first paragraph of section 50.

The sum paid or transferred in accordance with subparagraph 1 or 3 of the first paragraph of section 50 must bear, to the sum granted to the spouse increased by interest, a proportion at least equivalent to the proportion that the contributions, amounts and interest referred to in section 145.1 of the Act bear to the total value of the member's benefits.”.

**35.** Section 53 is amended by replacing “ordering divorce, separation from bed and board, annulment of marriage or” by “pronouncing divorce, separation from bed and board, nullity of marriage or dissolution or nullity of civil union or ordering”.

**36.** Section 54 is amended

(1) by replacing “no pension” in the first paragraph by “no retirement, disability or replacement pension”;

(2) by replacing “value of the benefits attributed to the spouse” in the first paragraph by “sum paid to the spouse or transferred to the spouse’s account”;

(3) by replacing the third paragraph by the following:

“The amount provided for in the first paragraph is determined, if the plan so provides, by taking into account the periodic increase of the pension amount, before payment begins, in relation to an index of rate provided for in the plan. It is determined in all cases by using the assumptions provided for in the second paragraph of section 37.”

**37.** Section 55 is amended

(1) by replacing “the amount attributed to the spouse” in subparagraph 1 of the first paragraph by “the sum paid to the spouse or transferred to the spouse’s account”;

(2) by replacing the first dash of subparagraph 2 of the first paragraph by the following:

“— any retirement, disability or replacement pension of which payment has begun is, after having been, where required, re-determined under section 89.1 of the Act, reduced by the proportion represented by the sum paid to the spouse or transferred to the spouse’s account over the value that the pension paid to the member on the day preceding the effective date of the judgment, dissolution of the civil union or cessation of conjugal relationship would have had on the date of execution of the partition or transfer, it being understood that the latter value is determined by using the same assumptions as those used to determine the value of the benefits attributed to the spouse;”

(3) by replacing “any pension” in the second dash of subparagraph 2 of the first paragraph by “any retirement, disability or replacement pension”;

(4) by inserting “a phased retirement benefit and” after “exception of” in the third dash of subparagraph 2 of the first paragraph.

**38.** Section 56 is amended by replacing “value of all the benefits attributed to the spouse” by “sum paid to the spouse or transferred to the spouse’s account”.

**39.** Section 56.0.2 is amended

(1) by replacing “and 37” by “to 37.1”;

(2) by replacing “the date of institution of proceedings” by “the valuation date”.

**40.** Section 56.0.6 is amended

(1) by replacing “any pension” in the first and second dashes of subparagraph 2 of the first paragraph by “any retirement, disability or replacement pension”;

(2) by inserting “a phased retirement benefit and” after “except for” in the third dash of subparagraph 2 of the first paragraph.

**41.** Section 60 is amended by inserting the following after paragraph 1:

“(1.1) the internal by-laws of the pension committee;”.

**42.** The following is inserted after section 60:

**“DIVISION VI.1  
RESERVE AND PROVISION FOR ADVERSE  
DEVIATION**

*§1. Elements establishing the reserve*

**60.1** The following elements are likely to contribute to the establishment of the reserve provided for in section 128 of the Act:

(1) the contributions paid into the pension fund that exceed the contributions required for the pension plan to be solvent, including the contributions the employer is relieved from paying pursuant to section 42.1 of the Act;

(2) the favourable variances arising from the changes made to the actuarial assumptions and methods or the differences between the assumptions used and the results obtained, taking into account the return derived from the variances;

(3) the amendments to the plan that reduced the value of the members’ benefits.

*§2. Provision for adverse deviation*

**60.2.** In addition to the cases where it must be determined under the Act, the provision for adverse deviation provided for in section 128 of the Act is calculated during the last actuarial valuation of a pension plan on the basis of which

(1) amortization payments must be paid with respect to an improvement unfunded actuarial liability determined in a prior actuarial valuation while a complete actuarial valuation shows that the plan is both solvent and funded, unless an actuary certifies that the plan's assets are less than the liabilities increased by the provision for adverse deviation;

(2) the amortization payments remaining to be paid in connection with any improvement unfunded actuarial liability determined in a prior actuarial valuation are eliminated pursuant to section 131 of the Act;

(3) the surplus assets are appropriated to the payment of employer contributions under section 146.3.4 of the Act;

(4) the employer applies for the reduction of the amount of the letter of credit under section 15.0.0.4.

The value of the liabilities taken into account for calculating the provision for adverse deviation is established without reference, where applicable, to any amendment to the plan considered for the first time in the valuation.

**60.3.** The provision for adverse deviation is equal to amount P in the following formula:

$$(T \times R) + (7\% \times S) + X = P$$

“T” represents the rate, expressed in percentage, obtained by multiplying “D” determined in accordance with section 60.4 by 0.0175;

“R” represents the value of the liabilities associated to the pensions being paid, excluding guaranteed pensions, increased, if the policies established by the pension committee so provide, by the value of the benefits of the members in the pension plan who are less than 10 years under normal retirement age and to whom no pension is paid, the latter value excluding here the value of the contributions referred to in paragraphs 1 and 2 of “S” paid by those members and the value of the guaranteed pensions constituted in their respect;

“S” represents the value of the plan's liabilities reduced by an amount representing the sum of the following values:

(1) the value of the additional voluntary contributions and optional ancillary contributions paid into the pension fund, with interest accrued;

(2) the value of the contributions paid under a defined contribution plan to which Chapter X of the Act applies or under provisions that, in a defined benefit plan, are identical to the provisions of a defined contribution plan, with interest accrued;

(3) the value of the liabilities associated to the pensions being paid increased, if the policies established by the pension committee so provide, by the value of the benefits of the members in the plan who are less than 10 years under normal retirement age and to whom no pension is paid, the latter value excluding here the value of the contributions referred to in paragraphs 1 and 2 paid by those members;

(4) the value of the liabilities associated to the guaranteed deferred pensions not referred to in paragraph 3;

“X” represents

(1) in the case where the rate represented by “T” is less than 7%, the result of the formula

$$(R - V) \times (7\% - T)$$

in which “V” is equal to the element “V” in section 60.4;

(2) in the other cases, zero.

**60.4.** Where the value represented by “R” of section 60.3 is null, D of that section is equal to zero.

In other cases, D corresponds to the result, in absolute value, of the following formula:

$$\frac{R \times d^R - V \times d^M}{R}$$

“R” represents element “R” of section 60.3;

“d<sup>R</sup>” represents the duration of the liabilities constituting “R”;

“V” represents the lesser of

(1) the amount that is equivalent to the product of the assets of the pension plan at the date of the actuarial valuation and the average of the percentages represented by the amount of the fixed-income investments taken into account for that calculation over the assets of the plan at the valuation date and the last day of each of the 11 months preceding the day of the valuation or, in the case of a plan effective for less than a year, the last day of each month included between the date of coming into force of the plan and the valuation date;

(2) the amount that is equivalent to the value represented by element “R”;

“d<sup>M</sup>” represents the result of the sum of each amount used to calculate the average referred to in paragraph 1 of element “V” multiplied by its term, divided by the total of those amounts.

For the purposes of paragraph 1 of element “V”:

(1) the plan’s assets are reduced by the value of guaranteed pensions and the value of the contributions referred to in paragraphs 1 and 2 of element “S” of section 60.3 which are the subject of a separate investment;

(2) the amount of the fixed-income investments of a pension plan is determined by including the amount of any variable income investment associated with a financial instrument that converts it into a fixed income investment but excluding the amount of any fixed income investment associated with a financial instrument that converts it into a variable income investment.

**60.5.** Element d<sup>m</sup> of section 60.4 is determined by the actuary responsible for the actuarial valuation using the terms calculated by the person who invests any part of the plan’s assets.

For the purposes of a partial actuarial valuation, the actuary may estimate elements “R” and “S” of section 60.3 and the duration of liabilities constituting element “R”.

**43.** Section 62 is amended by replacing “withdrawal, the assets allocated to the group consisting of the benefits of the members and beneficiaries affected by the withdrawal” in subparagraph 12 of the first paragraph by “the valuation of the benefits of the members and beneficiaries affected by the withdrawal, the assets allocated to the group consisting of the benefits”.

**44.** Section 64 is amended by replacing subparagraph 8 of the first paragraph by the following:

“(8) in the case of a plan to which Chapter X of the Act applies, the ratio of the value of the assets to the value of liabilities determined in accordance with section 212.1 of the Act, each value being reduced by an amount representing the sum of the following values:

(a) the value of additional voluntary contributions paid into the pension fund, with interest accrued;

(b) the value of contributions paid into the pension fund under provisions that, in a defined benefit plan, are identical to the provisions of a defined contribution plan, with interest accrued;

(c) the value of the sums received by the plan following a transfer even not covered by Chapter VII of the Act, with interest accrued;

(8.1) if applicable, the amount which must be paid under section 15.0.0.10;”.

**45.** The following is inserted after section 69:

“**69.1.** Until it is determined under an actuarial valuation the date of which is after 14 December 2009, the portion of the employer contribution of which an employer may be relieved under section 42.1 of the Act may not exceed an amount corresponding to the amount obtained by multiplying by 20% the difference, established at the date of the last actuarial valuation of the pension plan, between the assets and liabilities of the plan, determined on a solvency basis.”.

**46.** Section 70.0.1 is amended by inserting “pension” before “being” in the definition of element “A” in the English text.

**47.** Section 75 is replaced by the following:

“**75.** Where a member ceased to be an active member before 1 January 2001 and where the valuation date is prior to that date, the first paragraph of section 36.1 must be applied with respect to the service credited to the member before 1 January 1990 separately from the service credited after that date, taking into account the transitional provisions of the Act and assuming that, for the purposes of section 293 of the Act as it read before 1 January 2001, the period of continuous employment of the member ended on the valuation date.

Moreover, where the member is not entitled to a pension on the date on which the member ceased to be an active member or on the valuation date, as the case may be, the member’s total benefits correspond to a refund.”.

**48.** The following is inserted after section 75:

“**75.1.** Subparagraph 1 of the second paragraph of section 50 does not apply where the application for partition is made to the pension committee before 1 January 2010.”.

**49.** Forms 1 and 2 are struck out.

**50.** Sections 1.1, 13 and 13.0.3 are amended by replacing the words “plans exempted from the application of certain” everywhere they appear by the words “the exemption of certain categories of pension plans from the application of”.

**51.** This Regulation comes into force on 1 January 2010.

**Form 3**

(s. 15.0.0.1)

**Irrevocable standby letter of credit****Financial institution issuing the letter of credit**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

**Originator (employer)**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

**Beneficiary (pension fund)**

Name: \_\_\_\_\_

**Beneficiary (administrator of the pension fund)**

Address: \_\_\_\_\_

**Letter of credit No.** \_\_\_\_\_**Date of issue**                      year    month    day**Date of expiry**                      year    month    dayAt the request of \_\_\_\_\_,  
(Name of the originator)the undersigned, \_\_\_\_\_,  
(Name of the financial institution  
issuing the letter of credit)hereby issues an irrevocable standby letter of credit in  
favour of \_\_\_\_\_  
(Name of the beneficiary pension fund)for the sum of \_\_\_\_\_  
(Amount in letters)**Canadian dollars.** (CA\$ \_\_\_\_\_)  
(Amount in figures)That amount is payable upon presentation of a written  
demand to\_\_\_\_\_  
(Address in Québec of the place where the demand must  
be made)

The demand must mention the number and date of issue of the present letter of credit and be signed by a person authorized by the administrator of the pension fund to present the demand. Payment will be made to the order of the beneficiary pension fund.

This present letter of credit will be automatically renewed for a period of one year as of its date of expiry, and it will be renewed subsequently from year to year on each anniversary of its expiry, unless the undersigned notifies the originator, the administrator and the Régie des rentes du Québec, by certified or registered mail, not less than 90 days before the letter's expiry that the letter will not be renewed.

Indicate the option that applies to the contract:

In the event of non-renewal, a payment demand in accordance with the terms and conditions of the present letter of credit will be deemed to have been presented to the undersigned prior to the expiry on the date of expiry, unless the administrator sends the undersigned, no less than 30 days before the date of expiry, a written notice certifying that no payment is required. That notice takes effect on the date of expiry of the letter.

In the event of non-renewal, the undersigned pays the amount of the present letter of credit to the beneficiary at the time the beneficiary notifies the originator, the administrator and the Régie des rentes du Québec at the address indicated below that the beneficiary is not renewing the letter of credit.

year    month    day

Made on \_\_\_\_\_ at \_\_\_\_\_  
(Date of signing)                      (Municipality)\_\_\_\_\_  
(Signature of the representative of the financial  
institution issuing the letter of credit)Régie des rentes du Québec  
Direction des régimes de retraite  
C.P. 5200 Québec (Québec) G1K 7S92600, boulevard Laurier, bureau 548  
Québec (Québec)

9490