Regulations and other Acts

Gouvernement du Québec

O.C. 503-2012, 16 May 2012

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

Temporary relief measures for the funding of solvency deficiencies

CONCERNING the Regulation providing temporary relief measures for the funding of solvency deficiencies

WHEREAS, under the second paragraph of section 2 of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1), the Government may, by regulation and on the conditions it determines, exempt any pension plan or category of pension plan it designates from the application of all or part of this Act particularly by reason of the special characteristics of the plan or category or by reason of the complexity of the Act in relation to the number of members in the plan and prescribe special rules applicable to the plan or category;

WHEREAS, in accordance with the third paragraph of that section, such a regulation may, if it so provides, have retroactive effect from a date that is prior to the date of its coming into force but not prior to 31 December of the second year preceding the year in which it was published in the *Gazette officielle du Québec* under section 8 of the Regulations Act (R.S.Q., c. R-18.1);

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act, a draft Regulation providing temporary relief measures for the funding of solvency deficiencies, attached hereto, was published, with a written notice that it could be made by the Government on the expiry of 45 days following its publication, in part 2 of the *Gazette officielle* du Québec on 28 December 2011;

WHEREAS it is expedient to make the amended Regulation;

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

THAT the Regulation providing temporary relief measures for the funding of solvency deficiencies, attached hereto, be made.

GILLES PAQUIN,
Clerk of the Conseil exécutif

Regulation providing temporary relief measures for the funding of solvency deficiencies

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

DIVISION I
APPLICATION

1. This Regulation applies to every pension plan to which Chapter X of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1) applies, with the exception of a pension plan to which applies other specific funding measures provided for by a regulation made under section 2 of the Act.

With the exception of subdivision 1 of Division II and sections 16 and 23, the provisions of this Regulation apply only to a pension plan for which instructions were given under section 2.

DIVISION II
FUNDING RELIEF MEASURES

§1. *Instructions to the pension committee*

2. An employer that is a party to a pension plan or, in the case of a multi-employer pension plan, even not considered as such under section 11 of the Act, the person or body empowered to amend the plan may, in writing, instruct the pension committee that administers the plan to take one or more of the following measures for the purposes of the first actuarial valuation of the plan dated after 30 December 2011:

(1) the application of an asset valuation method that, in accordance with the conditions in sections 4 and 5, levels the short-term fluctuations in the market value of the assets of the plan for the purposes of determining the value of those assets on a solvency basis;

(2) the elimination, as of the date of the actuarial valuation, of any amortization payments related to an improvement unfunded actuarial liability determined on the date of a previous valuation and related to an amendment made before 31 December 2008, and of any amortization payments related to a technical actuarial deficiency determined on the date of a previous actuarial valuation of the plan;

(3) the extension, in accordance with the rules in section 8, of the period provided in the Act to amortize the technical actuarial deficiencies determined on the date of the first actuarial valuation of a pension plan whose date is after 30 December 2011 or thereafter.

3. Any report on an actuarial valuation of a pension plan whose date is after 30 December 2011 and prior to the date set in accordance with paragraph 3 of section 21 shall indicate the measures taken according to the instructions given to the pension committee in accordance with section 2, or that no such instructions were given.

§2. Assets smoothing

4. Where instructions were given to the pension committee to apply the measure provided for in paragraph 1 of section 2, the asset valuation method indicated in the instructions shall include the taking into account of the short-term fluctuations in the market value of the assets during the period determined in accordance with section 5.

However, where instructions were also given to the pension committee to apply the measure provided for in paragraph 1 of 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 (c. R-15.1, r. 4), the asset valuation method referred to in the first paragraph shall be identical to the method indicated in the instructions.

Notwithstanding the first paragraph of section 123 of the Act, for the purposes of the actuarial valuation referred to in section 2 and subsequent actuarial valuations, the assets of the pension plan shall be established in accordance with the asset valuation method thus indicated with the exception of for the purpose of determining the degree of solvency of the pension plan.

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

6. 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 of the plan prior to the valuation referred to in section 2.

§3. Elimination of amortization payments

7. Notwithstanding section 130 of the Act, where instructions were given to the pension committee to apply the measure provided for in paragraph 2 of section 2, the following are considered solvency deficiencies as at the date of the first actuarial valuation of a pension plan that falls after 30 December 2011:

(1) the technical actuarial deficiency that corresponds to the amount by which the plan's assets, reduced by the value of the additional obligations arising from any amendment to the plan made after 30 December 2008 and considered for the first time in the valuation, exceeds the sum of the plan's assets and the value of the amortization payments required to amortize an improvement unfunded actuarial liability related to an amendment made after 30 December 2008 and determined during a prior actuarial valuation, provided the payments are not eliminated under section 131 of the Act; the value of the amortization payments shall be established using the same interest rate as the one used to establish the plan's liabilities; and

(2) the improvement unfunded actuarial liability that corresponds to the amount by which the value of the additional obligations arising from any amendment to the plan made after 30 December 2008 and considered for the first time during the valuation exceeds the portion of the special amortization payment provided for in section 132 of the Act that relates to such an amendment.

For the purposes of paragraph 1 of the first paragraph, the value of the additional obligations arising from any amendment to the pension plan made before 31 December 2008 and considered for the first time on the date of the actuarial valuation shall be included in the liabilities of the plan. That value is reduced, however, by the portion of the special amortization payment provided for in section 132 of the Act that relates to such an amendment.

§4. Extension of the amortization period

8. Notwithstanding section 142 of the Act, where the pension committee was given instructions to apply the measure provided for in paragraph 3 of section 2, the amortization period for a technical actuarial deficiency determined at the date of the actuarial valuation referred to in that section or any subsequent actuarial valuation expires at the end of a fiscal year of the pension plan that ends no later than 10 years after the date of the valuation that determines the deficiency.

DIVISION III
AMOUNT REFERRED TO IN THE THIRD PARAGRAPH OF SECTION 230.0.0.9 OF THE ACT

9. Where subdivision 4.0.1 of Division II of Chapter XIII of the Act applies, the amount referred to in the third paragraph of section 230.0.0.9 of the Act shall be established at the date on which the valuation of the benefits of the members and beneficiaries affected by the withdrawal of the employer or at the date of the termination of the pension plan, as the case may be. It does not, however, have to be established if the report provided for in section 202 of the Act or if the termination report provided for in section 207.2 of the Act, as the case may be, shows that the employer has paid any amount owed under sections 228 and 229 of the Act.

Where the amount referred to in the third paragraph of section 230.0.0.9 of the Act shall be established at the date referred to in the first paragraph, that amount shall also be established at the date of any actuarial valuation that falls after 30 December 2011 but prior to the date referred to in the first paragraph. The amount shall also be established at the date of any valuation of the benefits of the members and beneficiaries affected by the withdrawal of an employer party to the plan, where that date falls after 30 December 2011 but prior to the date referred to in the first paragraph.

10. On the date of the actuarial valuation referred to in section 2, the amount referred to in the third paragraph of section 230.0.0.9 of the Act is equal to zero. However, where instructions were also given in accordance with 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, the amount corresponds at that date to the amount determined for that purpose in accordance with the provisions of this Regulation.

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

$A + B – C = S$

“A” represents the amount in question established at the date of the last actuarial valuation;

“B” represents the employer contributions which, without reference to this Regulation, with the exception of section 11, would have been established at the date of the last actuarial valuation for the fiscal year ending at the date of the valuation concerned;

“C” represents the greater of the following amounts:

i. the employer contributions established at the date of the last actuarial valuation for the fiscal year ending at the date of the valuation concerned;

ii. the total of the employer contributions paid since the last actuarial valuation for the fiscal year ending as at the date of the valuation concerned and the amount of any letter of credit provided since the date of the previous valuation pursuant to section 42.1 of the Act that relates to those employer contributions.

Those amounts and contributions bear interest at the rate of return of the pension fund. Should the date of the last actuarial valuation or the date of the actuarial valuation concerned not correspond to the date of the end of a fiscal year of the plan, the only payments taken into account are those related to the amortization payments, current service contributions and special amortization payments that became due during the period starting the day following the last actuarial valuation and ending on the date of the actuarial valuation concerned.

11. For the purposes of sections 130 and 135 of the Act used to determine element “B” in the second paragraph of section 10 or the first paragraph of section 12 at the date of an actuarial valuation, the plan’s assets at the date of the last actuarial valuation shall be increased by an amount corresponding to the amount referred to in the third paragraph of section 230.0.0.9 of the Act, as determined at the latter date.

In the same manner, for the purposes of section 132 of the Act used to determine the aforementioned element “B” at the date of an actuarial valuation, the degree of solvency of the plan at the date of the last actuarial valuation shall be determined by adding to the plan’s assets an amount which corresponds to the amount referred to in the third paragraph of section 230.0.0.9 of the Act, as determined at the latter date.

12. At the date on which the valuation of the benefits of the members and beneficiaries affected by the withdrawal of an employer that is a party to a multi-employer pension plan is made, the amount referred to in the third paragraph of section 230.0.0.9 of the Act is equal, at the time the assets of the plan are distributed, to element S^R in the following formula:

$A + B – C = S^R$

“A” represents the amount in question established at the date of the last actuarial valuation;

“B” represents the employer contributions which, without reference to this Regulation, with the exception section 11, would have been established at the date of the last actuarial valuation for the fiscal year ending at the date of the actuarial valuation concerned;

“C” corresponds to the greater of the following amounts:

i. the employer contributions established at the date of the last actuarial valuation for the fiscal year ending at the date of the actuarial valuation concerned; or

ii. the total of the employer contributions paid since the last actuarial valuation for the fiscal year ending at the date of the actuarial valuation concerned and the amount of any letter of credit provided since the date of the previous valuation pursuant to section 42.1 of the Act that relates to those employer contributions.

As at the date on which the valuation of the benefits of the members and beneficiaries mentioned in the first paragraph is carried out, the amount referred to in the third paragraph of section 230.0.0.9 of the Act corresponds, after the assets of the plan have been distributed, to element "S" in the following formula:

$$S^R - (X - Y) = S$$

"S^R" represents element "S^R" determined pursuant to the first paragraph;

"X" represents the value of the portion of the plan's assets that would be allocated to the group of benefits of those members and beneficiaries at the time of the distribution provided for in section 222 of the Act, had the assets of the plan been, for the distribution, increased by element "S^R" determined pursuant to the first paragraph;

"Y" represents the value of the portion of the assets allocated to that group at the time of the distribution.

Those amounts and contributions bear interest at the rate of return of the pension fund. Should the date of the last actuarial valuation or the date as at which the valuation of the benefits of the members and beneficiaries is carried out not correspond to the date of the end of a fiscal year of the plan, the only payments taken into account are those related to the amortization payments, current service contributions and special amortization payments that became due during the period starting the day following the last actuarial valuation and ending on the date of the valuation of benefits.

13. For the purposes of sections 10, 12 and 14, the valuation of the benefits of the members and beneficiaries affected by the withdrawal of an employer that is a party to a multi-employer pension plan is, on the earlier of the following dates, considered to be an actuarial valuation:

(1) the date of the first subsequent actuarial valuation of the plan;

(2) the date as at which the valuation of the benefits of the members and beneficiaries affected by another amendment of the plan for the purpose of the withdrawal of an employer is carried out;

(3) the date of the termination of the pension plan.

For the purposes of the same sections, an amount paid by the employer in accordance with section 229 of the Act does not constitute employer contributions paid.

14. To calculate the amount referred to in the third paragraph of section 230.0.0.9 of the Act at the date of the termination of the pension plan, section 10 shall read by replacing:

(1) in the part of the second paragraph preceding the formula, "any subsequent actuarial valuation" by "the plan's termination";

(2) the last sentence of the third paragraph by the following: "Should the date of the last actuarial valuation or the date of termination of the plan not correspond to the date of the end of a fiscal year of the plan, the only payments taken into account are those related to the amortization payments, current service contributions and special amortization payments that became due during the period starting the day following the last actuarial valuation and ending on the date of termination.".

15. Where subdivision 4.0.1 of Division II of Chapter XIII of the Act applies to a pension plan after the date fixed pursuant to section 21 for that plan, the amount referred to in the third paragraph of section 230.0.0.9 of the Act bears interest between that date and the date of the employer's withdrawal or the plan's termination at the rate of return of the pension fund.

16. Notwithstanding any inconsistent provision, the amount referred to in the third paragraph of section 230.0.0.9 of the Act established when an employer that is a party to a multi-employer pension plan withdraws or upon the termination of a pension plan may not be less than zero or exceed the amount to be funded to ensure full payment of the benefits of the members and beneficiaries affected by the withdrawal or termination, as established at the date of the termination or withdrawal.

17. Where paragraph 1 of section 21 applies, the amount referred to in the third paragraph of section 230.0.0.9 of the Act is equal to zero.

DIVISION IV
REPORTS

18. Where instructions were given to the pension committee to apply the measure provided for in paragraph 1 of section 2, any actuarial valuation report for the plan shall contain a description of the asset valuation method used, 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).

19. The report provided for in the second paragraph of section 202 of the Act shall, where applicable, indicate the amount of element "S^R" and the amount of element "S" determined under the first and second paragraphs of section 12, the amount referred to in the third paragraph of section 230.0.0.9 of the Act, as established at the dates provided for under the second paragraph of section 9, and the calculations used to establish the amounts.

20. The termination report provided for in section 207.2 of the Act shall, where applicable, indicate the amount referred to in the third paragraph of section 230.0.0.9 of the Act, as established under section 14, the amount referred to in the third paragraph of section 230.0.0.9 of the Act, as established at the dates provided for under the second paragraph of section 9, and the calculations used to establish the amounts.

DIVISION V
END OF THE APPLICATION OF THE RELIEF MEASURES

21. The provisions of Division II of this Regulation cease to apply in respect of a pension plan on the earlier of the following dates:

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

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

(3) the date of the end of the plan's first fiscal year beginning after 31 December 2012.

DIVISION VI
FINAL PROVISIONS

22. On the date of the actuarial valuation referred to in section 2, where instructions were also given in accordance with 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, the provisions of the latter regulation cease to apply, with the exception of section 33, which then applies at that date.

23. Paragraph 1 of section 11 of the Regulation to provide a framework for settlement of the benefits of members and beneficiaries of plans covered by subdivision 4.0.1 of Division II of Chapter XIII of the Supplemental Pension Plans Act and for administration by the Régie des rentes du Québec of certain pensions paid out of the assets of the plans (c. R-15.1, r. 3) is amended by inserting "or under section 2 of the Regulation providing temporary relief measures for the funding of solvency deficiencies" after "(c. R-15.1, r. 4)".

24. 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 2011.

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Gouvernement du Québec

O.C. 519-2012, 23 May 2012

Environment Quality Act
(R.S.Q., c. Q-2)

RecycleMédias' 2010, 2011 and 2012 schedule of contributions for the "newspapers" class — Approval

Approval of RecycleMédias' 2010, 2011 and 2012 schedule of contributions for the "newspapers" class

WHEREAS sections 53.31.1 to 53.31.20 of the Environment Quality Act (R.S.Q., c. Q-2) establish a regime to compensate municipalities for the net costs of the services they provide to ensure the recovery and reclamation of residual materials;

WHEREAS, under section 53.31.13 of the Environment Quality Act, the certified body RecycleMédias, as a body certified for the "newspapers" class, may collect from its members and from persons who, without being members, carry on activities similar to those carried on