

Draft Regulation

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

An Act to amend various legislative provisions
respecting municipal affairs
(2008, c. 18)

An Act to amend various legislative provisions
concerning municipal affairs
(2003, c. 3)

Various regulations — Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulation Act (R.R.Q., c. R-18.1) that the following regulations, appearing below, may be made by the Government on the expiry of 45 days following this publication:

— the Regulation to amend the Regulation respecting the exemption of certain pension plans from the application of provisions of the Supplemental Pension Plans Act;

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

— the Regulation to amend the Regulation respecting the funding of pension plans of the municipal and university sectors;

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

The purpose of the draft regulations is to normalize various situations further to requests received following the coming into force of the new funding rules provided for under the Supplemental Pension Plans Act, of the Regulation respecting measures to reduce the effects of the financial crisis on pensions plans covered by the Supplemental Pension Plans Act and of the Regulation respecting the funding of pension plans of the municipal and university sectors.

Further information may be obtained by contacting Mr. Pierre Bégin, Régie des rentes du Québec, Place de la Cité, 2600, boulevard Laurier, Québec (Québec) G1V 4T3 (Tel.: 418 657-8732 extension 3914; fax: 418 659-8985; e-mail: pierre.begin@rrq.gouv.qc.ca).

Any person wishing to comment on the draft Regulation is asked to submit written comments before the expiry of the 45-day period mentioned above to

Mr. André Trudeau, Chief Executive Officer and Chair of the Régie des rentes du Québec, Place de la Cité, 2600, boulevard Laurier, 5^e étage, Québec (Québec) G1V 4T3. Comments will be forwarded by the Régie to the Minister of Employment and Social Solidarity, who is responsible for the administration of the Supplemental Pension Plans Act.

JULIE BOULET

Minister of Employment and Social Solidarity

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

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

An Act to amend various legislative provisions
respecting municipal affairs
(2008, c. 18, s. 133)

1. The Regulation respecting the exemption of certain pension plans from the application of provisions of the Supplemental Pension Plans Act is amended by the insertion, after section 1, of the following division:

“DIVISION 1.1 PROVISIONS CONCERNING THE RÉGIME COMPLÉMENTAIRE DE RENTES DES TECHNICIENS AMBULANCIERS ŒUVRANT AU QUÉBEC

1.1. The Régime complémentaire de rentes des techniciens ambulanciers œuvrant au Québec, registered with the Régie des rentes du Québec under number 30849, is exempted from the application of the following provisions of the Supplemental Pension Plans Act:

(1) the provisions mentioned in the Regulation respecting the funding of pension plans of the municipal and university sectors (O.C. 541-2010, 2010-06-23), according to the terms and conditions provided for in that Regulation and by considering that pension plan as a multi-employer pension plan for which the employer employing the greatest number of active members is a university;

* The Regulation respecting pension plans exempted from the application of certain provisions of the Supplemental Pension Plans Act, approved by Order in Council 415-2004 dated 28 April 2004 (2004, G.O. 2, 1543), was last amended by the regulation approved by Order in Council 541-2010 dated 23 June 2010 (2010, G.O. 2, 1880). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2010, updated to 1 October 2010.

(2) sections 142 to 146 of the Act, as they read prior to 1 January 2010, and sections 143 to 146 of the Act, as enacted by chapter 42 of the Statutes of 2006;

(3) sections 198 to 203.

However, the instruction provided for in section 39 of the Regulation respecting the funding of pension plans of the municipal and university sectors may be given only by the Minister of Health and Social Services.”.

2. The Regulation is amended by the insertion, after section 8, of the following division:

DIVISION II.1
PROVISIONS CONCERNING THE RÉGIME
DE RETRAITE DES EMPLOYÉS DE
LA VILLE DE LÉVIS

“**8.1.** Sections 49 to 64 of the Regulation respecting the exemption of certain categories of pension plans from the application of provisions of the Supplemental Pension Plans Act (O.C. 1160-90, 90-08-08) apply, until repealed by Order in Council 514-2010 dated 23 June 2010, to the Régime de retraite des employés de la Ville de Lévis, registered with the Régie des rentes du Québec under number 21190.”.

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

(1) section 1 has effect from 31 December 2009;

(2) section 2 has effect from 31 December 2006.

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

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

1. Section 11.0.1 of the Regulation respecting the exemption of certain categories of pension plans from the application of provisions of the Supplemental Pension Plans Act is amended:

* The Regulation respecting the exemption of certain categories of pension plans from the application of provisions of the Supplemental Pension Plans Act, approved by Order in Council 1160-90 dated 8 August 1990 (1990, *G.O.* 2, 2333), were made by the regulation approved by Order in Council 541-2010 dated 23 June 2010 (2010, *G.O.* 2, 1880). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2010, updated to 1 October 2010.

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

“**11.0.1.** The employer may stipulate that the right of a member, provided for in paragraph 5.1 of section 10, to receive a refund of his not locked-in member contributions or to transfer them is deferred to the earlier of:

(1) the date of the end of his active membership;

(2) the date on which the member is less than ten years from the normal retirement age.

Such stipulation covers service rendered before and after its coming into effect.”

(2) by replacing the fourth paragraph with the following paragraph:

“The plan must provide that a member may demand a lump-sum payment of the contributions referred to in this section, in accordance with the conditions set out in paragraph 11 of the first paragraph of section 10.”.

2. Section 21 of the Regulation is replaced by the following:

“**21.** A multi-employer pension plan registered before 1 January 1990 that has the characteristics mentioned in section 22 and that is the object of an amendment referred to in the first paragraph of section 23 is exempted, from the registration of said amendment and on the conditions set out in section 24, from the application of the provisions of sections 39, 132, 142 and 143, the second paragraph of section 144, sections 145, 145.1, 146 and 200, subparagraphs 2 and 3 of section 201, the second and third paragraphs of section 202, subparagraph 1 of section 203, section 204 as to the employer’s right to terminate the plan in the absence of an express provision in the plan authorizing such termination, section 216, subparagraph 3 of section 218, sections 220 to 230, the third paragraph of section 230.0.0.9, sections 230.0.1 to 230.8, chapter XIV.1, section 317 and the first paragraph of section 317.1 of the Act as well as the application of section 52 of the Regulation respecting supplemental pension plans.”.

3. Section 23 of the Regulation is amended:

(1) by replacing subparagraph *b* of paragraph 3 with the following:

“(b) that the exemption from the application of the provisions of section 39 and 146, the third paragraph of section 230.0.0.9 and section 228 of the Act involves a higher risk that the members’ benefits may be reduced in the event of insufficient employer contributions, withdrawal of an employer or termination of the plan;”;

(2) by replacing paragraph 4° with the following paragraph:

“(4) an actuarial valuation of the plan as at the end of the last fiscal year preceding the transmission of the application for registration of the amendment shows that the degree of solvency of the plan as at that date, calculated in accordance with chapter X of the Act and the rules set by paragraphs 4, 7 and 10 of section 24 and, where the said degree is not a whole number, rounded down to the next whole number, is equal to or greater than 120%. For the purposes of the valuation, any provision of the plan, except those arising from the application of section 60 of the Act, that would require that the value of a benefit be at least equal to a given percentage of the member contributions may not be taken into account;”;

4. Section 24 of the Regulation is amended:

(1) by striking out paragraphs 2 and 3;

(2) by replacing paragraph 4 with the following:

“(4) notwithstanding section 142 of the Act, the amortization period for an unfunded actuarial liability expires at the end of a fiscal year of the pension plan that ends:

(a) no later than three years after the date of the valuation that determined the liability, if the liability is a solvency deficiency; or

(b) no later than six years after the date of the valuation that determined the liability, if the liability is a funding deficiency;”;

(3) by striking out paragraphs 5 and 6;

(4) by replacing paragraph 7 with the following:

“(7) for the purpose of determining the solvency of the plan in accordance with section 123 of the Act, the liabilities must, for each member or beneficiary, be at least equal to:

(a) for a member or beneficiary whose pension is in payment or suspended, the liabilities that would result from the use of the Canadian Institute of Actuaries’ Educational Note concerning assumptions for hypothetical wind-up and solvency valuations, applicable as at the date of the valuation, if the interest rates for a given month are replaced by the average rate for that month and the preceding 35 months;

(b) for a member not referred to in subparagraph a, the liabilities that would result from the use of the actuarial assumptions referred to in section 67.4 of the Regulation respecting supplemental pension plans, if the reported rates for the applicable CANSIM series for a calendar month in the relevant paragraphs of the Canadian Institute of Actuaries’ Standards of Practice to which this section refers are replaced by the average rate for that calendar month and the preceding 35 months;”;

(5) by replacing paragraph 8 with the following paragraph:

“(8) where the report on an actuarial valuation of the plan shows that the employer contribution provided for in the plan is less than the current service contribution reduced by the member contributions and increased by the greater of the following amounts:

(a) the amortization payment determined in respect of the funding deficiency;

(b) the total of the amortization payments determined in respect of the solvency deficiencies;

the pension committee shall present to the Régie, during the four months following the expiry of the period provided for in section 119 of the Act for sending the said report, an application for registration of an amendment to the plan that concerns, notably, contributions, pension benefits and refunds and whose effect is to ensure that the employer contribution becomes sufficient;”;

(6) by striking from paragraph 10 the words “of section 130”;

5. The Regulation is amended by adding after section 25 the following section:

“**25.1.** The person or body empowered to amend a multi-employer pension plan referred to in section 21 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 2009:

(1) the application of an asset valuation method that, in accordance with the terms and conditions of section 25.2, 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 extension, to 31 December 2015 at the latest, of the period provided for in subparagraph a of paragraph 4 of section 24 to amortize any solvency deficiency determined as at 31 December 2009 or thereafter.

25.2. Where instructions were given to the pension committee to apply the measure provided for in paragraph 1 of section 25.1:

(1) the period used to level short-term fluctuations in the market value of the assets is the period fixed in the instructions, subject to a 5-year maximum period;

(2) the asset valuation method indicated in the instructions must include the taking into account of the short-term fluctuations in the market value of the assets during such period;

(3) the assets of the pension plan must be established in accordance with this method for the purposes of the actuarial valuation referred to in section 25.1 and subsequent actuarial valuations.

25.3. Where instructions were given under section 25.1 in respect of a pension plan, 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 25.1.

25.4. The report on the first complete actuarial valuation of a pension plan referred to in section 21 whose date is after 30 December 2009 must, when sent to the Régie, be accompanied with a writing whereby the person or body empowered to give instructions under section 25.1 certifies that the report complies with the instructions given to the pension committee, or that no instructions were given.

Notwithstanding any inconsistent provision of the Act, the pension committee has until (*insert the date following by 60 days the date this Regulation comes into force*) to send the Régie des rentes du Québec the report on the first actuarial valuation of a pension plan whose date is after 30 December 2009.

25.5. The provisions of sections 25.1 to 25.4 cease to apply in respect of a pension plan on the earlier of the following dates:

(1) the date fixed in a writing giving instructions to that effect and sent to the pension committee by the person or body empowered to amend the plan; that date must be the date on which a fiscal year of the plan ends;

(2) the date of the end of the plan's first fiscal year beginning after 31 December 2011.

25.6. The Regulation respecting measures to reduce the effects of the financial crisis on pensions plans covered by the Supplemental Pension Plans Act, made by Order in Council 1153-2009 dated 4 November 2009 (2009, G.O. 2, 3649 and 3897) does not apply to a pension plan referred to in section 21.”.

6. The first paragraph of section 33 of the Regulation is replaced by the following:

“**33.** The value of the optional ancillary benefits shall be calculated by using the assumptions referred to in section 67.4 of the Regulation respecting supplemental pension plans, applied taking into account the same rules and using the same type of mortality table.”.

7. Section 37 of the Regulation is amended by replacing “For the purposes of section 36 of the Regulation respecting supplemental pension plans” by “For the purposes of section 36.1 of the Regulation respecting supplemental pension plans”.

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

(1) sections 2 to 4 have effect from 1 January 2010, with the exception of paragraph 4 of section 4 which has effect from 31 December 2009;

(2) section 5 has effect from 31 December 2009;

(3) section 7 has effect from 1 January 2010.

Regulation to amend the Regulation respecting the funding of pension plans of the municipal and university sectors*

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

An Act to amend various legislative provisions concerning municipal affairs
(2003, c. 3, s. 13.3, inserted by 2010, c. 18, s. 101)

1. The Regulation respecting the funding of pension plans of the municipal and university sectors is amended by inserting, after section 53, the following:

* The Regulation respecting the funding of pension plans of the municipal and university sectors, approved by Order in Council 541-2010 dated 23 June 2010 (2010, G.O. 2, 1880), has not been amended since it was made.

“53.1. Notwithstanding the first paragraph of section 15, if the assets of a pension plan include bonds referred to in section 255 of the Act to amend various legislative provisions concerning municipal affairs (S.Q., 2004, c. 20), a portion corresponding to 25% of the technical gains determined by a complete actuarial valuation of the plan must first be appropriated, as at the date of the valuation, to reduce the amount of the bonds.

Where, after applying section 15 taking into account the first paragraph, actuarial gains within the meaning of section 12 of chapter 3 of the Statutes of 2003 remain, such actuarial gains are added to the portion determined in the first paragraph.

53.2. The amortization amounts which, as at the date of the first actuarial valuation of a pension plan that falls after 30 December 2008, remain to be paid for a portion of the initial unfunded actuarial liability which affected the Régime de retraite de la Ville de Québec – formerly registered with the Régie des rentes du Québec under number 24450 – attributed to the plan by the effect of a division or merger concerning all or part of the assets and liabilities of the Régime de retraite de la Ville de Québec, are deemed to be amortization payments related to an improvement unfunded actuarial liability within the meaning of section 135 of the Act as replaced by section 20 of this Regulation.

Notwithstanding the last paragraph of section 15, the appropriation of actuarial gains to the reduction of any monthly improvement unfunded actuarial liability payments may be made only as a last resort.

The pension plans to which a portion of the initial actuarial deficiency are attributable by the effect of a division or merger concerning all or part of the assets and liabilities of the Régime de retraite de la Ville de Québec are exempted from the application of the provisions of section 306.1.1 of the Act as it read before 1 January 2010.”.

2. This Regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*. However, where it inserts section 53.2 in the Regulation respecting the funding of pension plans of the municipal and university sectors, it has effect from (*insert here the earliest date provided for under the third paragraph of section 2 of the Supplemental Pension Plans Act*).

Regulation to amend the Regulation respecting measures to reduce the effects of the financial crisis on pension 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.)

1. Section 2 of the Regulation respecting measures to reduce the effects of the financial crisis on pension plans covered by the Supplemental Pension Plans Act is amended in its English version by replacing the first occurrence of the words “technical actuarial deficiency” with the words “improvement unfunded actuarial liability”.

2. Section 7 of the Regulation is amended by replacing, in the first paragraph, the description of “C” by the following:

““C” represents the amount by which the total of the employer contribution paid since the last actuarial valuation and the amount of any letter of credit provided since that date pursuant to section 42.1 of the Act referred to in paragraph 3 of section 4 exceeds the employer contribution that would have been determined on the date of the last actuarial valuation if the amount referred to in subparagraph *b* of paragraph 2 of the first paragraph of section 39 of the Act referred to in paragraph 3 of section 4 had been equal to the amount determined in accordance with paragraph 1 of section 21 increased by the value of the special amortization payments required since the date of the last actuarial valuation.”.

3. Section 24 of the Regulation is amended by replacing, in the first paragraph, the description of “C” with the following description:

““C” represents the amount by which the employer contribution paid since the date of the last actuarial valuation exceeds the employer contribution that would have been determined on that date, if the amount referred to in subparagraph *b* of paragraph 2 of the first paragraph of section 39 of the Act referred to in paragraph 3 of section 4 had been equal to the amount determined in accordance with paragraph 1 of section 21 increased by the value of the special amortization payments required since the date of the last actuarial valuation.”.

* The Regulation respecting measures to reduce the effects of the financial crisis on pension plans covered by the Supplemental Pension Plans Act, made by Order in Council 1153-2009 dated 4 November 2009 (2009, *G.O.* 2, 3649 and 3897), has not been amended since its approval.

4. This Regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*. However, it has effect from (insert here the earliest date provided for under the third paragraph of section 2 of the *Supplemental Pension Plans Act*).

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