

## Draft Regulation

Supplemental Pension Plans Act  
(chapter R-15.1)

An Act to provide for the establishment of target-benefit pension plans in certain pulp and paper sector enterprises  
(2012, chapter 32)

### Target-benefit pension plans in certain pulp and paper sector enterprises

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the draft Regulation respecting target-benefit pension plans in certain pulp and paper sector enterprises, appearing below, may be made by the Government on the expiry of 30 days following this publication.

The Act to provide for the establishment of target-benefit pension plans in certain pulp and paper sector enterprises (2012, chapter 32) provides that, where such pension plans meet the rules and requirements set out in a regulation made by the Government, they may be established if the employer who is party to the pension plan is in the pulp and paper sector and has entered into an agreement with a union to establish a target-benefit pension plan while that employer or another employer whose assets it acquired was subject to an order under the Companies' Creditors Arrangement Act (Revised Statutes of Canada (1985), chapter C-36).

The draft regulation provides the rules and conditions applicable to those plans. To date certain Produits forestiers Résolu pension plans and an entity of the Papiers White Birch group are affected.

Under section 12 of the Regulations Act, the Regulation may be made at the expiry of a period shorter than the 45-day period applicable under section 11 of that Act.

The Government is of the opinion that the shorter interval for publication is justified by the urgency engendered by the following circumstances:

— for the pension plans to which Produits forestiers Résolu is party, the agreement provides that the target-benefit pension plans shall apply to the years of service accumulated after 31 December 2010, whereas for the pension plans to which Papiers White Birch is party, the new plans will cover service accumulated after 12 September 2012, the termination date of the former plans;

— the agreements signed cannot be brought to fruition by the registration of target-benefit pension plans with the Régie des rentes du Québec as the plans cannot be registered until the rules set out in this draft Regulation have come into force.

Further information may be obtained by contacting Ms. France Panneton, Régie des rentes du Québec, Place de la Cité, 2600, boulevard Laurier, 5e étage, Québec (Québec) G1V 4T3 (telephone: 418 657-8703, extension 3895; fax: 418 659-8983; email: france.panneton@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, President and Chief Executive Officer 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.

AGNÈS MALTAIS,  
*Minister of Employment and Social Solidarity*

### Regulation respecting target-benefit pension plans in certain pulp and paper sector enterprises

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

Act to provide for the establishment of target-benefit pension plans in certain pulp and paper sector enterprises  
(2012, chapter 32)

#### DIVISION 1 AFFECTED ENTERPRISES

**1.** A target-benefit pension plan can be established in an enterprise covered by the Act to provide for the establishment of target-benefit pension plans in certain pulp and paper sector enterprises (2012, chapter 32) where the conditions referred to in paragraphs 2 and 3 of section 1 of that Act are met between 30 December 2010 and 1 January 2014.

#### DIVISION 2 ESTABLISHMENT AND EFFECTIVE DATE OF THE PLAN

**2.** A target-benefit pension plan may be established with regard to service affected by a component of a pension plan established in application of a regulation made pursuant to section 2 of the Supplemental Pension Plans Act (chapter R-15.1). It may be established as part of that pension plan or as a separate pension plan.

The target-benefit pension plan is effective as of the date on which the component is established.

**3.** A pension plan established under this Regulation is said to be a “target-benefit pension plan”.

The provisions of the Supplemental Pension Plans Act apply to the target-benefit pension plan, except to the extent provided for under this Regulation. Moreover, in the case of a discrepancy, the provisions of this Regulation prevail over those of the Act.

**4.** Where the target-benefit pension plan is established as a component of a pension plan, any mention, in this Regulation, of a target-benefit pension plan is also understood to refer such a component. The provisions of a regulation referred to in the first paragraph of section 2, under which section the component is constituted, continue to apply thereto.

### DIVISION 3 CHARACTERISTICS

**5.** A target-benefit pension plan established under this Regulation must include the following characteristics:

(1) the employer and member contributions as well as the method used for calculating those contributions are determined in advance;

(2) the plan text determines the benefits target, including any ancillary benefit, on the basis of which the current service contribution is established;

(3) the normal pension may vary according to the financial situation of the pension plan, as can any ancillary benefit provided for under the plan; the same variation being described in the actuarial valuation report for the plan;

(4) notwithstanding section 39 of the Act, the employer contribution to the plan is limited to the one set out in the plan text;

(5) the cost of the plan’s obligations, after deducting the employer contribution set out in the plan text, is charged solely to the members and beneficiaries of the plan, under the conditions provided for in section 25;

(6) notwithstanding the second paragraph of section 68 of the Act, any benefit offered under the plan has the characteristics of the deferred pension of any member of the plan;

(7) the employer who is party to the pension plan cannot unilaterally amend or terminate it, whether directly or indirectly;

(8) only the members and beneficiaries are entitled to surplus assets during the existence of the plan, as in the case of its termination;

(9) the plan has no defined contribution provision nor provisions that, under a defined benefit plan, are identical to those of a defined contribution plan.

**6.** A target-benefit plan constitutes, for the purposes of the Act, a defined benefit plan.

### DIVISION 4 FUNDING

#### §1. General

**7.** Notwithstanding section 42.1 of the Act, the employer may not exempt itself from the contributions it must pay by means of letter of credit nor may it exempt itself by the allocation of the surplus assets in whole or in part.

**8.** The cost of the plan’s obligations as at the date of an actuarial valuation is equal to the sum of the following:

(1) the current service contribution determined in accordance with section 138 of the Act;

(2) the greater of the following amounts: the amortization payment determined in respect of the funding actuarial deficiency or the amortization payment determined in respect of the technical actuarial deficiency.

**9.** For the purposes of this Regulation, the technical actuarial deficiency, where applicable, corresponds to the amount by which the liabilities of the plan exceed the assets.

Furthermore, the amortization period for a technical actuarial deficiency ends, notwithstanding paragraph 1 section 142 of the Act, no later than 10 years after the date of the actuarial valuation that determines the deficiency.

**10.** The value of the obligations arising from a target-benefit pension plan for credited service completed during the current fiscal year of the plan is determined based on the benefits target provided for under the plan.

**11.** A portion of the contributions paid into the pension fund may be allocated to establishing the reserve referred to in section 128 of the Act.

**12.** The plan may not provide for the payment of additional voluntary contributions nor may it allow any sums to be transferred to the fund from any other pension plan, even one not referred to in the Act.

**13.** The maximum set in section 60 of the Act does not apply to member contributions to a target-benefit plan.

The provisions of section 60.1 of the Act do not apply to a target-benefit pension plan.

**14.** The provision for adverse deviations, notwithstanding the regulatory provisions made under section 128 of the Act, is the one provided for under the plan. It may not, however, be less than 20% of the liabilities of the plan determined on a solvency basis.

Despite the foregoing, to determine the maximum amount of surplus assets that may be allocated, in application of the second paragraph of section 28, to the restoration of benefits that were reduced, the provision for adverse deviations provided for under the plan is reduced by 50%.

**15.** Notwithstanding the second paragraph of section 118 of the Act, any actuarial valuation of a target-benefit pension plan must be complete.

#### *§2. Conditions for payment of benefits*

**16.** The provisions of this subdivision, with the exception of those in section 24, apply to any payment of benefits during the existence of the plan.

**17.** The salary progression of the member after the end of the period of membership in the target-benefit pension plan cannot be taken into account in the determination of the normal pension under the plan.

Notwithstanding the second paragraph of section 5 of the Act, the provisions of a target-benefit pension plan cannot be more advantageous than the provisions provided for under this section.

**18.** Notwithstanding section 99 of the Act, a member who is less than 10 years under normal retirement age or who has attained or exceeded normal retirement age may exercise the right to transfer provided for under section 98 of the Act in the 90 days following receipt of the statement provided for in section 113 of the Act.

**19.** The value of the benefits of a member or beneficiary shall be paid, notwithstanding section 143 of the Act, in proportion to the degree of solvency of the plan determined in accordance with section 20.

A payment made in accordance with the first paragraph constitutes a valid discharge with respect to the benefits covered by the payment. The provisions of section 146 of the Act do not, therefore, apply to the payment.

**20.** The degree of solvency of the plan taken into account for the payment of benefits is the one determined during the last actuarial valuation of the plan or the one determined under the plan for a period less than a fiscal year, whichever is most recent.

The pension committee must determine or have determined the degree of solvency of the plan as at the end date of each period so prescribed. For that purpose, the actuary in charge of preparing the actuarial valuation report required at the end date of a fiscal year of the plan must define in the report a method that, taking into account the return on the investment of the plan assets and the change in the valuation rate, will allow the degree of solvency to be determined summarily before the date of the next required actuarial valuation.

The most recent degree of solvency is assessed on the date on which is received by the pension committee the application for a refund or transfer of benefits filed by a member who has ceased to be active, or the application for the benefit provided for in the first paragraph of section 86 of the Act, filed by the spouse or successor of the member. Where the benefits are paid on the initiative of the pension committee, the degree of solvency is assessed as at the date on which the application for the purchase of an annuity is submitted to the insurer or, where the payment is made by other means than the purchase of an annuity, as at the date the payment is made.

**21.** The pension committee may only proceed on its own initiative with the payment, through the purchase of an annuity, of the benefits of a member or beneficiary whose pension is already in payment where the following conditions are met:

(1) the value of the member's benefits at the time of payment, multiplied by the degree of solvency of the pension plan, is greater than or equal to the value of the benefits target;

(2) the amount of the annuity purchased is at least equal to the pension the member or beneficiary was receiving before its purchase;

(3) the payment does not reduce the degree of solvency of the plan.

The value of the benefits of the member or beneficiary is established using the premium determined according to the assumptions for hypothetical wind-up and solvency valuations established by the Canadian Institute of Actuaries as they apply on the date of the calculation made for the purposes of the payment of the benefits.

**22.** The refund referred to in section 66 of the Act may be made on the initiative of the pension committee only where the conditions referred to in the first paragraph of section 21 are met.

**23.** Notwithstanding the third paragraph of section 33 of the Act, a member whose benefits are paid in full ceases to be a member of the pension plan.

**24.** The provisions of subdivision 4 of Division II of Chapter XIII of the Act, related to the debt of the employer on termination of the pension plan, do not apply except concerning the employer contributions provided for under the plan that have not been paid on the date of termination.

*§3. Reduction in benefits and increase in member contributions*

**25.** Where an actuarial valuation of a target-benefit pension plan shows that the cost of the plan's obligations exceeds the contributions set out under the plan, the shortfall in contributions, subject to the terms and conditions prescribed by the plan text, must be offset by one or more of the following corrective measures:

- (1) a reduction in the benefits arising from service completed prior to the date of the actuarial valuation;
- (2) an increase in member contributions;
- (3) a reduction of the benefits target.

The plan text must provide the types of corrective measures that can be used and indicate the priority of use for each measure.

The provisions of the first paragraph only apply where the shortfall in contributions is greater than 2% the contributions set under the plan.

**26.** The corrective measures referred to in the first paragraph of section 25 may not become effective until the day following the date of the actuarial valuation that determined the contribution shortfall. Moreover, the corrective measures may take effect no later than one year after the day following the date of that valuation.

The adjustment of accrued benefits and the change to member contributions or the benefits target must take into consideration, for actuarial purposes, any deferment thus determined.

**27.** A corrective measure referred to in subparagraph 1 of the first paragraph of section 25 does not constitute an amendment to the plan. It is therefore exempted in particular from the requirements of the Act pertaining to the registration of an amendment to a pension plan.

Furthermore, given that it does not constitute an amendment to the plan, such a measure does not require, notwithstanding section 20 of the Act, the consent of the members and beneficiaries referred to therein and may, notwithstanding section 21 of the Act, apply to a benefit whose payment began prior to the effective date of the measure.

*§4. Appropriation of surplus assets*

**28.** During the existence of the plan, only the portion of the surplus assets that exceeds the provision for adverse deviations, as referred to in section 14 and as determined in an actuarial valuation of the plan, may be appropriated.

The portion must first be appropriated to restoring, up to the amount of the benefits target, any benefits that were reduced.

Where a balance of the portion of the surplus assets remains, the balance may be appropriated as determined by the person or body empowered to amend the plan.

The plan text must provide the conditions for the restoration of benefits referred to in the second paragraph, particularly the order in which they are restored.

With the exception of measures aimed at increasing the benefits target, a measure taken in application of the second and third paragraph does not constitute an amendment to the plan and is therefore exempted from the requirements of the Act regarding the registration of an amendment to a pension plan.

**29.** Notwithstanding section 146.1 of the Act, the maximum amount of surplus assets that may be appropriated under section 28 is equal to the lesser of the following amounts:

(1) on a solvency basis, the amount by which the plan's assets, reduced by the reserve provided for in section 128 of the Act, exceed the plan's liabilities, reduced by the value of the additional obligations arising from any measure referred to in section 28 considered for the first time during the valuation;

(2) on a funding basis, the amount by which the plan's assets exceed its liabilities, the latter being reduced by the value of the additional obligations arising from any measure referred to in section 28 considered for the first time during the valuation.

**30.** A measure referred to in the second paragraph of section 28 may not become effective until the day following the date of the actuarial valuation that determined the surplus assets. Moreover, the measure may take effect no later than one year after the day following the date of that valuation.

**31.** No measure referred to in section 28 may be made unless the resulting additional obligations are paid in full from the surplus assets.

#### **DIVISION 5** **SEIZURE, TRANSFER OR PARTITION OF** **BENEFITS**

**32.** For the purposes of a seizure, transfer or partition of benefits, the value that must be considered as the value of the aggregate benefits of the member or the value of the benefits accrued during the union is equal to the product of the value determined pursuant to the applicable provisions of the Regulation respecting supplemental pension plans (chapter R-15.1, r. 6), multiplied by the degree of solvency of the plan as at the date of their valuation.

Where no pension is being paid to the member as at the date of execution of the partition or transfer of pension benefits, the amount referred to in the first paragraph of section 54 of that regulation, and for which the pension committee must keep a record, is replaced by the amount calculated according to the following formula:

$$A \times B/C$$

“A” represents the normal pension, determined according to the value of the benefits of the member as at the date of execution of partition or transfer for recognized credited service on the date of the valuation, that would have been payable to the member at normal retirement age according to the conditions and characteristics provided for by the plan for that pension;

“B” represents the sum remitted to the spouse further to partition or a transfer, including interest;

“C” represents the value considered for the purpose of the partition or transfer of the member’s benefits.

**33.** To determine the residual benefits of the member receiving a pension as at the date of execution of the partition or transfer of benefits, the amount referred to in subparagraph 2 of the first paragraph of section 55 of the Regulation respecting supplemental pension plans is equal to the amount calculated according to the following formula:

$$A - (A \times B/C)$$

“A” represents the benefit payable to the member as at the date of execution of the partition or transfer;

“B” represents the sum remitted to the spouse further to partition or a transfer, including interest;

“C” represents the value considered for the purpose of the partition or transfer of the member’s benefits.

**34.** Notwithstanding subparagraph 2 of the first paragraph of section 50 of the Regulation respecting supplemental pension plans, no amount granted to the spouse further to the partition or transfer of the member’s benefits may be retained in the plan or transferred thereto, even where the spouse is a member of the plan.

#### **DIVISION 6** **COMMUNICATIONS**

**35.** The summary of the pension plan provided for in section 111 of the Act must contain, in addition to the information provided for in section 56.1 of the Regulation respecting supplemental pension plans, the following:

(1) a description of what a target-benefit pension plan is, including the fact that benefits may vary according to the financial situation of the pension plan;

(2) a description of the risks for the members and beneficiaries as well as the methods used to manage those risks.

**36.** The document referred to in the first paragraph of section 112 of the Act must also contain:

(1) a description of what a target-benefit pension plan is, including the fact that benefits may vary according to the financial situation of the pension plan;

(2) a description of the risks for the members and beneficiaries as well as the methods used to manage those risks;

(3) a description of the benefits target.

**37.** The first part of the annual statement provided for in section 112 of the Act for an active member or non-active member must contain, in addition to the information referred to in section 57 or 59 of the Regulation respecting supplemental pension plans, adapted to take into account this Regulation, as the case may be:

(1) the amount of the pension, adjusted according to the financial situation of the plan, to which the member is entitled and the one to which the member would be entitled had the benefits target been reached;

(2) the value of the benefits of the member, adjusted according to the financial situation of the plan as at the date of the actuarial valuation, and the value those benefits would have attained at that date had the benefits target been reached, assuming a degree of solvency of 100%.

The first part of the statement sent to a beneficiary must contain, in addition to the information referred to in section 59.0.1 of the Regulation respecting supplemental pension plans, the amount of the pension, adjusted according to the financial situation of the plan as at the date of the actuarial valuation, to which the beneficiary is entitled and the one to which he would have been entitled had the benefits target been reached.

The statement must also mention that, should the member or beneficiary transfer his benefits, he will be entitled to the value of those benefits multiplied by the degree of solvency of the plan determined in accordance with section 20.

**38.** The second part of the annual statement provided for in section 112 of the Act must contain, in addition to the information referred to in section 59.0.2 of the Regulation respecting supplemental pension plans:

- (1) a description of the adjustments to benefits that were applied during the fiscal year concerned;
- (2) a description of the adjustments to benefits that will be applied at a later date and the effective date of the adjustments.

**39.** The statement referred to in section 113 of the Act must

- (1) not include a reference to section 60 of the Act;
- (2) indicate the most recent degree of solvency, determined in accordance with the second paragraph of section 20 as at the date the statement is prepared;
- (3) indicate the amount of the pension and the value of the benefits determined by taking into consideration the degree of solvency of the plan referred to in subparagraph 2;
- (4) indicate the amount of the pension that would apply had the benefits target been reached and the value of that pension, as determined by assuming a degree of solvency of 100%.

Where the statement is for a member referred to in section 18, the statement must mention the right to transfer provided for under that section.

The statement must also mention that, should the member leave his benefits in the plan, the benefits and their value could continue to vary according to the financial situation of the pension plan.

Furthermore, the statement must mention that the degree of solvency that applies in the case of the payment of benefits in full is the one determined in accordance with section 20.

**40.** During the annual meeting, the following subjects must be on the agenda in addition to those mentioned in section 166 of the Act:

- (1) a description of what a target-benefit pension plan is, including the fact that benefits may vary according to the financial situation of the pension plan;
- (2) a description of the risks for the members and beneficiaries as well as the methods used to manage those risks;
- (3) the adjustments to the benefits and the changes to member contributions or the benefits target applied during the fiscal year concerned;
- (4) the adjustments to the benefits and the changes to member contributions or the benefits target that will be applied at a later date and their effective date.

**41.** Where the pension committee proceeds with the payment of the benefits of a member or beneficiary on its own initiative, the pension committee must notify in writing the member or beneficiary concerned.

Where the payment of the benefits of a member or beneficiary whose pension is in payment is made by means of the purchase of an annuity, the notice must include the following information:

- (1) the name and contact information of the insurer that guaranteed the annuity;
- (2) the amount of the guaranteed annuity;
- (3) the amount of the pension the member or beneficiary was receiving prior to the purchase of the annuity;
- (4) the amount of the benefits target provided for under the plan.

In all cases the notice must also indicate that the member or beneficiary no longer has any connection to the plan.

**42.** The actuarial valuation report for the plan must indicate the adjustments to the benefits taken into consideration in the valuation, the calculations pertaining to their determination and their effective date. The report must also contain a summary of the adjustments to benefits and any amendments taken into consideration in the previous actuarial valuation.

The provisions of sections 4.1, 4.3 and 4.4 of the Regulation respecting supplemental pension plans that pertain to amendments considered for the first time apply, adapted as required, to any measure taken in application of section 28 being considered for the first time.

**43.** The Régie may require from a pension committee or an employer party to a pension plan, on the conditions and within the time limits established by the Régie, any document, information or report that it deems necessary for ascertaining that the requirements imposed by this Regulation are met, particularly concerning the contents of an actuarial valuation report provided for under this Division.

#### DIVISION 7 MISCELLANEOUS PROVISIONS

**44.** The fiscal year of a target-benefit pension plan corresponds to the calendar year except where, for the first fiscal year of the plan, the Régie has authorized a period that exceeds one year.

**45.** No multi-employer pension plan, even one not considered as such, may be established under this Regulation.

**46.** No purchase of past service or transfer of benefits from another plan is permitted under a target-benefit plan.

The provisions of this section do not hinder the exercise of the rights provided for under sections 79.3 and 81.15 of the Act respecting labour standards (chapter N-1.1), nor do they preclude the application of the plan provisions allowing the accrual of benefits for the periods of absence determined under the plan and for which the required contributions are paid during the same fiscal year.

**47.** Notwithstanding section 59 of the Act, periodic amounts payable as pension benefits may vary further to the adjustments provided for under subparagraph 1 of the first paragraph of section 25 or under the second or third paragraph of section 28.

**48.** A target-benefit plan may not be the object of a merger of all or part of its assets and liabilities with those of another plan, nor can it be converted to another type of plan.

**49.** The provisions of subdivision 4.0.1 of Division II of Chapter XIII of the Supplemental Pension Plans Act do not apply to a target-benefit pension plan.

**50.** The Regulation respecting measures to reduce the effects of the financial crisis on pension plans covered by the Supplemental Pension Plans Act (chapter R-15.1, r. 4) and the Regulation providing temporary relief measures for the funding of solvency deficiencies (chapter R-15.1, r. 3.1) do not apply to a target-benefit pension plan established under this Regulation.

#### DIVISION 8 TRANSITIONAL AND FINAL PROVISIONS

**51.** In the case of a target-benefit pension plan whose effective date is prior to the date of coming into force of this Regulation, the time period provided for under section 16 of the Act for notifying the Régie, as well as the time period provided for under section 25 of the Act for sending the Régie an application for the registration of a pension plan, begin on the latter date.

**52.** Where a member has received the statement referred to in section 113 of the Act prior to (*insert the date of publication of this Regulation*), the time period for exercising the right to transfer provided for under section 18 begins on the date on which the pension committee informs the member of the right provided for under that section.

The pension committee must inform, in a diligent manner and in writing, all members referred to in the first paragraph.

**53.** Notwithstanding subparagraph 1 of the first paragraph of section 119 of the Act, a pension committee has until (*insert the date that occurs 4 months after the date of publication of this Regulation*) to send the Régie any actuarial valuation report for a pension plan referred to in this Regulation whose date is prior to 1 January 2013.

The fees provided for under the fourth paragraph of section 14 of the Regulation respecting supplemental pension plans 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 occurs 4 months after the date of publication of this Regulation*).

**54.** The annual statements referred to in section 112 of the Act already filed for the fiscal year ending on 31 December 2011, where applicable, do not have to be filed again. Annual statements related to the fiscal year ending on 31 December 2012, however, must include for the previous fiscal year the adaptations required under the provisions of this Regulation.

Notwithstanding the first paragraph of section 112 of the Act, the time period for sending to members and beneficiaries the statement referred to in that section for the fiscal year ending on 31 December 2012 expires on (*insert the date that occurs 4 months after the date of publication of this Regulation*).

**55.** An annual meeting held before (*insert the date of publication of this Regulation*) with regard to a fiscal year that ended before that date does need to be held again. However, at the first annual meeting held after that date, a summary of the information required under the provisions of this Regulation must be presented.

**56.** Notwithstanding section 205 of the Act, where, with regard to service covered by a component of a pension plan established in accordance with a regulation made pursuant to section 2 of the Act, a target-benefit pension plan is established as a separate plan, the existing plan may not be terminated solely because it no longer has active members, for so long as the target-benefit plan has active members.

**57.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec* but has effect from 31 December 2010.