

Gouvernement du Québec

T.B. 219771, 17 July 2018

Act respecting the Pension Plan
of Management Personnel
(chapter R-12.1)

Act respecting the implementation of recommendations
of the pension committee of certain public sector
pension plans and amending various
legislative provisions
(2018, chapter 4)

Regulation
— **Amendment**

Regulation to amend the Regulation under the Act
respecting the Pension Plan of Management Personnel

WHEREAS under the first paragraph of section 7.1
of the Act respecting the Pension Plan of Management
Personnel (chapter R-12.1), an absence without pay is
an absence that is provided for in the employee's condi-
tions of employment and authorized by the employee's
employer, for which the employee does not receive pay,
and during which the employee would have been expected
to perform or could have performed work had it not been
for the absence;

WHEREAS under the second paragraph of that sec-
tion 7.1, the Government may, by regulation, determine
any other absence that constitutes an absence without pay
and for which, if applicable, the absent person is con-
sidered an employee;

WHEREAS under paragraph 2.3 of the first paragraph of
section 196 of the Act, the Government may, by regula-
tion, determine, for the purposes of section 7.1, absences
that constitute an absence without pay and for which, if
applicable, the absent person is considered an employee;

WHEREAS under the first paragraph of section 152.8.1
of the Act, if, during years or parts of a year of service
completed, a person was an employee of an employer
designated in Schedule II and was not excluded from the
plan under paragraph 4 of section 0.1 of the Regulation
under the Act respecting the Pension Plan of Management
Personnel (chapter R-12.1, r. 1), the person may be cred-
ited, for pension purposes, with such years or parts of
a year up to a maximum of 18 years, except the years or
parts of a year during which the person participated in a
pension plan. However, the years or parts of a year of ser-
vice completed prior to the date that is three years before
the date of receipt of the application for redemption may
be credited up to a maximum of 15 years;

WHEREAS under subparagraph 5.1 of the first para-
graph of section 196 of the Act, the Government may, by
regulation, establish, for the purposes of sections 39, 146,
152.1, 152.4, 152.6 and 152.8.1, the tariff applicable to the
payment of the redemption cost, which may vary accord-
ing to the employee's or person's age, the reason for the
absence, the year of service covered by the redemption
and the date of receipt of the application, and prescribe, in
addition to a minimum cost for the purposes of section 39,
the terms and conditions governing the application of the
tariff and the rules for determining the pensionable salary
for the purposes provided for in those sections;

WHEREAS under section 152.8.3 of the Act, unless it
is listed in Schedule IV, an employer referred to in sec-
tion 152.8.1 must pay to Retraite Québec an amount equal
to the amount determined under that section in relation to
the service completed in the three years prior to the date
of receipt of the application for redemption. The condi-
tions and terms of payment of the amount are determined
by regulation;

WHEREAS under subparagraph 12.1 of the first para-
graph of section 196 of the Act, the Government may, by
regulation, determine, for the purposes of section 152.8.3,
the conditions and terms of payment by the employer of
the amount concerned;

WHEREAS the Conseil du trésor made the Regulation
under the Act respecting the Pension Plan of Management
Personnel by Decision 202420 dated 24 May 2005;

WHEREAS section 4 of the Regulation provides that for
the purposes of the second paragraph of sections 39, 146,
152.1, 152.4 and the third paragraph of section 152.6 of
the Act, the amount required of the employee to pay the
cost of redemption is established in accordance with the
tariff in Schedule I to the Regulation;

WHEREAS it is expedient to amend the Regulation;

WHEREAS under the first paragraph of section 196 of
the Act, the Government exercises the regulatory powers
provided for in that section after Retraite Québec has con-
sulted the pension committee referred to in section 196.2;

WHEREAS under section 40 of the Public Administration
Act (chapter A-6.01), the Conseil du trésor, after consult-
ing the Minister of Finance, exercises the powers con-
ferred on the Government by an Act that establishes a
pension plan applicable to personnel of the public and
parapublic sectors, except for certain powers;

WHEREAS the consultations have been held;

THE CONSEIL DU TRÉSOR DECIDES:

THAT the Regulation to amend the Regulation under the Act respecting the Pension Plan of Management Personnel, attached to this Decision, is hereby made.

Le greffier du Conseil du trésor,
LOUIS TREMBLAY

Regulation to amend the Regulation under the Act respecting the Pension Plan of Management Personnel

Act respecting the Pension Plan of Management Personnel (chapter R-12.1, s. 196, 1st par., subpars. 2.3, 5.1 and 12.1)

Act respecting the implementation of recommendations of the pension committee of certain public sector pension plans and amending various legislative provisions (2018, chapter 4, ss. 77 and 78)

1. The Regulation under the Act respecting the Pension Plan of Management Personnel (chapter R-12.1, r. 1) is amended by inserting the following after section 1.1:

“DIVISION 1.2

ABSENCE WITHOUT PAY
(s. 196, 1st par., subpar. 2.3)

1.2. An absence without pay is

- (1) an absence of the employee owing to a strike or a lock-out;
- (2) an absence of the employee owing to a disciplinary suspension and for which the employee receives no pay;
- (3) an absence within 36 months after the date of a person’s dismissal owing to disability;
- (4) an absence within 24 months after the date of a person’s dismissal owing to a cause other than disability; and
- (5) an absence after the date of dismissal of the person concerned, to the extent that it is agreed that the absence must be considered to be an absence without pay in an agreement entered into after 6 May 2016 and before 17 July 2018.

For the purposes of subparagraphs 3 and 4 of the first paragraph, the absence must be agreed to in an agreement entered into after 16 July 2018 terminating the dismissal

complaint. In addition, the absence must not be later than the earliest date on which the person would be entitled to a pension if the person ceased to participate in the plan on that date.

A person on a leave of absence described in subparagraph 3, 4 or 5 of the first paragraph is considered to be an employee.”

2. Section 4 is amended

(1) by replacing “and the third paragraph of section 152.6” by “, the third paragraph of section 152.6 and the second paragraph of section 152.8.1”;

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

“Despite the first paragraph, the amount required from the person to pay the cost of the redemption referred to in section 152.8.1 of the Act for a year or part of a year of service completed in the three years prior to the date of receipt of the application for redemption is established on the basis of the percentage necessary for the amount to equal the sum of the contributions that would have been withheld if the person concerned had benefitted from the conditions of employment that should have applied during that period.”

3. The Regulation is amended by inserting the following after section 6:

“**6.0.0.1.** For the purposes of the second paragraph of section 152.8.1 of the Act, the pensionable salary of a person who is not participating in the plan on the date Retraite Québec receives the application for redemption is the annual pensionable salary that would have been paid on that date if the person had benefitted from the conditions of employment that should have applied during that period or, if that date is one on which the person was an employee entitled to salary insurance benefits or an employee on maternity leave, the annual pensionable salary that the person would have been entitled to, had it not been for that absence or leave, if the person had benefitted from such conditions of employment.

In the case where the person, under the conditions of employment that should have been applicable during that period, would not have received salary on the date Retraite Québec received the person’s application for redemption, the tariff applies to the annual pensionable salary that would have been paid on that date if the person had continued to hold, up to that date, the employment held on the last day worked.

If that employment no longer exists with the employer, the tariff applies to the annual pensionable salary that would have been received if the person had benefitted from the conditions of employment that should have applied on the last day worked, increased by the percentage increase in the salary scale provided for in the conditions of employment applicable to class 4 public service management personnel positions between the last day and the day the person's application for redemption is received at Retraite Québec.”.

4. The Regulation is amended by inserting the following after section 10.1:

“DIVISION IV.2

CONDITIONS AND TERMS OF PAYMENT OF AN AMOUNT BY THE EMPLOYER ON REDEMPTION
(s. 196, 1st par., subpar. 12.1)

10.2. For the purposes of section 152.8.3 of the Act, an employer must pay, within 30 days of the date of the statement of account sent by Retraite Québec, the amount established in the statement.

Any amount not paid within the 30-day period is increased by interest, compounded annually, at the rate in Schedule VIII to the Act in force on the statement of account date and calculated as of that date.”.

5. Schedule I is amended by adding the following section at the end:

“(5) The tariff applicable to pay the cost of redemption of service under section 152.8.1 of the Act in respect of a year or part of a year of service prior to 1 January 1988 is the tariff appearing in the table in section 2 of this Schedule.

The tariff applicable to pay the cost of redemption of service under section 152.8.1 of the Act in respect of a year or part of a year of service after 31 December 1987 is the tariff appearing in the table in section 1 of this Schedule.”.

6. This Regulation has effect from 21 March 2018, except subparagraphs 1 and 2 of the first paragraph of section 1.2 of the Regulation under the Act respecting the Pension Plan of Management Personnel, enacted by section 1, which have effect from 14 June 2002, and subparagraphs 3 to 5 of the first paragraph and the second and third paragraphs of that section 1.2, which have effect from 17 July 2018.