

Regulations and other Acts

Gouvernement du Québec

O.C. 499-2014, 11 June 2014

Voluntary Retirement Savings Plans Act
(chapter R-17.0.1)

Voluntary retirement savings plans

CONCERNING the Regulation respecting voluntary retirement savings plans

WHEREAS, under section 113 of the Voluntary Retirement Savings Plans Act (chapter R-17.0.1), the Government may, by regulation, prescribe the measures required for the application of that Act;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation respecting voluntary retirement savings plans 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* of 12 March 2014;

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 respecting voluntary retirement savings plans, attached hereto, be made.

JUAN ROBERTO IGLESIAS,
Clerk of the Conseil exécutif

Regulation respecting voluntary retirement savings plans

Voluntary Retirement Savings Plans Act
(chapter R-17.0.1, s. 113)

CHAPTER I REGISTRATION OF THE PLAN AND ITS AMENDMENTS

1. The application for registration of a voluntary retirement savings plan must, in addition to the documents and information required under section 3 of the Voluntary Retirement Savings Plan Act (chapter R-17.0.1), contain the following information:

(1) the name of the plan;

(2) the name of the plan administrator, the address of its head office and, where applicable, the address of its principal establishment in Québec;

(3) the name of the representative of the plan administrator, and the address and telephone number of his office;

(4) the name of the individual who signed the application, and the address and telephone number of his office.

The signatory of the application must certify

(1) that he is authorized to prepare and sign the application for registration of the plan on behalf of the plan administrator;

(2) that the person who signed the plan text or who certified the copy of the plan that accompanies the application to be a true copy is qualified to do so;

(3) that the information contained in the application is exact to the best of his knowledge.

2. The application for registration of an amendment to a pension plan must, in addition to the documents and information required under section 3 of the Act, contain the following information:

(1) the name of the plan and the number assigned to it by the Régie des rentes du Québec;

(2) the purpose of the amendment and its effective date;

(3) the name of the individual who signed the application, and the address and telephone number of his office;

(4) a copy of the notice provided for in the third paragraph of section 3 of the Act, and the date the notice was sent.

The signatory of the application must certify

(1) that he is authorized to make and sign the application for registration of an amendment on the administrator's behalf;

(2) that the person who certified the text of the amendment or who certified the copy of the amendment that accompanies the application to be a true copy is qualified to do so;

(3) that the information contained in the application is exact to the best of his knowledge.

3. With the application for the registration of a pension plan, the administrator must send fees in the amount of \$1,500 to the Régie.

4. For the purposes of section 4 of the Act, the plan text must contain the following information:

(1) the rights and obligations of the employer and the plan members provided for under the Act as well as the rights and obligations of the administrator in respect of them;

(2) the name of each investment option offered as well as the respective targets for the distribution of assets, where applicable;

(3) for each investment option, the percentage of the fees determined in accordance with section 17;

(4) each of the fees referred to in the second paragraph of section 18, with the exception of the fees referred to in subparagraphs 3 and 5 of that paragraph;

(5) the transfer costs imposed on the employer in accordance with the first paragraph of section 50 of the Act;

(6) the frequency at which the investment options chosen by a plan member can be changed;

(7) where the administrator provides a statement showing changes in the account more often than the frequency provided for in paragraph 1 of section 95 of the Act, the frequency at which the statement is issued;

(8) the requirements a member must meet to be entitled to a transfer or refund of his account, and the frequency at which he may make such a request;

(9) where applicable, the conditions whereby and time limits within which the member or his spouse can receive variable payments.

5. For the purposes of section 8 of the Act, an amendment to a plan may become effective before the date on which it is registered with the Régie where

(1) the amendment is made for the purpose of complying with a legal requirement. In such case, it must have effect on the date provided for by law;

(2) the purpose of the amendment is to reflect a change in the name of the administrator. In such case, it must have effect on the date on which the change of name occurs;

(3) the amendment is to the advantage of the plan members. In such case, it must have effect on the date determined by the administrator.

CHAPTER II ADMINISTRATION OF THE PLAN

DIVISION I CONTRACT AND SUMMARY

6. For the purposes of section 17 of the Act, the contract between the administrator of a plan and an employer or individual, as the case may be, must contain, in addition to that referred to in section 4, the following information:

(1) the number assigned to it by the Régie;

(2) the method for paying contributions;

(3) in the case of a contract between the administrator and an employer:

a) the frequency at which plan members may change their rate of contribution;

b) any contribution that the employer agrees to pay into the plan;

c) the consequences of the employer's failure to pay employee contributions into the plan within the time frame provided for in section 59 of the Act.

7. In addition to the information prescribed by subparagraph 2 of the first paragraph and the third paragraph of section 19 of the Act, the summary that the administrator transmits to each employee who is a member of the plan shall contain the following information:

(1) any contribution that the employer agrees to pay into the plan;

(2) a mention that if the employee who is registered for the plan does not choose an option within 60 days of the date on which is sent the notice provided for in subparagraph 1 of the first paragraph of section 19 of the Act, the default investment option will apply to his account;

(3) the conditions whereby and the frequency at which investment options may be changed;

(4) for each of the fees related to the plan, the fact that they will be levied, either by deduction from the return on assets or another method;

(5) the conditions whereby a member or the member's spouse may receive variable payments, if applicable;

(6) where the administrator provides a statement showing changes in the account more often than the frequency provided for in paragraph 1 of section 95 of the Act, the frequency at which the statement is issued;

(7) the terms and conditions for changing the designated beneficiary in case of the death of the member.

DIVISION II REFUSALS

8. For the purposes of section 21 of the Act, an administrator may refuse an employer's or an individual's application to join the plan where the employer or the individual has been placed on the list referred to in section 83.05 of the Criminal Code (R.S.C. 1985, c. C-46) or, in the last seven years, where the employer or the individual has been found guilty of an offence under section 380 or 462.31 of that Code.

The administrator may also refuse an individual's application to join the plan where the individual is not a resident of Québec.

DIVISION III AUTHORIZED INCENTIVES

9. For the purposes of sections 23 and 54 of the Act, an incentive shall be authorized provided it respects the provisions of the Act respecting insurance (chapter A-32), the Act respecting the distribution of financial products and services (chapter D-9.2) and the Securities Act (chapter V-1.1), in the following cases:

(1) the incentive, whether a product or service, is offered to the advantage of the members and the benefits are the same for all members connected with the employer;

(2) where the incentive is monetary, does not exceed the employer's expenses and is offered for the transfer of assets from one plan to another.

DIVISION IV ANNUAL INFORMATION RETURNS AND FINANCIAL STATEMENTS

10. The annual statement provided for in section 24 of the Act shall, when transmitted to the Régie, be accompanied with fees of \$1,000 plus, for each plan member on the ending date of the fiscal year to which the statement pertains, an amount of:

(1) \$2.50 for the fiscal year ending on 31 December 2015;

(2) \$3.00 for the fiscal year ending on 31 December 2016;

(3) \$4.00 for the fiscal year ending on 31 December 2017;

(4) \$5.00 for the fiscal year ending after 30 December 2018.

11. As of 1 January 2019, the fees payable per a plan member pursuant to section 10 shall be indexed on 31 December of each year by multiplying the amount payable before that date by the ratio that the average, for the 12-month period ending on 30 June of the current year, of the average weekly salaries and wages for the Industrial Composite in Canada for each of the months comprised in that period, as published by Statistics Canada pursuant to the Statistics Act (Revised Statutes of Canada, 1985, chapter S-19), bears to the average, for the 12-month period ending at the end of June of the year immediately preceding the current year, of the average weekly salaries and wages for the Industrial Composite in Canada for each of the months comprised in that period, as published by Statistics Canada pursuant to the Statistics Act. The result of indexation shall be rounded up to the nearest multiple of \$0.05.

The amount thus determined may not be less than the amount that was payable before indexation.

The Régie shall publish in the *Gazette officielle du Québec* the result of indexation and, if it deems it to be expedient, by way of any other medium.

12. For the purposes of section 24 of the Act, in addition to the information required in section 4600 of the Chartered Professional Accountant Canada Handbook (CPA Canada), the statement of changes in the net assets for the payment of benefits shall present the elements referred to in the first and second paragraphs of section 18 separately, either within the body of the financial statement, or in the notes.

DIVISION V INVESTMENT OPTIONS

13. For the purposes of section 25 of the Act, the default investment option is based on a "lifecycle" approach where the degree of risk, based on the member's age, is adjusted as he approaches retirement age. It is composed of one or more types of investments referred to in subparagraph 2 of the second paragraph.

Furthermore, the conditions whereby the plan administrator offers other investment options from which the member may choose are as follows:

(1) the same investment options shall be offered to all plan members;

(2) the other investment options shall be selected from the following types of investments:

a) an insurance product or annuity;

b) a money deposit in Canadian funds at an institution that holds a license under the Deposit Insurance Act (chapter A-26) or at a bank listed in Schedule I or II of the Bank Act (Statutes of Canada, 1991, chapter 46), or a debt security issued by such an institution or bank, provided a document certifying the institution's or bank's obligation to pay or refund specifically mentions the name of the individual who, on the date the document was issued, is entitled to the payment or refund of the amounts received;

c) investment fund securities;

d) a bond or other debt security issued or guaranteed by a government in Canada, by one of its agencies, or by a municipality in Canada.

14. For each investment option offered under the plan that is not governed by the guidelines adopted in accordance with the Act respecting insurance or for an investment fund that is not a reporting issuer in accordance with Québec securities legislation, the administrator shall send each employee registered for the plan the following information, according to the type of option and where applicable:

(1) the objective of the investment;

(2) the type of investment and the degree of risk the option entails;

(3) the ten largest investments in the option, distributed according to their fair value;

(4) the prior return on investments for the option, for a period covering the ten most recent years of its existence or since its creation, where it has existed for fewer than 10 years;

(5) the fact that the prior return on investments for the option is not necessarily indicative of future performance;

(6) the address of the Web site on which the return on investments that has been set can be consulted;

(7) the benchmark index that best reflects the makeup of the investment option;

(8) the fees related to the option, expressed as a percentage or as a set amount;

(9) the targets for the distribution of the option's assets;

(10) the possibility of buy-backs and the conditions that apply thereto.

The administrator shall send the information to the employee on paper or in electronic format within the time period referred to in the first paragraph of section 19 of the Act or provide him, in real time, with the information or instructions required to consult the information on a Web site.

In the case of an individual, the administrator must provide the information in the manner provided for in the second paragraph before the contract is signed.

In all cases, the choice of medium or technology is at the employee's or the individual's discretion.

A document is deemed to have been remitted where an employee or individual consults the information on a Web site in accordance with the information and instructions provided by an administrator.

15. Where a plan is offered in accordance with the third paragraph of section 42 of the Act, no later than 10 days after a plan is registered, the administrator shall make available on its Web site and provide in writing on receipt of a request from the member, the information referred to in section 14 or any other equivalent information that it must divulge in accordance with the legislation applicable to it.

16. For the purposes of section 26 of the Act, where the administrator ceases to offer an investment option, the administrator shall notify the affected members as soon as possible.

The notice sent to the affected members must contain the following information:

(1) a description of the investment options offered;

(2) a mention that further information on the investment options is available on a Web site or, where requested by the member, provided in writing;

(3) a mention that the member has 60 days following receipt of the notice to choose another option and, if he fails to do so within the time allotted, a mention of the option that the administrator will retain.

Where, upon the expiry of that 60-day time period, the member has made no choice, the administrator shall place the member's funds in an option similar to the initial option or in the default investment option.

The transfer of the member's funds to a new investment option may not be subject to any fees, deductions or other expenses.

DIVISION VI

LOW COST OF THE PLAN

17. For the purposes of the first paragraph of section 27 of the Act, a plan is low cost where the total of the fees referred to in the first paragraph of section 18, expressed as a percentage of the average assets, is less than or equal to:

- (1) 1.25% for the default investment option;
- (2) 1.5% for any other investment option.

However, where an administrator offers a pooled registered pension plan, within the meaning of the Pooled Registered Pension Plans Act (S.C. 2012, c. 16), the fees referred to in the first paragraph may not exceed the costs of that plan. Where the administrator offers more than one pooled registered pension plan, the fees referred to in the first paragraph may not exceed the average costs for the plans.

18. For the purposes of the second paragraph of section 27 of the Act, the only fees an administrator may deduct from the return on assets are as follows:

- (1) the management and administration fees for each investment option, including the fees referred to in section 10;
- (2) the amounts paid as emoluments for the representatives who act on behalf of the administrator;
- (3) the applicable taxes under Part IX of the Excise Tax Act (R.S.C., 1985, c. E-15) and Title I of the Act respecting the Québec Sales Tax (chapter T-0.1).

Furthermore, the fees an administrator may charge to members are as follows:

- (1) a maximum of \$50 relating to the transfer of funds to another pension plan;

(2) those related to the reimbursement of funds referred to in sections 68, 69, 72 and 73 of the Act;

(3) those related to a request for advice made by a member;

(4) the amount attributed to a member's portion of a maximum of \$100 for carrying out the transfer of benefits between spouses and \$150 for producing the statement of benefits referred to in section 76 of the Act. The other portion is payable by the member's spouse;

(5) those related to a search for the contact information of an untraceable member;

(6) those related to a cheque without sufficient funds issued by the member;

(7) those related to a stop payment order on a cheque or deposit requested by the member;

(8) those related to sending a copy of a document at the member's request.

Prior to rendering the service provided for in subparagraph 3 of the second paragraph, the administrator shall inform the member of the cost of the service.

DIVISION VII

AGREEMENTS

19. For the purposes of section 46 of the Act, the agreement reached between an employer and a professional order, an association or other group must contain the following information:

- (1) the employer's name and contact information;
- (2) the name of the employer's representative, and the address and telephone number of his office;
- (3) the frequency at which plan members may change their rate of contribution;
- (4) any contribution that the employer agrees to pay into the plan;
- (5) a mention that contributions will be collected by the employer and remitted to the administrator;
- (6) a mention that the professional order, association or other group, as the case may be, will send a copy of the agreement to the administrator without delay.

DIVISION VIII PERSONAL INFORMATION

20. For the purposes of paragraph 4 of section 47 of the Act, the employer shall provide the administrator with the following personal information concerning each affected employee and each employee who applies to join the plan:

- (1) his name, address and telephone number;
- (2) his date of birth;
- (3) his social insurance number;
- (4) his language of communication.

DIVISION IX CHANGING PLANS

21. For the purposes of section 50 of the Act, where the employer changes voluntary retirement savings plans, the plan member may elect to leave the amounts he has accrued in the plan or transfer the amounts to the new plan.

Further to such a change in plans, the member's new contributions are paid into the new plan.

Where the employer has not paid the costs mentioned in the first paragraph of section 50 of the Act, the plan administrator is not required to carry out the transfer.

CHAPTER III CONTRIBUTIONS

DIVISION I CONTRIBUTION RATE

22. For the purposes of section 55 of the Act, the default contribution rate is set at:

- (1) 2% of gross salary, from 1 July 2014 to 31 December 2017;
- (2) 3% of gross salary, from 1 January 2018 to 31 December 2018;
- (3) 4% of gross salary, as of 1 January 2019.

Gross salary" means any type of remuneration from the employer that is part of the base wages, within the meaning of section 1159.1 of the Taxation Act (chapter I-3), excluding bonuses and remuneration for work carried out in addition to the usual work hours.

23. For the purposes of section 56 of the Act, the member who contributes to a voluntary retirement savings plan may, at any time, set his contribution rate at 0%. However, the member who as an employee participates in a plan offered by his employer may set his contribution rate at 0% where he has contributed for at least 12 consecutive months since his registration, or before that time period where tax rules no longer allow him to contribute amounts to the plan, provided he pays into the plan an additional contribution equal to or greater than the contribution determined for that period or where his employer contributes on his behalf.

24. For the purposes of section 60 of the Act, contributions due shall bear interest at the rate set in accordance with section 28 of the Tax Administration Act (chapter A-6.002).

DIVISION II MEMBER ACCOUNTS

25. For the purposes of section 65 of the Act:

(1) the following are also credited to the member's locked-in account:

a) the dividends, refunds or other advantages granted by the administrator with respect to the account;

b) where their transfer into the plan is permitted by the administrator, amounts from a pension plan referred to in section 27 and that provides that the amounts must be locked-in;

(2) the following are also credited to the member's not locked-in account:

a) the dividends, refunds or other advantages granted by the administrator with respect to the account;

b) where their transfer into the plan is permitted by the administrator, amounts transferred other than those referred to in subparagraph *b* of paragraph 1.

26. The administrator may close the member's accounts where the balance of the accounts for a period of at least 12 consecutive months is zero and no transactions related to the accounts have been made.

Furthermore, where the amounts to be paid to an untraceable member are transferred to the Minister of Revenue in accordance with the Unclaimed Property Act (chapter B-5.1), the administrator may close the accounts of that member.

DIVISION III REFUNDS AND TRANSFERS

27. For the purposes of section 67 of the Act, the pension plans to which amounts from a locked-in account can be transferred where the member's employment is terminated, the member reaches age 55, the member's employer establishes a pension plan or an account referred to in the third paragraph of section 45 of the Act, or in the case of a member for whom no employer has joined the plan, are as follows:

(1) a supplemental pension plan governed by the Supplemental Pension Plans Act (chapter R-15.1) or governed by an Act emanating from a legislative authority other than the Parliament of Québec and granting entitlement to a deferred pension;

(2) a supplemental pension plan established by an Act emanating from the Parliament of Québec or from another legislative authority;

(3) a life income fund referred to in section 18 of the Regulation respecting supplemental pension plans (chapter R-15.1, r. 6);

(4) a locked-in retirement account referred to in section 29 of the Regulation respecting supplemental pension plans;

(5) an annuity contract referred to in section 30 of the Regulation respecting supplemental pension plans;

(6) the locked-in account of another voluntary retirement savings plan governed by the Act;

(7) the locked-in account of an equivalent voluntary retirement savings plan emanating from a legislative authority other than the Parliament of Québec, provided the member joins that plan as part of his employment.

28. In the cases provided for in section 68 of the Act and for the purposes of sections 69 and 72 of the Act, the pension plans to which amounts may be transferred are as follows:

(1) a supplemental pension plan governed by the Supplemental Pension Plans Act or by an Act of a legislative authority other than the Parliament of Québec and granting entitlement to a deferred pension;

(2) a supplemental pension plan established by an Act emanating from the Parliament of Québec or from another legislative authority;

(3) a registered retirement income fund defined in section 1 of the Taxation Act;

(4) a registered retirement savings plan defined in section 1 of the Taxation Act;

(5) an annuity contract referred to in section 30 of the Regulation respecting supplemental pension plans;

(6) the not locked-in account of another voluntary retirement savings plan governed by the Act;

(7) the not locked-in account of an equivalent voluntary retirement savings plan emanating from a legislative authority other than the Parliament of Québec, provided the member joins that plan as part of his employment.

29. For the purposes of subparagraph 3 of the first paragraph of section 68 of the Act, the member may withdraw the funds in his locked-in account by applying to the administrator with a declaration in conformity to the one prescribed in Schedule A, where:

(1) the member is at least 65 years of age; and

(2) the total of the sums credited to his account in the pension plans referred to in Schedule A do not exceed 40% of the Maximum Pensionable Earnings determined in accordance with the Act respecting the Québec Pension Plan (chapter R-9) for the year in which he applies for the payment.

DIVISION IV VARIABLE PAYMENTS

30. The variable payments that a member or his spouse may receive under section 70 of the Act are subject, for any calendar year, to the minimum provided for in section 31 and, with respect to amounts from the locked-in account, the maximum provided for in section 32.

31. The minimum applicable is the minimum prescribed under paragraph 5 of section 8506 of the Income Tax Regulations enacted under the Income Tax Act (C.R.C. c. 945).

32. The maximum applicable for variable payments is determined in accordance with the rules provided for in sections 19.1, 20, 20.1, 20.3, 20.4, 21 and 22.2 and schedules 0.4, 0.6, 0.7, 0.8 and 0.9 of the Regulation respecting supplemental pension plans, with the necessary modifications, and in particular:

(1) by replacing "income" with "variable payment" wherever it appears in the provisions;

(2) by replacing “54 years of age” with “55 years of age at the time the application is made” in subparagraph 2 of the first paragraph of section 19.1, in the first paragraph of section 20.3 and in subparagraph 1 of Schedule 0.4;

(3) by replacing, in the heading of Schedule 0.9, “54 years or over at the end of the year preceding the year of the transfer” with “55 years or over at the time the application for variable payments is made”.

33. In the calendar year during which the member reaches age 55, the applicable maximum is multiplied by the quotient of the number of months remaining in the year divided by 12, where a part of a month is considered a month.

34. For the purposes of section 73 of the Act, on the death of a member who was receiving variable payments, the member’s spouse or, if there is no spouse, the member’s successors, shall be entitled to a benefit the amount of which is equal to the balance of the member’s accounts, including interest accrued to the date of payment, or to a transfer of all or part of the amount to a pension plan provided for in section 28 and chosen by the spouse or, if there is no spouse, the member’s successors, to the extent permitted by tax rules.

CHAPTER IV TRANSFER OF BENEFITS BETWEEN SPOUSES

DIVISION I DEFINITIONS AND INTERPRETATION

35. For the purposes of this Chapter:

“date of the valuation” means:

(1) for the purpose of preparing the statement under section 76 of the Act:

a) the date of institution of proceedings, where the statement is requested after the proceedings provided for under the first paragraph of that section have been instituted;

b) the date on which the member and his spouse ceased to live together, where the statement is requested for the purposes of pre-hearing mediation concerning a family matter;

c) the date set for determining the net value of family patrimony, where the statement is requested during a joint procedure before a notary for the dissolution of a civil union;

d) the date on which the spouses’ conjugal relationship ended, where the statement is requested further to the cessation of conjugal relationship between spouses who were not married or in a civil union;

(2) for any other purpose, the date set for the valuation of the member’s benefits in the voluntary retirement savings plan by the judgment, transaction contract or agreement giving rise to the partition or transfer of the benefits or, if there is no provision in the judgment, contract or agreement, the date provided for by the act governing the partition of the spouses’ property;

“date of institution of proceedings” means the date of the application for separation from bed and board, for divorce, for annulment of marriage, for the dissolution or annulment of a civil union or for the payment of a compensatory allowance, according to the procedure at the origin of the partition or transfer of benefits.

36. For the purposes of sections 37 to 41 regarding married spouses whose marriage entailed the dissolution of their civil union:

(1) the date of the marriage is replaced with the date of the civil union;

(2) the period of the marriage begins on the date of the civil union.

DIVISION II STATEMENT OF THE MEMBER’S BENEFITS

37. The application for the statement provided for in section 76 of the Act shall contain the following documents and information:

(1) the name and address of the member and his spouse;

(2) in the case of married spouses, proof of the date of their marriage and either proof of the date on which proceedings were instituted or, where the application is made on the occasion of mediation, a joint declaration of the date on which the spouses ceased to live together;

(3) in the case of spouses in a civil union:

a) proof of the date of their civil union;

b) one of the following documents, as applicable:

i. proof of the date on which proceedings were instituted;

ii. where the application is made on the occasion of mediation, a joint declaration of the date on which the spouses ceased to live together;

iii. where the application is made during a joint procedure before a notary for the dissolution of a civil union, a joint declaration of the date set for determining the net value of family patrimony;

(4) in the case of spouses who were neither married nor in a civil union, an attestation from the member as to his spousal status as well as an attestation from the member and his spouse of the dates on which their conjugal relationship began and ended and, if they lived in a conjugal relationship for at least one year but less than three years, proof of one or the other of the cases referred to in subparagraph 2 of the first paragraph of section 71 of the Act.

The application made on the occasion of mediation shall also contain the written confirmation of an accredited mediator to the effect that he received a mandate within the context of family mediation. The application made on the occasion of a joint procedure before a notary for the dissolution of a civil union must also include written confirmation from a notary to the effect that he received a mandate as part of that procedure.

38. The administrator must, within 60 days of receiving the application, provide the applicant and his spouse with the statement referred to in section 76 of the Act.

That statement is divided into two parts, the first of which must contain the following information:

(1) the value of the total benefits referred to in Division III that have been credited to the locked-in and not locked-in accounts as at the valuation date, broken down by account;

(2) in the case of spouses who are married or in a civil union:

a) the value of the benefits accrued during the marriage or civil union referred to in Division IV, broken down by account;

b) where the administrator does not have information relative to the balance of one of the accounts on the date of the marriage or civil union:

i. the information it has relative to the balance of the account on the date that is the closest to the date of the marriage or civil union;

ii. the interest rate, referred to in the second paragraph of section 40, that applies between the date of the marriage or civil union and the date of the valuation.

The first part of the statement shall be signed by the person who prepared it. Unless the Court is shown that the benefits and periods appearing on the statement must be corrected or that the values appearing on the statement were not determined according to the rules provided for in this Chapter, the statement shall constitute proof of its content.

The second part of the statement must contain the following information:

(1) the name of the voluntary retirement savings plan and the number assigned to it by the Régie;

(2) in the case of spouses who are married or in a civil union, the date of the marriage or civil union and the date of the valuation;

(3) in the case of spouses who were neither married nor in a civil union, the dates of the beginning and end of the conjugal relationship of the member and his spouse;

(4) the date on which the member registered for or joined the plan;

(5) the name and address of the person to be contacted for any information concerning the plan;

(6) the rules governing the calculation of the interest that is added to the amount granted to the spouse.

DIVISION III

TOTAL BENEFITS ACCRUED BY THE MEMBER

39. The aggregate benefits of the member correspond to the sums credited to his accounts as at the date of the valuation. The sums must be broken down by locked-in and not locked-in account.

DIVISION IV

VALUE OF THE BENEFITS ACCRUED DURING THE MARRIAGE OR CIVIL UNION

40. The value of the benefits accrued during the marriage or civil union corresponds to the difference between the value of the benefits accrued as at the date of the valuation and the date of the marriage or civil union, increased by interest for the period included between the date of the marriage or civil union and the date of the valuation.

The interest referred to in the first paragraph is calculated at the rates of return used for the account during the period in question. Where that rate is not available, interest is calculated at the average annual rates of return on five-year personal term deposits with chartered banks.

The average annual rates of return referred to in the second paragraph are determined by taking the average of the rates of return on those term deposits, as compiled monthly by Statistics Canada and published in the Bank of Canada's Banking and Financial Statistics in CANSIM series V122515. However, where the annual rates of return published monthly and available for the current year are fewer than six in number, that average is calculated on the basis of the last six rates of return available.

Where the result of the calculation made in accordance with the third paragraph is not a multiple of one-quarter of one percent, the average is rounded down to the nearest one-quarter.

41. The total value of the benefits accrued by the member during his marriage or civil union is equal to the sum of the value of the benefits accrued in each of his accounts during his marriage or civil union.

DIVISION V **EXECUTION OF PARTITION OR OF TRANSFER** **OF BENEFITS**

42. The application for partition or transfer of the member's benefits must be accompanied with a copy of the following documents:

(1) where the application is made further to a judgment of separation from bed and board, of divorce, of annulment of marriage or of the dissolution or annulment of a civil union, or a judgment ordering the payment of a compensatory allowance:

a) the judgment and any other judgment relative to the partition or transfer of the member's benefits;

b) the certificate of non-appeal;

c) any agreement entered into by the spouses relative to the partition or transfer of the member's benefits;

(2) where the application is made further to the dissolution of a civil union by joint declaration before notary, the declaration and the transaction contract;

(3) where the application is made further to the cessation of the conjugal relationship in the case of spouses who were neither married nor in a civil union, the agreement entered into by the spouses relative to the partition of the member's benefits.

43. Unless the application for partition or for execution of the transfer is a joint application, the administrator must, upon receipt, send the applicant's spouse a written notice informing him of that application and of the amount requested by his spouse.

The administrator may not execute the partition or transfer before the expiry of a 60-day period following the sending of that notice to the applicant's spouse, nor may the administrator do so if it is advised that the member's spouse has duly waived his entitlement or that the member has filed a judicial application in order to oppose the partition or transfer.

44. Interest calculated at the rates provided for in the second paragraph of section 40 must be added to the amount payable to the spouse.

Interest accrues from the date of the valuation.

45. Unless the Court indicates otherwise, the administrator may partition the member's benefits or execute the transfer of part of those benefits only to the extent that that partition or that transfer does not have the effect of depriving the member of more than half of the total value of the benefits that he accumulated before and during his marriage or civil union.

Where the judgment, the agreement entered into by spouses who are married or in a civil union or the notarized transaction contract does not provide for the portion of the value of the member's benefits or the amount allocated to the spouse, the value of the benefits that the member accrued during his marriage or civil union is divided equally between the spouses.

46. For the purposes of section 78 of the Act, within 60 days following either receipt of a joint application concerning partition or an execution of a transfer, or the expiry of the period provided for in the second paragraph of section 43 and, except in the latter case, unless it has been notified of the spouse's waiver or of a judicial opposition to the partition or transfer of the member's benefits, the administrator shall, with respect to the sum granted to the spouse, including interest, take one of the following measures:

(1) except in the cases referred to in the second paragraph, transfer the sum deducted from the locked-in account to one of the following pension plans:

a) a pension plan referred to in paragraph 1 or 2 of section 27 of which the spouse is a member, on the understanding that the sum must, in the case of a simplified pension plan referred to in Division IV of the Regulation respecting the exemption of certain categories of pension plans from the application of provisions of the Supplemental Pension Plans Act (chapter R-15.1, r. 7), be credited to his locked-in account;

b) the locked-in account of the voluntary retirement savings plan in the spouse's name; and as such, the spouse becomes a member of the voluntary retirement savings plan;

c) the locked-in account of another voluntary retirement savings plan;

d) a locked-in retirement account referred to in section 29 of the Regulation respecting supplemental pension plans;

e) a life income fund referred to in section 18 of the Regulation respecting supplemental pension plans;

f) an annuity contract referred to in section 30 of the Regulation respecting supplemental pension plans;

(2) pay or transfer the sum deducted from the not locked-in account or, in the cases referred to in the second paragraph, pay or transfer the sum deducted from the locked-in account to one of the following pension plans:

a) another pension plan of which the spouse is a member, on the understanding that the sum must, in the case of a simplified pension plan, be credited to his not locked-in account;

b) the not locked-in account of the voluntary retirement savings plan in the spouse's name; and as such, the spouse becomes a member of the voluntary retirement savings plan;

c) the not locked-in account of another voluntary retirement savings plan;

d) the not locked-in account of an equivalent voluntary retirement savings plan emanating from a legislative authority other than the Parliament of Québec, provided the spouse joins that plan as part of his employment;

e) a registered retirement savings plan;

f) a registered retirement income fund defined in section 1 of the Taxation Act;

g) an annuity contract referred to in section 30 of the Regulation respecting supplemental pension plans.

The cases mentioned in subparagraph 2 of the first paragraph are as follows:

(1) the sum referred to in that paragraph is less than 20% of the Maximum Pensionable Earnings determined under the Act respecting the Québec Pension Plan for the year in which the application regarding transfer or partition is filed;

(2) the spouse is considered not to have resided in Canada for the purposes of the Taxation Act, for at least two years.

Where the spouse fails to inform the administrator of the payment method selected, the administrator may, on its own initiative and on the expiry of that time period, transfer the sum to be paid to the spouse to one of the plans referred to in subparagraphs 1 or 2 of the first paragraph.

47. The partition or transfer of a member's benefits executed in the year of a judgment of separation from bed and board, of divorce, of annulment of marriage or the dissolution or annulment of civil union, or a judgment ordering the payment of a compensatory allowance may be revoked or annulled only for one of the causes provided for in article 424 of the Civil Code of Québec.

48. The sums paid to the spouse must be deducted from each of the member's locked-in and not locked-in accounts by the proportion the sum represents of the value of the accounts on the date of partition.

DIVISION VI **SEIZURE OF THE MEMBER'S BENEFITS**

49. The benefits allocated to the spouse may be paid without taking into account the conditions or time periods that affect the member's benefits.

50. The benefits awarded to the spouse following a seizure referred to in the third paragraph of section 78 of the Act are first deducted from the member's not locked-in account.

CHAPTER V **WINDING-UP AND TERMINATION**

51. The options that a member may exercise for the settlement of his benefits in accordance with subparagraph b of subparagraph 2 of the second paragraph of section 84 of the Act are as follows:

(1) the locked-in account may be transferred to one of the pension plans referred to in section 27;

(2) the not locked-in account may be paid or transferred to one of the pension plans referred to in section 28.

52. In addition to the information provided for in the second paragraph of section 84 of the Act, the statement sent to members by the administrator following a decision rendered by the Régie concerning the liquidation of the plan assets must contain the following information:

(1) the member's name;

(2) the date on which the member registered for or joined the plan;

(3) the name of the voluntary retirement savings plan and the number assigned to it by the Régie;

(4) the name of the administrator;

(5) the name, address and telephone number of the person to be contacted for any information concerning the plan;

(6) the name of any person entered in the records of the plan as the spouse or beneficiary of the member or, where necessary, a mention of the absence of an entry related to either of those capacities;

(7) the date on which the statement was established;

(8) for the period elapsed since the end of the fiscal year covered by the last annual statement sent to the member affected until the date on which the statement was established:

a) the contributions made to each account;

b) the dividends, refunds or other benefits granted with respect to each account;

c) the refunds, transfers or variable payments made with respect to each account;

d) the interest accrued;

(9) the fees deducted from the account since the last statement;

(10) the investments.

Where the administrator provides more than one statement showing changes in the member's accounts during a single fiscal year, the information provided for in the first paragraph must pertain to the period elapsed since the last statement was sent to the member.

CHAPTER VI OBLIGATION TO INFORM

53. The statement that the administrator of a plan must send to each member pursuant to paragraph 1 of section 95 of the Act must contain

(1) the member's name;

(2) the date on which the member registered for or joined the plan;

(3) the name of the voluntary retirement savings plan and the number assigned to it by the Régie;

(4) the name of the administrator;

(5) the name, address and telephone number of the person or department to be contacted for any information concerning the plan;

(6) the name of any person entered in the records of the plan as the spouse or beneficiary of the member or, where necessary, a mention of the absence of an entry related to either of those capacities;

(7) the date on which the statement was established;

(8) for each account during the fiscal year:

a) the contributions made;

b) the refunds, transfers or variable payments made;

c) the interest accrued;

d) the dividends, refunds or other advantages granted;

e) the fees deducted;

(9) the balance of each of the accounts at the end of the fiscal year;

(10) the investments;

(11) the summary of the transactions during the period in question with regard to investments;

(12) the name and a description of the benchmark index that best reflects the makeup of each of the member's investment options;

(13) the prior return on investments for each of the member's investment options for a period covering the ten most recent years of the option's existence or since its creation, where it has existed for fewer than 10 years;

(14) the degree of risk for each of the member's investment options, including a statement that the prior return on investments for each option is not necessarily indicative of future performance;

(15) the fees, other than those referred to in subparagraph *e* of subparagraph 8, for each of the member's investment options, expressed as a percentage or as a set amount;

(16) where the member has chosen to receive variable payments:

a) the maximum amount that may be paid to the member as variable payments during the current year;

b) the minimum amount that must be paid to the member as variable payments during the current year;

c) where the member is entitled to a temporary variable payment:

- i. the conditions he must meet in order to be entitled;
- ii. the reference temporary variable payment for the current year;
- iii. under what conditions the member may obtain a temporary variable payment greater than the reference temporary variable payment;
- iv. the effect of payment of an amount greater than the amount referred to in subparagraph *a*, for each year until the end of the year in which the member reaches 65 years of age, on the amounts that may be paid to him after that date;

d) that the transfer to the locked-in account of sums originating directly or not from a life income fund of the purchaser or a locked-in account of another voluntary retirement savings plan of a member during the same year may not result in a revision of the maximum amount that may be paid to the member from the locked-in account during the fiscal year;

e) that if the member wishes to transfer, in whole or in part, the balance of his locked-in account and still receive from the account the amount that he determined for the year, he must ensure that the balance of the account after the transfer is at least equal to the difference between the amount determined for the year and the amount he has already received since the beginning of the year.

In addition to the information provided for in the first paragraph, the statement for a member aged 55 or over must contain the information provided for in subparagraphs 3 to 5 of section 54.

Where the administrator provides more than one statement showing changes in the member's accounts during a single fiscal year, the information provided for in subparagraphs 8, 9 and 11 of the first paragraph must pertain to the period elapsed since the last statement was sent to the member.

54. The statement that the plan administrator must send to the affected member, for the purpose of paragraph 2 of section 95 of the Act, must contain

- (1) the date on which the member's employment ended;
- (2) for the period elapsed since the last statement received in accordance with paragraph 1 of section 95 of the Act until the date referred to in paragraph 1 above, the information provided for in subparagraphs 1 to 11 and 15 of the first paragraph of section 53;

(3) the terms for payment in full for each of the accounts;

(4) the fees for refunds or transfers;

(5) the cases provided for in section 68 of the Act entitling the member to a refund of the funds in his locked-in account.

55. The statement that the administrator of a plan must send to the spouse of a deceased member or to his successors, in accordance with paragraph 3 of section 95 of the Act, must contain:

(1) the name of the deceased member and his date of death;

(2) for the period elapsed since the last statement received in accordance with paragraph 1 of section 95 of the Act until the date of the member's death, the information provided for in subparagraphs 1 to 11 and 15 of the first paragraph of section 53;

(3) the individual who, based on the information at the administrator's disposal, is entitled to the amounts credited to each of the member's accounts and in what capacity;

(4) the terms for payment;

(5) the fees for refunds or transfers.

CHAPTER VII PUBLICATION OF INFORMATION

56. In addition to that which is provided for in section 101 of the Act, the Régie shall publish on its Web site, for each voluntary retirement savings plan registered with the Régie, the following information:

(1) the names and contact information of the administrators;

(2) the plan's registration number;

(3) for each investment option, the percentage of the fees determined in accordance with section 17;

(4) the fees referred to in subparagraphs 1 and 2 of the second paragraph of section 18;

(5) the transfer costs imposed on the employer in accordance with the first paragraph of section 50 of the Act.

57. This Regulation comes into force on 1 July 2014.

(SCHEDULE A)

(s. 29)

DECLARATION OF THE MEMBER

I declare:

(1) that the total of the locked-in amounts credited to my accounts in the following pension plans:

a) defined contribution pension plans;

b) defined benefit or defined benefit-defined contribution pension plans in application of provisions similar to those of a defined contribution plan;

c) life income funds;

d) locked-in retirement accounts;

e) voluntary retirement savings plans governed by the Voluntary Retirement Savings Plans Act (2013, chapter 26),

is \$ _____;

(2) that the total is based on the most recent information that I have;

(3) that the said information is less than 18 months old.

(Signature) _____ (Date) _____

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Gouvernement du Québec

O.C. 500-2014, 11 June 2014

Supplemental Pension Plans Act
(chapter R-15.1)

**Supplemental pension plans
— Amendment**

CONCERNING the Regulation to amend the Regulation respecting supplemental pension plans

WHEREAS, under subparagraphs 4 and 14 of the first paragraph of section 244 of the Supplemental Pension Plans Act (chapter R-15.1), the Régie des rentes du Québec may, by regulation:

— determine, for the purposes of section 92, under what conditions a pension may be replaced, the terms and conditions of the replacement pension contract and the methods, assumptions, rules or factors applicable in computing the maximum annual amount of pension;

— prescribe the fees payable for the financing of expenses incurred by the Régie for the administration of the Supplemental Pension Plans Act and its regulations;

WHEREAS, under the fifth paragraph of that section, the regulations of the Régie shall be submitted to the Government for approval;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting supplemental pension plans was published, with a written notice that it could be submitted for approval to the Government on the expiry of 45 days following its publication, in Part 2 of the *Gazette officielle du Québec* of 12 March 2014;

WHEREAS it is expedient to approve the amended Regulation;

WHEREAS, on 16 May 2014, the Régie adopted the Regulation to amend the Regulation respecting supplemental pension plans;

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

THAT the Regulation to amend the Regulation respecting supplemental pension plans, attached hereto, be approved.

JUAN ROBERTO IGLESIAS,
Clerk of the Conseil exécutif

**Regulation to amend the Regulation
respecting supplemental pension plans**

Supplemental Pension Plans Act
(chapter R-15.1, s. 244, 1st par., subpar. 4 and 14)

1. Section 13 of the Regulation respecting supplemental pension plans (chapter R-15.1, r. 6) is amended by replacing, in paragraph 2, “\$1,000 to which is added \$5.95 for each active plan member on the date of the application” with “\$1,500”.

2. Section 13.0.1 of the Regulation is amended by replacing, in the second paragraph, “\$4.50” with “\$5.00”.