Gouvernement du Québec

O.C. 1203-2013, 20 November 2013

Supplemental Pension Plans Act
(chapter R-15.1)

Pension plans of the municipal and university sectors —Funding —Amendment

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

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

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting the funding of pension plans of the municipal and university sectors 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 15 May 2013;

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 to amend the Regulation respecting the funding of pension plans of the municipal and university sectors, attached hereto, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

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

Supplemental Pension Plans Act
(chapter R-15.1, s. 2)

1. The Regulation respecting the funding of pension plans of the municipal and university sectors (chapter R-15.1, r. 2) is amended by the insertion, after section 38, of the following divisions:

"**DIVISION 7.1**
SEGREGATION OF THE PENSION FUND

***§1.** New component*

38.1. A pension plan may be amended for the purpose of creating a separate component with regard to service completed by the affected members as of the effective date of the amendment. That component is called the "new component".

The effective date of the amendment is called the "date of segregation". It cannot be prior to the end date of the second last fiscal year preceding the effective date of the amendment establishing the new component. Where the amendment requires that a special current service contribution be made with regard to the new component, the date of segregation must be the same as the end date of a fiscal year of the plan, except where the plan is subject to a complete actuarial valuation as at the date of segregation.

The text of the plan shall indicate, with regard to the new component, any information required under section 14 of the Act that differs from the information for the rest of the plan with respect to its purport or the process whereby it is amended.

Notwithstanding section 21.2 of the Act, provisions regarding the allocation of the surplus assets in the event of termination must be provided for, as of the date of segregation, with regard to the new component of the plan.

38.2. The components of the plan are governed, with regard to funding, investment of the assets, appropriation of any eventual surplus assets, division and merger, as well as the settlement of the benefits of members and beneficiaries on winding-up, by the Act and this Regulation as though they were two separate pension plans. Furthermore, the provisions of sections 60 and 60.1 of the Act apply separately to each component of the pension plan.

The pension fund of the plan is, as of the date of segregation, distributed between two separate accounts.

38.3. Under this Division, a single new component can be established under a pension plan.

A subsequent amendment to the plan could, however, provide that the new component of the pension plan apply to a new group of members with regard to service credited from the effective date of the amendment. The date on which the new component applies with regard to these members must correspond to the end date of the plan's fiscal year, except where the plan is subject to a complete actuarial valuation as a result of the amendment. That date cannot be prior to the end date of the second last fiscal year preceding the year in which the amendment is made.

38.4. The current service contribution for the new component of the pension plan can be paid, to the extent and subject to the terms and conditions prescribed by the plan text, by the appropriation of the surplus assets of the other component of the plan.

38.5. A portion of the member contribution may be paid into the other component of a pension plan to the extent provided under the plan and provided the member is entitled to benefits under the other component.

§2. Stabilization fund

38.6. A stabilization fund that replaces the reserve referred to in section 12 may be established in the new component of a pension plan as of the date of segregation pursuant to section 38.1.

The assets of the new component of the pension plan are divided between the general account and the stabilization fund. The rate of return of each account corresponds to the rate of return derived from the investment of the assets of the new component of the plan.

38.7. The stabilization fund consists of the contributions, including interest accrued, paid into the fund either by the employer, the members, or both, as provided for in the plan text. Those contributions are called "stabilization contributions".

The plan must provide for the payment of stabilization contributions to provision the stabilization fund. The target level of the fund must be equal to or greater than the provision for adverse deviation, established in accordance with the provisions of sections 60.3 to 60.5 of the Regulation respecting supplemental pension plans (chapter R-15.1, r. 6) with regard to the new component of the pension plan.

The stabilization contributions made by members are separate from the member or additional voluntary contributions referred to in section 37 of the Act.

38.8. The sole purpose of the stabilization fund is to provide for pension benefit increases and the payment of technical actuarial deficiencies or any amortization payments related to such deficiencies, only with regard to obligations arising from the new component of the pension plan.

38.9. The plan must provide the terms and conditions for the payment from the stabilization fund of technical actuarial deficiencies or any amortization payments related to such deficiencies.

38.10. The plan must provide the types of increases to benefits to which to the stabilization fund can be appropriated.

38.11. Where the value of the benefits to which a member is entitled under the new component of the pension plan is transferred further to his cessation of active membership, any stabilization contributions not appropriated to constituting increases in benefits are refunded, to the extent provided by an amendment made to the plan for that purpose. The refund can only be made, however, where the balance of the fund after the refund is equal to or greater than the amount by which the surplus liabilities of the new component exceeds its general account, as determined on the date of the most recent complete actuarial valuation of the plan.

Where the balance of the stabilization fund does not allow payment in full of the value of the stabilization contributions owing, payment of the refund can only be made as provided in the first paragraph.

An amendment referred to in the first paragraph may not be made more than once a year and must apply to the aggregate of the refunds to be made with regard to the 12-month period preceding the amendment.

38.12. For the purposes of a refund under section 38.11, the value of the stabilization contributions of a member is reduced by the extent to which the sum of the fund appropriated in this manner to increases in benefits exceeds the value of the stabilization contributions of the members. The proportion shall not be greater than 1.

38.13. Any amendment to the new component of the pension plan whose purpose is an increase in benefits must, where the stabilization fund is appropriated for that purpose, specifically mention such an appropriation.

The stabilization fund may only be appropriated to the payment of the value of the obligations arising from such an amendment once the payment referred to in section 38.11 has been made and provided the general account of the new component of the pension plan has no technical actuarial deficiency. Furthermore, the balance of the fund after payment must be equal to or greater than the amount of the surplus liabilities of the new component, to which the provision for adverse deviations of the general account has been added.

For the purposes of determining the special amortization payment, referred to in section 21, that is required where the additional obligations resulting from an amendment to the new component of the pension plan have not been paid in full by the appropriation of the stabilization fund, any improvement unfunded actuarial deficiency determined during the actuarial valuation of the new component of the pension plan is reduced by an amount corresponding to the portion of the value of the additional obligations resulting from the amendment to the plan thus paid.

38.14. An amendment to the new component of a pension plan whose purpose is the increase in benefits referred to in section 38.10 and that is paid in full from the stabilization fund does not require the acknowledgment from the employer provided for under paragraph 3 of the second paragraph of section 24 of the Act.

The same applies to an amendment whose purpose is the repayment of stabilization contributions in accordance with section 38.11.

38.15. The balance of the stabilization fund at the end of a fiscal year is determined by applying the following adjustments to the balance of the fund at the end of the preceding fiscal year:

(1) the stabilization contributions paid during the fiscal year are added;

(2) the value of the contributions made by a member that are transferred further to his cessation of active membership are subtracted;

(3) the amounts advanced from the fund to the general account of the new component of the pension plan to eliminate a technical actuarial deficiency or to pay the required amortization payments with regard to such a deficiency are subtracted;

(4) the amounts used to increase the benefits of members, the cost of which is determined on a funding basis, are subtracted;

(5) the amounts received for the purpose of repaying the amounts referred to in paragraph 3 are added.

The amounts referred to in paragraph 5 of the first paragraph above are determined as at the date of a complete actuarial valuation of the plan and must be transferred from the general account of the new component of the pension plan to the stabilization fund on the date of the first monthly payment due after the valuation report is sent to the Régie. The amounts are equal to the lesser of

(1) the amount by which the surplus of the general account exceeds the liabilities of the new component, as determined in the actuarial valuation;

(2) the balance of the amounts advanced by the stabilization fund to the general account, adjusted to the rate of return of the account of the new component of the pension plan.

For the purposes of this section, any return realized in the new component must be taken into account.

§3. Miscellaneous provisions

38.16. The report on the actuarial valuation of a pension plan must present the information related to the new component of the plan separately from the information related to the other component.

The part of the report that concerns the new component of the plan must provide, where applicable, an estimate of the member contributions to be paid into the other component of the plan for the three fiscal years following the actuarial valuation.

Where the new component of the pension plan has a stabilization fund, that part must also provide

(1) the value of the fund as at the date of the actuarial valuation;

(2) the reconciliation of the fund since the previous actuarial valuation, specifying the inflows and outflows provided for under 38.15;

(3) an estimate of the stabilization contributions to be paid by the members for the three fiscal years following the actuarial valuation;

(4) an estimate of the stabilization contributions to be paid by the employer for the three fiscal years following the actuarial valuation;

(5) in the case of a partial valuation where the stabilization fund has been appropriated to the payment of all or part of an increase in benefits, the amounts withdrawn from the stabilization fund for the purpose of the payment of the increase and the certification of the actuary certifying that the conditions provided for under section 38.13 would be met were an actuarial valuation of the whole pension plan carried out;

(6) the net balance of the amounts advanced by the stabilization fund to the general account as at the date of the valuation.

38.17. Where the new component of the pension plan has a stabilization fund, the provisions of Division 6, which concern the appropriation of surplus assets, apply without regard to the provisions related to the reserve.

38.18. The second part of the statement provided in section 108 of the Act shall mention that, for as long as the plan is comprised of two components, the liabilities of the new component and the account of the pension fund are considered to be separate from the liabilities and the account of the other component for the purposes of the payment of the share payable to the spouse.

38.19. The information that the statements provided for under sections 112 and 113 of the Act must contain is determined for the new component and the other component of the plan as though they were separate plans. The information relating to each component shall be presented separately on the statements.

The statements shall also mention that for the purposes of any payment of the benefits of the members and beneficiaries of the plan – including a payment following the withdrawal of an employer from a multi-employer pension plan or due to plan termination – for as long as the plan is comprised of two components, the liabilities of the new component and the corresponding account of the pension fund are considered to be separate from the liabilities and the account of the other component.

"**DIVISION 7.2**
DEFERMENT OF CONTRIBUTIONS

38.20. Where the pension plan, or a component of the pension plan, provides expressly for the division of the current service contribution or the costs related to the amortization of any technical actuarial deficiency, any variation in the amount of the monthly payments for the current service contribution or the amortization payments determined for such a deficiency by an actuarial valuation of the plan takes effect, notwithstanding section 137 of the Act, on the first day of the fiscal year following the one for which the contributions are calculated.

Where the value, discounted at the date of the actuarial valuation referred to in the first paragraph, of the monthly amounts of the amortization payments to be made for the period affected by the deferment of the variation is less than the amount of the technical actuarial deficiency established by the actuarial valuation, the amount of the technical actuarial deficiency on the first day of the following fiscal year must correspond to the difference between the following:

(1) the accumulated value of the technical actuarial deficiency determined as at the date of the most recent actuarial valuation;

(2) the accumulated value of the required monthly payments set out in the previous actuarial valuation in relation to such a deficiency for the period covered by the affected by the deferment of the variation.

The pension plan, or a component thereof, that provides for the division referred to in the first paragraph may also provide for the division of the amortization payments relating to an improvement unfunded actuarial liability. Where applicable, the rules provided for under the first paragraph apply to the monthly amortization payments established for such a liability, and the amount of the improvement unfunded actuarial liability determined as at the date of the most recent actuarial valuation is equal, on the first day of the following fiscal year, to the accumulated value of that liability.

The deferment of contributions applies only to the component of a pension plan that so provides and only to those contributions expressly affected thereby.

The commuted or accumulated values are determined using an interest rate identical to the rate used to establish the plan's liabilities during the most recent actuarial valuation.

The provisions of this section apply notwithstanding the third paragraph of section 41 of the Act.

38.21. For the purposes of amortizing actuarial deficiencies where contributions are deferred, the time periods specified in section 22 begin on the end date of the fiscal year following the actuarial valuation date.

38.22. The portion of the member contribution appropriated for an amortization payment may be an hourly rate or a rate of remuneration. The rate set may be adjusted annually as provided for in the plan text.".

2. Where contributions are deferred, the contributions made prior to 4 December 2013 that are over and above those required taking into account the deferred contributions, are contributions made in advance in respect of subsequent fiscal years.

3. This Regulation comes into force on the 15th day following its publication in the *Gazette officielle du Québec*.

However, the provisions herein have effect from 1 January 2012.

3121