



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 57

(2015, chapter 29)

An Act to amend the Supplemental Pension Plans Act mainly with respect to the funding of defined benefit pension plans

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EXPLANATORY NOTES

This Act amends the Supplemental Pension Plans Act mainly to establish a new method for funding defined benefit pension plans by replacing the solvency method by one based on funding.

It provides for the establishment of a stabilization provision whose level will be determined in the manner prescribed by regulation, including by using a scale to be applied in accordance with, in particular, the investment policy of the pension plan. The provision will be composed of actuarial gains, special current service contributions and special amortization payments.

Pension plans will be required to adopt a funding policy that meets the requirements prescribed by regulation.

The Act amends the rules for appropriating and allocating surplus assets during the life of a plan and in the event of termination of the plan. Surplus assets may not be appropriated to the payment of contributions or of additional obligations arising from an amendment to the plan nor be transferred to the employer unless the plan is funded, the target level of the stabilization provision has been exceeded by five percentage points and the degree of solvency of the plan is at least 105%. The surplus assets must first be appropriated to the payment of employer and member current service contributions. Up to 20% of any remaining surplus assets may, in accordance with the plan's provisions, be appropriated to the payment of the additional obligations arising from an amendment to the plan or the payment of member contributions or be transferred to the employer.

Employer contributions that are technical amortization payments or stabilization amortization payments, except those paid by letter of credit, must be monitored separately. These amounts will be used to determine, in the event of surplus assets, the maximum amount of the surplus that can be appropriated to the payment of employer contributions.

Under the Act, an actuarial valuation must be carried out every three years. However, if the funding level determined in an actuarial valuation is less than 90%, the plan must be the subject of annual actuarial valuations until the funding level reaches at least 90%. Furthermore, an annual notice on the financial position of the plan

must be sent to the Régie des rentes du Québec within four months after the end of every fiscal year of the plan.

Asset smoothing is allowed, but the averaging period cannot exceed five years.

Additional obligations arising from an amendment to a pension plan will be payable in a lump sum if the plan's funding level is below 90%. Otherwise, such obligations may be funded over a maximum period of five years.

The test for minimum employer contributions is amended by making it possible to distinguish between current service contributions and amortization payments if part of the latter is assumed by the members; however, a member's current service contributions may not be used to fund more than 50% of the value of the member's pension benefits.

The requirement to include the additional pension benefit is removed for all pension plans.

The benefits of members whose active membership ends, except in the case of members and beneficiaries who are required to transfer their benefits without having the option of maintaining them in the plan, are paid according to the degree of solvency of the plan, without residual benefits. For pension plans with an annuity purchasing policy that meets the requirements prescribed by regulation, payment of all or part of the pension benefit in accordance with that policy can constitute final payment of the benefits paid.

The Act allows variable benefits to be paid, as for a life income fund, under a plan's defined contribution provisions.

The Act also contains miscellaneous, consequential and transitional provisions to facilitate the implementation of the measures it proposes.

LEGISLATION AMENDED BY THIS ACT:

- Supplemental Pension Plans Act (chapter R-15.1).

Bill 57

AN ACT TO AMEND THE SUPPLEMENTAL PENSION PLANS ACT MAINLY WITH RESPECT TO THE FUNDING OF DEFINED BENEFIT PENSION PLANS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

SUPPLEMENTAL PENSION PLANS ACT

1. Section 14 of the Supplemental Pension Plans Act (chapter R-15.1) is amended

(1) by inserting the following subparagraph after subparagraph 9 of the second paragraph:

“(9.1) whether or not the members contribute to amortization payments and, if applicable, the method for calculating them;”;

(2) by inserting the following subparagraph after subparagraph 12 of the second paragraph:

“(12.1) if applicable, the powers under which the pension committee is authorized to make the final payment of all or part of the benefits of a member or beneficiary by purchasing an annuity from an insurer under the conditions provided for by the plan’s annuity purchasing policy, and the rules applicable to such a payment;”;

(3) by replacing subparagraphs 16, 16.1 and 17 of the second paragraph by the following subparagraphs:

“(16) the conditions and procedure for allocating surplus assets or, in the case of a pension plan to which Chapter X applies, the balance of surplus assets referred to in the third paragraph of section 230.2, in the event of termination of the plan;

“(17) in the case of a pension plan to which Chapter X applies, the conditions and procedure for appropriating all or part of the balance of surplus assets referred to in the third paragraph of section 146.8, either to the payment of the value of the additional obligations arising from an amendment to the plan, to the refund of member contributions or to the transfer of amounts to the employer or to a combination of those appropriation methods and, if applicable, the nature of the amendments that may be the object of such an appropriation;

“(18) in the cases referred to in section 146.9.2, the conditions and procedure for appropriating all or part of the surplus assets, either to the payment of employer contributions, to the payment of the value of additional obligations arising from an amendment to the plan or to a combination of these appropriation methods and, if applicable, the nature of the amendments that may be the object of such an appropriation.”

2. Sections 21.1 to 21.3 of the Act are repealed.

3. Section 26 of the Act is amended

(1) by replacing the second item of the list in subparagraph 2 of the first paragraph by the following item:

“—an amendment to the plan pertaining to the appropriation or allocation of surplus assets;”;

(2) by striking out the first sentence of the third paragraph;

(3) by replacing “In addition, where” in the third paragraph by “Where”;

(4) by replacing “il” in the third paragraph in the French text by “le présent article”.

4. Section 33 of the Act is amended by inserting “or to the plan’s annuity purchasing policy established in accordance with Division II.1 of Chapter XI” after “section 98” in the third paragraph.

5. The Act is amended by inserting the following before section 37:

“DIVISION I

“TYPE OF CONTRIBUTIONS”.

6. Section 38 of the Act is amended

(1) by adding, at the end, “and, in the case of a plan to which Chapter X applies, to establish a stabilization provision, determined in accordance with section 125, in respect of those obligations”;

(2) by adding the following paragraph at the end:

“The part of the current service contribution intended to establish the stabilization provision is to be called a current service stabilization contribution.”

7. The Act is amended by inserting the following sections after section 38:

“38.1. The following are amortization payments:

(1) the technical amortization payment, intended to amortize the unfunded actuarial liability determined in accordance with section 131;

(2) the stabilization amortization payment, intended to amortize the unfunded actuarial liability determined in accordance with section 132; and

(3) improvement amortization payments, intended to amortize any unfunded actuarial liability determined in accordance with section 134.

“38.2. The special improvement payment is a payment that, in respect of the additional obligations arising from an amendment to the pension plan, must be paid in accordance with section 139.

“38.3. The special annuity purchasing payment is a payment that may be required on a payment of benefits made in accordance with the annuity purchasing policy and that, if applicable, must be calculated and paid in accordance with the provisions provided for in section 142.4.”

8. The Act is amended by inserting the following before section 39:

“DIVISION II

“PAYMENT OF CONTRIBUTIONS”.

9. Section 39 of the Act is amended by replacing subparagraphs *a* and *b* of subparagraph 2 of the first paragraph by the following subparagraphs:

“(a) the current service contribution determined in accordance with sections 128 and 129;

“(b) the sum of the amortization payments determined for the fiscal year and the special improvement payments payable during the fiscal year.”

10. Section 39.1 of the Act is amended by adding the following paragraph at the end:

“The agreement referred to in subparagraph 3 of the first paragraph is not required if the contribution reduction is less than or equal to the sum of the current service stabilization contribution and the stabilization amortization payment.”

11. Section 41 of the Act is amended by replacing “a special amortization payment” in the first paragraph by “a special improvement payment”.

12. Section 42 of the Act is amended by adding “in relation to that liability” after “the amortization payment determined”.

13. Section 42.1 of the Act is replaced by the following sections:

“42.1. Under the conditions prescribed by regulation, an employer may, on providing the pension committee with a letter of credit established in accordance with the regulation, be relieved of paying all or part of the portion of the employer contribution determined for the current fiscal year of the pension plan in respect of the stabilization amortization payment payable during the year.

The total amount of such letters of credit may not exceed 15% of the liabilities of the plan, determined on a funding basis.

“42.2. Employer contributions that are technical amortization payments or stabilization amortization payments, except those paid by letter of credit, must be the subject of special monitoring. Employer contributions paid in excess of the contributions required must be included as well.

Member contributions that are technical amortization payments or stabilization amortization payments must also be the subject of special monitoring.

Interest on those contributions, at the rate of return obtained on the investment of the plan assets, reduced by the investment and administration fees, must be included as well.”

14. Section 60 of the Act is amended

(1) by inserting “described in section 38” in the first paragraph after “member contributions”;

(2) by inserting the following paragraph after the first paragraph:

“In addition, if the member contributes to amortization payments, the member’s member contributions, with accrued interest, reduced by the excess contributions calculated in accordance with the first paragraph may not be used to pay more than the value referred to in that paragraph.”;

(3) by striking out subparagraph 7 of the second paragraph.

15. Section 60.1 of the Act is repealed.

16. Section 61 of the Act is amended by replacing “sections 60 and 60.1 apply” in the first paragraph by “section 60 applies”.

17. Section 86 of the Act is amended by striking out “as well as the value of the additional pension under section 60.1” in subparagraph 1 of the second paragraph.

18. The Act is amended by inserting the following division after section 90:

“DIVISION III.1**“VARIABLE BENEFITS**

“90.1. A pension plan that includes defined contribution provisions may allow a member who has ceased to be an active member or, on the death of such a member, the member’s spouse to elect to receive variable benefits from the funds the member or spouse holds under the defined contribution provisions, on the conditions and within the time prescribed by regulation.”

19. Section 118 of the Act is replaced by the following section:

“118. Every pension plan must be the subject of an actuarial valuation

(1) at the date on which it becomes effective;

(2) no later than at the date of the end of the last fiscal year of the plan occurring within three years after the date of the last complete actuarial valuation of the plan;

(3) at the date of the agreement with the insurer for the purposes of a payment of benefits made in accordance with the plan’s annuity purchasing policy;

(4) in the case of an amendment having an impact on the funding of the plan, at the date determined under section 121;

(5) at the date of the end of the fiscal year of the plan that precedes a fiscal year in which surplus assets are appropriated to the payment of employer contributions under section 146.8; or

(6) whenever required by the Régie, at the date set by the Régie.

If an actuarial valuation referred to in subparagraph 2 of the first paragraph determines that the degree of solvency of the plan is less than 90%, the plan must be the subject of a complete actuarial valuation not later than the end date of the following fiscal year and the end date of each subsequent fiscal year, until the degree of solvency reaches at least 90%.

An actuarial valuation required under the first or second paragraph must be complete. However, the valuations required under subparagraphs 3, 4 and 5 of the first paragraph may be partial, but only if, in the case of a valuation referred to in subparagraph 4 or 5, the date of the valuation corresponds to the date of the end of the fiscal year of the plan and no complete actuarial valuation is required under this Act or by the Régie at that date.”

20. Section 119 of the Act is amended

(1) by inserting the following subparagraph before subparagraph 1 of the first paragraph:

“(0.1) not later than the expiry of the time granted under section 25 for filing the application for registration of the plan in the case of an actuarial valuation required under subparagraph 1 of the first paragraph of section 118;”;

(2) by replacing “subparagraph 2 of the first paragraph” in subparagraph 1 of the first paragraph by “subparagraph 2, 4 or 5 of the first paragraph or the second paragraph”;

(3) by inserting the following subparagraph after subparagraph 1 of the first paragraph:

“(1.1) within four months after the date of the actuarial valuation in the case of an actuarial valuation required under subparagraph 3 of the first paragraph of that section;”;

(4) by replacing “subparagraph 3” in subparagraph 2 of the first paragraph by “subparagraph 6”.

21. The Act is amended by inserting the following section after section 119:

“119.1. If, at the date of the end of a fiscal year of the pension plan, no actuarial valuation is required under subparagraph 2 of the first paragraph of section 118, the pension committee must send the Régie, no later than four months after that date, a notice informing it of the financial position of the pension plan at that date.

The information to be contained in the notice and the attestations and documents to be included with it are prescribed by regulation.

Any certification required for the purposes of the notice must be carried out in accordance with the first paragraph of section 122, which applies with the necessary modifications.”

22. Section 121 of the Act is amended

(1) by replacing “last actuarial valuation” in subparagraphs 1 and 2 of the first paragraph by “end of the last fiscal year”;

(2) by adding the following paragraph at the end:

“However, an amendment resulting in a reduction of the obligations of the plan must be considered for the first time at the date it becomes effective.”

23. The Act is amended by inserting the following sections after section 122:

“122.1. For the purposes of this chapter, the assets and liabilities of a pension plan are both reduced by an amount corresponding to the sum of the following values:

(1) the value of any additional voluntary contributions paid into the pension fund, with accrued interest;

(2) the value of the contributions paid into the pension fund under provisions which, in a defined benefit plan, are identical to those of a defined contribution plan, with accrued interest;

(3) the value of amounts received by the pension plan following a transfer, even otherwise than under Chapter VII, with accrued interest.

However, in the case of a floor plan, the assets and liabilities of a plan are not to be reduced by the value referred to in subparagraph 2.

“122.2. For the purposes of this chapter, the letters of credit provided by the employer under section 42.1 that may be considered in the plan’s assets cannot exceed 15% of the liabilities of the plan.”

24. The Act is amended by replacing Divisions II, III and IV of Chapter X, comprising sections 123 to 142, by the following:

“DIVISION II

“FUNDING

“§1. — *Determination of funding*

“123. For the purpose of determining the funding level of a pension plan at the date of an actuarial valuation, the plan’s liabilities must be equal to the value of the obligations arising from the plan taking into account the service credited to the members.

A pension plan is funded if, at the date of the actuarial valuation, the plan’s assets are equal to or greater than its liabilities.

“124. For the sole purpose of establishing the level of funding of a pension plan at the date of an actuarial valuation,

(1) the plan’s assets must be increased by the special improvement payment prescribed in section 139; and

(2) the plan’s liabilities must be increased by the value of the additional obligations arising from any amendment to the plan considered for the first time at the date of the valuation, calculated on the assumption that the effective date of the amendment is the valuation date.

The funding level of a pension plan at the date of the actuarial valuation is the percentage that the plan’s assets are of its liabilities.

“**125.** Every pension plan must provide for the establishment of a stabilization provision whose target level is determined in the manner prescribed by regulation, in particular by using a scale that is to be applied according to certain criteria, including the target set out in the plan’s investment policy in effect at the date of each actuarial valuation required under section 118.

“**126.** The funding method used in an actuarial valuation must be consistent with generally accepted actuarial principles and be based on the assumption that the pension plan is perpetual.

The actuarial assumptions and methods used to determine the funding level of a plan must be suited, in particular, to the type of plan concerned, its obligations and the position of the pension fund.

“**127.** The method for smoothing the market value of the assets of the pension plan may not level the short-term fluctuations in that value over a period exceeding five years.

“**128.** The current service contribution must be equal to or greater than the sum of

(1) the value of the obligations arising from the pension plan in respect of credited service completed over the course of the fiscal year or the part of the fiscal year referred to in paragraph 1 of section 140; and

(2) the value of the stabilization provision in respect of those obligations, according to the target level determined in accordance with section 125.

The contribution may, however, be less if it is determined using a method which, at all times, keeps the plan partially funded or fully funded at the required funding level by adding the plan stabilization provision target level less five percentage points.

“**129.** The value of the obligations referred to in sections 123, 124 and 128 which, under the plan, are to increase according, in particular, to the progression of the members’ remuneration must include the estimated amount of those obligations when they become payable, assuming that contingencies based on actuarial assumptions as to survival, morbidity, mortality, employee turnover, eligibility for benefits or other factors will occur.

Furthermore, any pension benefit increase provided for by the plan which becomes effective after the benefits begin to be paid must be taken into account in determining that value.

“§2. — *Funding deficiencies*

“**130.** There are three types of funding deficiencies: the technical actuarial deficiency, the stabilization actuarial deficiency and the improvement unfunded actuarial liability.

“**131.** The technical actuarial deficiency corresponds, at the date of an actuarial valuation, to the amount by which the plan’s liabilities exceed its assets, increased by the value of any amortization payments remaining to be paid to amortize any improvement unfunded actuarial liability determined in a prior actuarial valuation.

“**132.** The actuarial stabilization deficiency corresponds, at the date of an actuarial valuation, to the amount by which the plan’s liabilities, reduced by the technical actuarial deficiency determined in accordance with section 131 and increased by the value of the stabilization provision target level less five percentage points, exceed its assets, increased by the value of the amortization payments remaining to be paid to amortize any improvement unfunded actuarial liability determined in a prior actuarial valuation.

“**133.** The interest rate used to establish the value of the improvement amortization payments referred to in sections 131 and 132 is the same as the one used to establish the liabilities of the plan.

“**134.** An improvement unfunded actuarial liability corresponds, at the date of an actuarial valuation, to the value of the additional obligations arising from any amendment to the plan, except for the amendment referred to in section 139, considered for the first time in the valuation, increased by the value of the stabilization provision target level in respect of those obligations and reduced, if applicable, by the amount corresponding to the part of the value of those obligations that is paid for by appropriation of the plan’s surplus assets.

“**135.** The amortization payments that, if applicable, remain to be paid in relation to any improvement unfunded actuarial liability determined in a prior actuarial valuation may only be eliminated if, at the date of the actuarial valuation, the assets of the pension plan are equal to or greater than its liabilities, increased by the value of the stabilization provision target level less five percentage points.

“§3. — *Amortization of funding deficiencies*

“**136.** Every funding deficiency must be amortized by dividing it into as many amounts as there are full months included in the amortization period.

“**137.** The monthly amortization payable for any fiscal year of the pension plan, and any part of such a fiscal year, included in the amortization period must be established as a set amount at the date the unfunded actuarial liability is determined. However, if the members contribute to amortization payments, the monthly payments may represent an hourly rate or a rate of the remuneration of or a percentage of the total payroll for the active members; the rate or percentage must be uniform unless it is established by reference to a variable authorized by the Régie.

“**138.** The amortization period for an unfunded actuarial liability begins at the date of the actuarial valuation in which the unfunded liability is determined. It expires at the end of a fiscal year of the pension plan that ends

(1) no later than 10 years after the date of the valuation, if the liability is a technical actuarial deficiency;

(2) no later than 10 years after the date of the valuation, if the liability is a stabilization actuarial deficiency; or

(3) no later than five years after the date of the valuation, if the liability is an improvement unfunded actuarial liability.

“§4. — *Special improvement payment*

“**139.** If the actuarial valuation used to determine the value of the additional obligations arising from an amendment to the pension plan shows that the plan’s funding level, determined without reference to the amendment, is less than 90%, a special improvement payment equal to the value of the additional obligations, at the date of the valuation, increased by the value of the stabilization provision target level in respect of those obligations, must be paid into the pension fund.

The special improvement payment is payable in full as of the day following the date of the valuation.

“§5. — *Miscellaneous provisions*

“**140.** In addition to the other elements prescribed by regulation, an actuarial valuation must determine

(1) the current service contribution, expressed in currency or as a rate or percentage of the remuneration of active members, for the fiscal year or the part of the fiscal year of the pension plan that immediately follows the date of the valuation and for every fiscal year that follows until the date of the next actuarial valuation to which it is subject under subparagraph 2 of the first paragraph of section 118;

(2) the total amount of the current service contribution and the amount of the part of that contribution referred to in subparagraph 2 of the first paragraph of section 128;

(3) the plan’s assets and liabilities;

(4) the amount of each deficiency and that of the related amortization payment; and

(5) the amounts recorded under section 42.2.

“DIVISION III**“SOLVENCY**

“141. For the purpose of determining the solvency of a pension plan at the date of an actuarial valuation, the plan’s assets must be established according to their liquidation value, or an estimate of that value, and be reduced by the estimated amount of the administration costs to be paid out of the pension fund, assuming that the pension plan is terminated on the valuation date.

The pension plan’s liabilities must be equal to the value of the obligations arising from the plan, assuming that the plan is terminated on the valuation date.

A pension plan is solvent if its assets are equal to or greater than its liabilities.

“142. For the sole purpose of establishing the degree of solvency of a pension plan at the date of an actuarial valuation,

(1) the plan’s assets must be increased by the special improvement payment prescribed in section 139; and

(2) the plan’s liabilities must be increased by the value of the additional obligations arising from any amendment to the plan considered for the first time on the date of the valuation, calculated on the assumption that the effective date of the amendment is the valuation date.

The degree of solvency of a pension plan at the date of an actuarial valuation is the percentage that the plan’s assets are of its liabilities.

“142.1. If the plan expressly provides that the amount of a member’s pension is to be established with reference to the progression of the member’s remuneration after termination, the value of the pension must be established assuming that the plan is terminated in such circumstances that the benefits accrued to the member in respect of the pension must be estimated at their maximum value. If the plan provides for other obligations whose value depends on the circumstances in which the plan is terminated, they must be included in the liabilities to the extent provided in the scenario used for that purpose by the actuary in charge of the valuation.

If the liabilities established in accordance with subparagraph 2 of the first paragraph of section 142 and with the first paragraph of this section are less than the value of the obligations arising from the pension plan, assuming that the plan is terminated on the valuation date in such circumstances that the benefits accrued to the members must be estimated at their maximum value, the valuation report must also indicate the latter value.

“142.2. The liabilities of a pension plan under which refunds or benefits are guaranteed by an insurer must, for the purpose of determining the plan’s

solvency, include the value corresponding to those benefits, and the plan's assets must include an amount equal to that value.

“142.3. The values referred to in subparagraph 2 of the first paragraph of section 142 and in section 142.1 are determined by applying sections 211 and 212 and subparagraph 1 of the second paragraph of section 212.1, with the necessary modifications. In the case of pensions already in payment, inasmuch as they are not guaranteed by an insurer at the valuation date, those values must be determined according to an estimation of the premium that an insurer would charge to guarantee the pensions at the valuation date.

“DIVISION III.1

“FUNDING RELATING TO ANNUITY PURCHASING POLICY

“142.4. A payment of benefits made in accordance with the annuity purchasing policy of a pension plan must meet the funding requirements prescribed by regulation.

If those requirements are not met, a special annuity purchasing payment, calculated in the manner determined by regulation, must be paid as prescribed in that regulation.

“DIVISION IV

“FUNDING POLICY

“142.5. The person or body who may amend the pension plan must establish a written funding policy that meets the requirements prescribed by regulation, review it regularly and send it to the pension committee without delay.”

25. Section 143 of the Act is amended by replacing “Régie.” at the end by “Régie or, if the degree of solvency is more recent, in the notice prescribed by section 119.1 sent to the Régie. A pension plan may however provide that the 100% limit does not apply or establish a limit of more than 100%.”

26. Section 146 of the Act is amended by adding, at the end, “, in the following cases:

(1) the member or beneficiary does not have the option of maintaining his benefits in the pension plan;

(2) the plan provides for the payment of the value of members' and beneficiaries' benefits in a proportion that is greater than the degree of solvency of the plan”.

27. The Act is amended by replacing Divisions I and II of Chapter X.1, comprising sections 146.1 to 146.9, by the following:

“DIVISION I

“PROVISIONS OF THE PENSION PLAN

“146.1. Surplus assets may, during the life of a pension plan, be appropriated to the refund or payment of benefits or the payment of the value of the additional obligations arising from an amendment to the plan, but only in accordance with this chapter and in compliance with the plan provisions required under subparagraph 17 or 18 of the second paragraph of section 14.

“146.2. All provisions concerning the appropriation of surplus assets during the life of a pension plan must be grouped in an easily identifiable section of the plan.

The same applies to any provision concerning the allocation of surplus assets in the event of termination of the plan.

“146.3. The members and beneficiaries must be informed and consulted before any amendment to the plan under section 146.2.

“146.4. For the purposes of the consultation, the pension committee shall send every member and beneficiary of the plan a written notice which, in addition to containing the information required under subparagraph 1 of the first paragraph of section 26, indicates

(1) the plan provisions relating to the allocation or appropriation of surplus assets in force on the date of the notice;

(2) the text of the plan provisions arising from the amendment; and

(3) any other information prescribed by regulation.

The notice must also inform the members and beneficiaries that they may notify the pension committee in writing of their opposition to the proposed amendment to the plan provisions within 60 days after the notice is sent or, as applicable, after the date on which the notice required under the third paragraph is published, whichever is later.

Unless all members and beneficiaries have been personally advised, the pension committee must also publish a notice of the proposed amendment in a daily newspaper circulated in the region in Québec where the greatest number of active members reside. The notice must also specify that persons who have not received a personal notice but believe they must be consulted may declare their status to the pension committee within 60 days after the notice is published and that, if they are able to establish their status, they are entitled to receive a

copy of the notice required under the second paragraph and, if applicable, to notify the committee in writing of their opposition to the proposed amendment.

The notice given under this section is considered to be the notice referred to in section 26.

“146.5. On the expiry of the time for expressing opposition, the pension committee shall count the notices of opposition received.

If 30% or more of the members and beneficiaries are opposed to the proposed amendment, it is deemed rejected and cannot be made.

The pension committee shall immediately inform the employer concerned, as well as each of the plan members and beneficiaries and the person or body who may amend the pension plan, of the results.

“DIVISION II

“PLANS TO WHICH CHAPTER X APPLIES

“146.6. The appropriation, under this division, of the surplus assets of a pension plan to which Chapter X applies, determined without reference to the portion of the assets and that of the liabilities described in section 122.1, is only permitted if, according to the actuarial valuation of the plan, the following conditions are met:

(1) on a funding basis, the plan’s assets are equal to or greater than its liabilities, increased by the value of the stabilization provision target level plus five percentage points; and

(2) on a solvency basis, the plan’s assets are equal to or greater than 105% of its liabilities.

“146.7. The maximum amount of surplus assets that may be used is equal to the lesser of the following amounts, determined at the date of the actuarial valuation:

(1) the amount by which the surplus assets determined on a funding basis exceed the minimum set under paragraph 1 of section 146.6; and

(2) the amount by which the surplus assets determined on a solvency basis exceed the minimum set under paragraph 2 of that section.

In the case of a partial actuarial valuation, the maximum amount of surplus assets is equal to the lesser of the amounts given by the actuary who certifies that a complete actuarial valuation carried out at the date of the valuation would have allowed the determination, in accordance with the first paragraph, of amounts equal to or greater than the amounts given.

“146.8. The amount of surplus assets that may be used over the course of a fiscal year must first be appropriated to the payment of the employer and member current service contributions, up to the lesser of the amount of the employer or member contributions recorded, respectively, under the first and second paragraphs of section 42.2 and the amount of the employer or member current service contributions.

If the amount of surplus assets that may be used is less than the total amount of employer and member contributions recorded under section 42.2, the appropriation under the first paragraph must be proportional to the contributions recorded, respectively, under the first and second paragraphs of that section.

If there is a balance of surplus assets, up to 20% of the balance may, per fiscal year of the plan and in accordance with its provisions, be appropriated to the payment of the value of the additional obligations arising from an amendment to the plan or to the payment of member contributions or be transferred to the employer.

Any amount appropriated to the payment of the employer current service contributions or to the payment of the value of the additional obligations arising from an amendment or transferred to the employer must be deducted from the amounts recorded under section 42.2. The same applies to any amount appropriated to the payment of member current service contributions.

“146.9. The pension plan may provide that the appropriation of surplus assets to the payment of current service contributions may, despite the caps provided for in the first paragraph of section 146.8, apply beyond the amount of the contributions recorded under section 42.2.

“146.9.1. The appropriation of surplus assets to the payment of employer contributions and, if applicable, member contributions ceases on the date of the end of a fiscal year for which an actuarial valuation or a notice referred to in section 119.1 shows that the conditions set out in section 146.6 are no longer met.

“DIVISION III

“OTHER PLANS

“146.9.2. This division concerns the pension plans to which Chapter X does not apply.

It also concerns the portion of the assets and that of the liabilities of a pension plan to which Chapter X applies that are excluded under section 122.1.

“146.9.3. The surplus assets of a pension plan may be appropriated to the payment of the value of the additional obligations arising from an amendment to the plan, provided that the amount applied for that purpose is limited to the part of the assets that exceeds the value of the obligations arising

from the plan, established without reference to the additional obligations arising from the amendment, assuming that the plan is terminated.

“146.9.4. The portion of the assets of the pension plan that exceeds the value of the obligations arising from the plan, assuming that the plan is terminated, may be appropriated to the payment of employer contributions.

The appropriation of the surplus assets of a pension plan to the payment of employer contributions ceases as soon as the condition set out in the first paragraph is no longer met.”

28. Section 146.12 of the Act is amended

(1) by replacing “sections 138 and 139” in paragraph 1 by “sections 128 and 129”;

(2) by replacing paragraph 3 by the following paragraph:

“(3) the sum of the amortization payments determined for the fiscal year and the special improvement payments payable during the fiscal year.”

29. Section 146.14 of the Act is repealed.

30. Section 146.15 of the Act is amended by replacing “Sections 60 and 60.1” by “Section 60”.

31. Section 146.16 of the Act is replaced by the following section:

“146.16. Despite subparagraph 2 of the first paragraph of section 118 and subparagraph 1 of the first paragraph of section 119, a negotiated contribution plan must be the subject of an actuarial valuation at the date of the end of each fiscal year and the valuation report must be sent to the Régie within six months after the date of the valuation.”

32. Section 146.18 of the Act is amended

(1) by replacing “128” by “125”;

(2) by replacing “reserve” by “stabilization provision”.

33. Section 146.19 of the Act is replaced by the following sections:

“146.18.1. Section 134, except the exception it provides for, applies to all plan amendments considered for the first time.

Section 139 applies on a solvency basis.

“146.19. Despite section 138, the maximum amortization period of any actuarial deficiency is 12 years.”

34. Section 146.35 of the Act is amended by replacing “146.3.1” in the third paragraph by “146.4”.

35. Section 146.41 of the Act is amended by replacing the second paragraph by the following paragraph:

“The notice referred to in section 200 must not include the information required under paragraph 2 of that section. However, it must mention, if applicable, the cap referred to in the third paragraph.”

36. Section 146.45 of the Act is repealed.

37. Section 151.2 of the Act is amended by replacing “to ensure risk management” in subparagraph 6 of the second paragraph by “to quantify and manage risks”.

38. Section 166 of the Act is amended

(1) by striking out subparagraph 3 of the first paragraph;

(2) by replacing “in subparagraph 2 or 3” in the second paragraph by “in subparagraph 2”.

39. Section 166.1 of the Act is repealed.

40. Section 169 of the Act is amended by replacing “, its characteristics and its financial obligations” by “and its characteristics, financial obligations and funding policy”.

41. The Act is amended by inserting the following after section 182:

“DIVISION II.1

“ANNUITY PURCHASING POLICY

“182.1. If a pension plan has an annuity purchasing policy that meets the requirements prescribed by regulation, payment of all or part of a pension benefit in accordance with that policy constitutes, on the date of the first payment by the insurer, as stipulated in the agreement entered into for that purpose, final payment of the benefits of the members and beneficiaries covered by that agreement.

The annuity purchasing policy only applies to pensions if, on the date of the agreement with the insurer, they are in payment or an application for payment of benefits has been filed.

“182.2. The members and beneficiaries whose benefits have been paid in accordance with section 182.1 retain, for three years, their status as a member

or beneficiary under the plan for the purposes of the provisions relating to the allocation of surplus assets in the event of termination of the plan. They also retain their status, for the same period, in the event of the employer's bankruptcy or insolvency which, following the employer's withdrawal from the plan or the termination of the plan, results in a reduction of the members' or beneficiaries' benefits.

Whenever the first paragraph must be applied, the notice required under section 207.4 must also state the rules set out in this section."

42. Section 195 of the Act is amended

(1) by replacing "Division III of Chapter X" in the second paragraph by "Division II of Chapter X";

(2) by replacing "and the employer's right to appropriate all or part of the surplus assets to the payment of the value of the additional obligations arising from any amendment to the plan or to the payment of employer contributions but, in the latter case, only if the plan from which the assets are to be transferred is a plan to which subparagraph 16.1 or 17 of the second paragraph of section 14 applies or which was amended in that respect under section 146.5" in the fourth paragraph by "and to their appropriation during the life of the plan".

43. The Act is amended by inserting the following section after section 195:

"195.0.1. In the event of division of a pension plan, the amounts recorded under section 42.2 are distributed among the pension plans resulting from the division proportionately to their respective liabilities."

44. Section 196 of the Act is amended

(1) by inserting the following paragraph before the first paragraph:

"196. The Régie may only authorize the merger of all or part of the assets and liabilities of several plans if the degree of solvency of the absorbing plan after the merger

(1) is at least 85% or, in the case of the merger of plans to which the same employer is a party, at least 100%; or

(2) is not more than five percentage points below the degree of solvency, before the merger, of the absorbing plan or the absorbed plan.";

(2) by replacing "The Régie shall not authorize the merger of all or part of the assets and liabilities of several plans unless" in the first paragraph by "In addition, the Régie may only authorize the merger if";

(3) by replacing "ou que si les effets" in the first paragraph in the French text by "ou que les effets";

(4) by inserting the following sentence after the first sentence of the first paragraph: “Nor shall the Régie authorize the merger unless all the plans include terms which, in relation to the appropriation of surplus assets during the life of the plan, have identical effects.”;

(5) by striking out “only containing the information prescribed by regulation” in the second paragraph;

(6) by replacing “230.4 and 230.6” in the second paragraph by “146.4 and 146.5”;

(7) by striking out the fourth paragraph.

45. Section 198 of the Act is amended by adding the following sentence at the end of the second paragraph: “If the amendment is made because the employer no longer has active members in its employ, the amendment becomes effective not later than on the end date of the fiscal year in which the last member ceases to accumulate benefits.”

46. The Act is amended by inserting the following section after section 199:

“199.1. If an employer that is a party to a multi-employer pension plan no longer has active members in its employ, the plan must be amended to allow for the withdrawal of the employer. If the person authorized under the plan to make such an amendment fails to do so within 30 days after the pension committee is informed of the fact that the employer no longer has active members in its employ, the pension committee shall proceed with the amendment.

In the case of an employer all of whose employees covered by the plan are hired on an ad hoc, fixed term basis, the plan need only be amended if 12 months have elapsed since the employer ceased to have active members in its employ.”

47. Section 200 of the Act is amended

(1) by adding “or, if more recent, in the notice sent to the Régie under section 119.1” at the end of paragraph 1;

(2) by replacing “of the second paragraph of section 230.1 and” in paragraph 2 by “of the plan provisions required under subparagraph 16 of the second paragraph of section 14 and, if applicable,”;

(3) by replacing paragraphs 3 and 4 by the following paragraphs:

“(3) that the benefits of non-active members and beneficiaries affected by the withdrawal and whose pension is in payment at the date of withdrawal will be paid by means of a pension paid, as prescribed by regulation, by an insurer selected by the pension committee; and

“(4) that the benefits of members and beneficiaries affected by the withdrawal, other than those to whom paragraph 3 applies, will be paid by means of a transfer under section 98, which applies with the necessary modifications, or, as applicable, by means of the payment in a lump sum or the transfer into a registered retirement savings plan of the portion of their accrued benefits that is refundable.”

48. Section 207.2 of the Act is amended by replacing the third and fourth paragraphs by the following paragraph:

“If applicable, the copy of the report sent to the employer must be accompanied by a notice, a copy of which must be sent to the Régie, indicating that any amount due by the employer according to the report must be paid into the pension fund or to the insurer, as applicable.”

49. Section 207.5 of the Act is repealed.

50. Section 207.6 of the Act is amended by replacing the first paragraph by the following paragraph:

“207.6. A pension plan may not be amended after the date of termination, except to allow any increase in pension benefits resulting from the allocation of surplus assets.”

51. Section 210.1 of the Act is amended

(1) by striking out the first paragraph;

(2) by adding “de retraite” at the end of the second paragraph in the French text;

(3) by striking out the third paragraph.

52. Section 226 of the Act is repealed.

53. Section 230.0.0.1 of the Act is amended by striking out paragraph 2.1.

54. Section 230.0.0.2 of the Act is repealed.

55. Section 230.0.0.3 of the Act is amended by replacing everything that follows “by an insurer” by “or choose a pension paid out of the assets administered by the Régie under section 230.0.0.4”.

56. Section 230.0.0.4 of the Act is amended

(1) by replacing “stipulated under paragraph 2 of section 230.0.0.2 or paragraph 2 of section 230.0.0.3” in the first paragraph by “provided for in section 230.0.0.3”;

(2) by inserting the following paragraph after the first paragraph:

“The Régie may administer all or some of the plans together. In such a case, the plans administered together are deemed, for that purpose, to constitute a single plan.”

57. Section 230.0.0.9 of the Act is amended

(1) by replacing “fifth” in the first sentence of the first paragraph by “tenth”;

(2) by striking out the second sentence of the first paragraph;

(3) by striking out the third paragraph.

58. Section 230.0.0.10 of the Act is amended by replacing “the Government shall pay the required sums to the Régie out of the Consolidated Revenue Fund” by “the Régie may reduce the pensions of the members and beneficiaries”.

59. Section 230.0.0.11 of the Act is amended by adding the following paragraph after paragraph 2:

“(3) prescribe the terms and conditions for reducing the pensions paid by the Régie.”

60. Section 230.0.0.12 of the Act is repealed.

61. Section 230.0.1 of the Act is renumbered “230.1”.

62. Sections 230.1 to 230.8 of the Act are replaced by the following section:

“230.2. Any surplus assets of a terminated pension plan are first allocated concurrently to the employer and to the members and beneficiaries with benefits under defined benefit provisions, up to the amount of the contributions recorded, respectively, under the first and second paragraphs of section 42.2.

If the amount of surplus assets is less than the total amount of employer and employee contributions recorded under section 42.2, they must be allocated proportionately to the contributions recorded, respectively, under the first and second paragraphs of that section.

Any remaining surplus assets must be allocated in accordance with the conditions and procedure set out in the plan.

The portion allocated to the members and beneficiaries is apportioned among them proportionately to the value of their accrued benefits or according to another method set out in the plan.”

63. Section 237 of the Act is amended by inserting “and the variable benefits provided for in section 90.1” after “section 67.2” in the first paragraph.

64. Section 240.2 of the Act is amended by replacing the second paragraph by the following paragraph:

“Whenever the first paragraph must be applied, the notice required under section 207.4 must also state the rules set out in this section.”

65. Section 240.3 of the Act is amended by inserting “or a pension plan that is amended to allow for the withdrawal of an employer” after “pension plan”.

66. Section 240.4 of the Act is amended by striking out the second paragraph.

67. Chapter XIV.1 of the Act, comprising sections 243.1 to 243.19, is repealed.

68. Section 244 of the Act is amended, in the first paragraph,

(1) by striking out subparagraph 3.0.1;

(2) by inserting the following subparagraph after subparagraph 3.1:

“(3.1.1) determine, for the purposes of section 90.1, the conditions and time limits applicable to the payment of the variable benefits;”;

(3) by replacing subparagraph 8.0.1 by the following subparagraphs:

“(8.0.1) determine the information to be contained in the notice required under section 119.1 and the attestations and documents to be included with it;

“(8.0.2) determine the manner for setting the target level of the stabilization provision required under section 125, and the criteria according to which any scale established is to be applied;

“(8.0.3) for the purposes of section 142.4, determine the funding requirements to be met by a payment of benefits in accordance with the annuity purchasing policy and the method for calculating and paying the special annuity purchasing payment;

“(8.0.4) prescribe the requirements regarding the funding policy required under section 142.5;”;

(4) by inserting the following subparagraph after subparagraph 10:

“(10.1) prescribe the requirements regarding the annuity purchasing policy referred to in section 182.1;”;

(5) by replacing “of Chapters XIII and XIV.1” in subparagraph 12 by “of Chapter XIII”;

(6) by striking out subparagraph 12.1.

69. Section 248 of the Act is amended by striking out “or Chapter XIV.1” in subparagraph 5 of the first paragraph.

70. Section 257 of the Act is amended by inserting “, 119.1, 142.5” after “119” in paragraph 1.

71. Section 258 of the Act is amended

(1) by replacing “207.5” in paragraph 1 by “207.4”;

(2) by striking out “230.4, 230.6, 243.8,” in paragraph 1.

72. The Act is amended by replacing sections 288.1 to 288.3 by the following sections:

“288.1. The provisions of any defined contribution pension plan that are in force on 31 December 2015 and that pertain to the allocation or appropriation of surplus assets apply, as of 1 January 2016, to the balance of surplus assets referred to in subparagraphs 16 and 17 of the second paragraph of section 14.

“288.2. The letters of credit provided in accordance with section 42.1 before 1 January 2016 are, as of that date, considered to be provided under that section as it applies from that date.

“288.3. If contributions paid before 1 January 2016 were, in accordance with the plan, the subject of special monitoring to allow for the subsequent appropriation or allocation of surplus assets, those contributions must be recorded in accordance with section 42.2 as of that date. The special monitoring must be shown in the actuarial valuation of the plan as at 31 December 2015.

“288.4. The conditions set out in section 20 do not apply to an amendment to a pension plan made before 1 January 2017 to remove the additional pension benefit referred to in section 60.1 or the equivalent benefit or portion of benefit offered by the plan to replace the additional pension benefit.”

73. Section 290.1 of the Act is repealed.

74. The Act is amended by inserting the following sections after section 318.1:

“318.2. Any pension plan to which Chapter X applies must be the subject of a complete actuarial valuation on 31 December 2015 in accordance with the provisions in force on 1 January 2016.

For the purposes of the valuation, the amortization payments required, on a solvency basis and a funding basis, for an unfunded actuarial liability determined in a prior actuarial valuation, are eliminated.

“318.3. Despite paragraphs 1 and 2 of section 138, the amortization period of any technical actuarial deficiency or any stabilization actuarial deficiency that begins on the date of an actuarial valuation prior to 31 December 2016 expires on the date of the end of the fiscal year of a pension plan that ends no later than 15 years after the date of the valuation. The maximum amortization period of such an actuarial deficiency beginning after 30 December 2016 is reduced by one year for every full year of deviation between 31 December 2015 and the date on which the amortization period of the deficiency begins.

The amortization period of any technical actuarial deficiency or any stabilization actuarial deficiency that begins after 30 December 2020 is determined in accordance with section 138.

“318.4. If the employer contributions that are determined in the actuarial valuation required under section 318.2 or a subsequent actuarial valuation and that are payable for every fiscal year or part of a fiscal year after the valuation date are greater than those that would have been payable from 1 January 2016 to 31 December 2016 under the provisions in force on 31 December 2015, the difference is only payable at a rate of one third per 12-month period as of 1 January 2017.

For the purposes of the first paragraph, the employer current service contributions corresponding to the value of the obligations arising from the pension plan in relation to credited service completed during the fiscal year are to be excluded.

To determine the contributions that would have been payable, any instruction given in relation to the period including the pension plan’s fiscal year in progress on 31 December 2015 under the Regulation providing new relief measures for the funding of solvency deficiencies of pension plans in the private sector (chapter R-15.1, r. 4.1) and applied on that date must be taken into account.

If applicable, section 42.1 applies taking into account only the portion of the stabilization amortization payment payable under the first paragraph.

This section ceases to apply on 31 December 2018.

“318.5. A pension plan that is exempted, under a regulation made under section 2, from the application of the funding rules set out in this Act is subject to the provisions of this Act that are in force on 1 January 2016 but only to the extent prescribed by the regulation applicable to the plan.

Section 142.5 applies, however, to a plan referred to in the first paragraph.

If such a regulation ceases to apply to a pension plan, sections 318.2 to 318.4 apply to such a plan, and in applying those sections, the date of 1 January 2016 is replaced by the date following the date on which the regulation ceases to apply and the other dates mentioned in those sections are replaced accordingly.

The provisions of Chapter X, as they read on 31 December 2015, continue to apply to any pension plan administered by the Régie under subdivision 4.0.1 of Division II of Chapter XIII.

“318.6. The fact that the Regulation respecting supplemental pension plans affected by the arrangement regarding AbitibiBowater Inc. under the Companies’ Creditors Arrangement Act (chapter R-15.1, r. 6.1) ceases to apply before 31 December 2020 does not cause Division IV of the Regulation to cease to apply.

“318.7. The provisions of subdivision 4.0.1 of Division II of Chapter XIII that are in force on 31 December 2015 continue to apply to pensions being paid by the Régie under those provisions at 31 December 2015.

In addition, a pension plan to which Chapter X applies and that meets all the conditions set out in section 230.0.0.1, as it read on 31 December 2015, is subject to the provisions mentioned in the first paragraph, unless it was liquidated before 1 January 2016.

“318.8. If the termination report regarding a pension plan referred to in the provisions of subdivision 4.0.1 of Division II of Chapter XIII that come in force on 1 January 2016 was sent to the Régie before that date, the rights of the members and beneficiaries are established based on that report.”

75. The Act is amended by inserting the following section after section 319.10:

“319.11. For the sole purpose of allocating the assets of a pension plan under the Agreement Respecting Multi-Jurisdictional Pension Plans, which came into force on 1 July 2011, the members’ benefits accrued before 1 January 2016 are included in the benefits funded on a solvency basis.”

TRANSITIONAL AND FINAL PROVISIONS

76. The regulations made for the purposes of the provisions enacted by this Act may have retroactive effect from a date not prior to 1 January 2016.

77. Unless the parties agree otherwise, an agreement entered into before 1 January 2016 regarding the sharing of the current service contribution is considered to apply as well to the current service stabilization contribution as of 1 January 2016 or a later date stipulated in the agreement.

78. This Act comes into force on 1 January 2016.