

Draft Regulations

Draft Regulation

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

Exemption of certain pension plans from the application of provisions of the Act — Amendment

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 Regulation respecting the exemption of certain pension plans from the application of provisions of the Supplemental Pension Plans Act, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The purpose of the draft Regulation is to exempt certain Kruger Inc. pension plans from the application of certain provisions of the Supplemental Pension Plans Act.

Further information may be obtained by contacting Ms. Geneviève Chabot, Régie des rentes du Québec, Place de la Cité, 2600, boulevard Laurier, Québec (Québec) G1V 4T3 (Tel.: 418 657-8732 extension 3176; fax: 418 659-8983; email: genevieve.chabot@rrq.gouv.qc.ca).

Any person wishing to comment on the draft Regulation is asked to send their comments in writing before the expiry of the 45-day period mentioned above to Mr. Denys Jean, Chief Executive Officer and Chair of the Régie des rentes du Québec, Place de la Cité, 2600, boulevard Laurier, 5e 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.)

1. The Regulation respecting the exemption of certain pension plans from the application of provisions of the Supplemental Pension Plans Act (c. R-15.1, r. 8) is amended by the insertion, after section 14.8, of the following division:

“DIVISION III.2 PROVISIONS CONCERNING THE FUNDING OF CERTAIN KRUGER INC. PENSION PLANS

14.9. This division applies to the following pension plans:

- (1) the Régime de retraite des employés cadres et non syndiqués de Kruger Inc., registered with the Régie des rentes du Québec under number 7300;
- (2) the Régime de retraite des employés syndiqués de Kruger Inc. Bromptonville, registered under number 20637;
- (3) the Régime de retraite des employés syndiqués de Kruger Inc. Trois-Rivières, registered under number 25451;
- (4) the Régime de retraite des employés syndiqués de Kruger Wayagamack Inc., registered under number 31885;
- (5) the Régime de retraite des employés cadres et non-syndiqués de Kruger Wayagamack Inc., registered under number 31889.

14.10. Notwithstanding section 39 of the Supplemental Pension Plans Act, (R.S.Q., c. R-15.1), the employer shall, during each fiscal year of the pension plan ending between 30 December 2010 and 1 January 2013, pay as employer contributions an amount which, when added to the member contributions, is equal to or greater than the total of the following amounts:

- (1) the amount of the current service contribution determined in accordance with sections 138 and 139 of the Act;

(2) the amount obtained by multiplying by the following percentage the amortization payment determined in respect of the solvency deficiency established in accordance with the second paragraph, on the assumption that the amortization period is five years:

a) for the Régime de retraite des employés cadres et non syndiqués de Kruger Inc., registered under number 7300, 17%;

b) for the Régime de retraite des employés syndiqués de Kruger Inc. Bromptonville, registered under number 20637, 34%;

c) for the Régime de retraite des employés syndiqués de Kruger Inc. Trois-Rivières, registered under number 25451, 42%;

d) for the Régime de retraite des employés syndiqués de Kruger Wayagamack Inc., registered under number 31885, 43%;

e) for the Régime de retraite des employés cadres et non-syndiqués de Kruger Wayagamack Inc., registered under number 31889, 35%.

(3) the special amortization payment provided for in section 14.12 required during the fiscal year.

For the purposes of paragraph 2 of the first paragraph and notwithstanding section 130 of the Act, the solvency deficiency, as at the date of an actuarial valuation of the plan, corresponds to the amount by which the surplus liabilities of the plan established in accordance with the third paragraph exceeds the assets of the pension plan, established in accordance with section 123 of the Act.

For the purposes of the second paragraph, the liabilities shall be equal to the sum of the following values:

(1) the value of the obligations arising from the plan, assuming that the plan is terminated on the date of the actuarial valuation;

(2) the value of the obligations arising from any amendment to the plan considered for the first time at the date of the valuation and made before 31 December 2009, such value having been calculated on the assumption that the effective date of the amendment is the valuation date.

14.11. Notwithstanding section 130 of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1), no improvement unfunded actuarial liability is determined for an amendment made between 30 December 2009 and 1 January 2013 during an actuarial valuation of the plan.

14.12. Notwithstanding section 132 of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1), where, further to an amendment made between 30 December 2009 and 1 January 2013, an actuarial valuation determines the value of additional obligations of a pension plan, a special amortization payment is determined.

The payment corresponds to the higher of the value of the additional obligations determined on a solvency basis or their value determined on a funding basis.

The special amortization payment shall be made as soon as the report on the first actuarial valuation to take the amendment into consideration is sent to the Régie. To such payment shall be added accrued interest, if any, from the date of the valuation, calculated at the rate referred to in section 48 of the Act.

14.13. For the fiscal years ending between 30 December 2010 and 1 January 2013, a pension plan covered by this Regulation is exempt from the application of section 42.1 of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1). However, the provisions of this Division do not invalidate any letter of credit provided before 22 December 2011.

14.14. In respect of service completed prior to 1 January 2010, Kruger Inc. shall be solidarily liable with Papiers de publication Kruger Inc. for obligations arising from a pension plan under paragraphs 1 to 3 of section 14.9.

In addition to the information prescribed in section 14 of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1), the plan text shall contain a mention of the provision provided for in the first, fifth and sixth paragraphs.

No dividend shall be paid from the sale or assignation of any Kruger Inc. assets, whether those assets are sold or assigned in whole or in part, during such time that the weighted average of the degrees of solvency of the pension plans under section 14.9 remains below 90%, and, unless Kruger Inc. provides another acceptable guarantee, Kruger Inc. shall not proceed to distribute any revenue thus procured in any manner whatsoever, including by:

(1) declaring or paying any other dividends, or buying back stock shares or other securities;

(2) repaying any advance or loan to Kruger Inc. shareholders;

(3) declaring any bonus or other type of payment to the shareholders;

Kruger Inc. or any corporation held directly or indirectly by Kruger Inc. may buy back any capital stock and pay any dividends on any type of share held by a Crown corporation, in particular:

(1) further to the conversion of loans granted by a Crown corporation to any corporation held directly or indirectly by Kruger Inc. into shares of any type in Kruger Inc.;

(2) further to the conversion of shares of any type in any corporation held directly or indirectly by Kruger Inc. into shares of any type in Kruger Inc.

Kruger Inc. shall be discharged from solidary liability in respect of a pension plan referred to in paragraphs 1 to 3 of section 14.9 where:

(1) the plan becomes solvent with regard to the obligations referred to in the first paragraph;

(2) an external expert designated and mandated by the Régie, whose fees shall be assumed by Kruger Inc., shows that the employer is able to assume the obligations relative to the plan where, as the case may be:

(a) Papiers de publication Kruger Inc. merges with a corporation that is not held, whether directly or indirectly, by Kruger Inc.;

(b) shares in Papiers de publication Kruger Inc. are transferred to a corporation that is not held, whether directly or indirectly, by Kruger Inc.;

(c) a plan is transferred to a corporation that is not held, whether directly or indirectly, by Kruger Inc.

In the case provided for in subparagraph *c* of paragraph 2 of the fifth paragraph, Kruger Inc. shall also be discharged from solidary liability in respect of a pension plan referred to in paragraphs 1 to 3 of section 14.9 provided Kruger Inc. pays to the plan an amount corresponding to the difference between the amortization payments that should have been made in accordance with the Act and the amount paid in accordance with the provisions of this Division. That amount shall not exceed the amount required for the part of the plan related to the obligations under the first paragraph to be solvent.

14.15. The assets and liabilities of a pension plan referred to in section 14.9 may not be the object of a merger with all or part of the assets and liabilities of any other pension plan, whether referred to or not in section 14.9.

14.16. Notwithstanding section 118 as it read on 31 December 2009, a pension plan referred to in section 14.9 shall be the subject of an actuarial valuation as at 31 December 2009.

14.17. For the purposes of this Division, the Regulation respecting supplemental pension plans (c. R-15.1, r. 6) shall be read:

(1) by replacing paragraph 4 of section 4.4 with the following:

“(4) the special amortization payment determined under section 132 of the Act or section 14.12 of the Regulation respecting the exemption of certain pension plans from the application of provisions of the Supplemental Pension Plans Act (c. R-15.1, r. 8);”;

(2) by replacing paragraph 1 of section 59.0.2 with the following:

“(1) the degree of solvency of the pension plan determined at the date of the most recent actuarial valuation of the entire plan;”.

14.18. In addition to meeting the requirements set out in sections 4 to 5.4 of the Regulation respecting supplemental pension plans (c. R-15.1, r. 6), the actuarial valuation report for the plan shall contain the following information:

(1) the monthly amortization payment established in accordance with paragraph 2 of the first paragraph of section 14.10;

(2) the amount of the solvency deficiency established in accordance with the second paragraph of section 14.10.

Should the actuarial valuation report be transmitted to the Régie without taking into account the information required under the first paragraph, the report shall be amended or replaced.

14.19. Notwithstanding paragraph 1 of the second paragraph of section 119 of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1) as it read on 31 December 2009, and notwithstanding paragraph 1 of the first paragraph of this section, a pension committee has until (*insert the date that follows by 6 months the date of the publication of the regulation in the Gazette officielle du Québec*) to send to the Régie des rentes du Québec the actuarial valuation report of a pension plan referred to in section 14.9, carried out in accordance with the provisions of this Division and whose date is subsequent to 30 December 2009 but prior to 1 January 2012.

The fees provided for under the fourth paragraph of section 14 of the Regulation respecting supplemental pension plans (c. R-15.1, r. 6) with regard to a report referred to in the first paragraph shall be paid to the Régie for each complete month of delay as of (*insert the date that follows by 6 months the date of the publication of the regulation in the Gazette officielle du Québec*).

14.20. The fiscal year of a pension plan referred to in section 14.9 corresponds to the calendar year.

14.21. The provisions of this Division, with the exception of section 14.19, cease to apply to a pension plan referred to in section 14.9 as of the first of the following dates:

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

(2) the date corresponding to the end of a fiscal year that is fixed in a writing giving instructions to that effect and sent to the pension committee and the Régie, by the employer party to the plan, prior to the end of that fiscal year;

(3) 31 December 2012.”.

2. This Regulation does not constitute a regulation referred to in the third paragraph of section 230.0.0.9 of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1).

3. This Regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*. However, it has effect from 31 December 2009.