Regulations and other Acts

O.C. 374-2019, 3 April 2019

Supplemental Pension Plans Act
(chapter R-15.1)

Funding of multi-jurisdictional defined benefit pension plans

Regulation respecting the funding of multi-jurisdictional defined benefit pension plans

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

WHEREAS, under the third paragraph of section 2 of the Act, such a regulation may, if it so provides, have retroactive effect from a date that is prior to the date of its coming into force but not prior to 31 December of the second year preceding the year in which it was published in the *Gazette officielle du Québec* under section 8 of the Regulations Act (chapter R-18.1);

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act, a draft Regulation respecting the funding of multi-jurisdictional defined benefit pension plans was published in Part 2 of the *Gazette officielle du Québec* of 5 December 2018 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Finance:

THAT the Regulation respecting the funding of multi-jurisdictional defined benefit pension plans, attached to this Order in Council, be made.

YVES OUELLET,
Clerk of the Conseil exécutif

Regulation respecting the funding of multi-jurisdictional defined benefit pension plans

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

DIVISION 1
SCOPE

1. A defined benefit pension plan that is governed both by the Supplemental Pension Plans Act (chapter R-15.1) and by similar legislation of another legislative jurisdiction in Canada is covered by this Regulation. Such a pension plan is said to be a "multi-jurisdictional pension plan".

For the purposes of this Regulation, a defined contribution and benefit plan must be considered as a defined benefit pension plan.

A multi-jurisdictional pension plan exempted from the application of provisions of the Act under a regulation made under the second paragraph of section 2 of the Act is not covered by this Regulation to the extent where, for the purpose of funding the pension plan, solvency requirements apply in respect of the establishment of amortization payments.

2. Where a multi-jurisdictional pension plan has more than one component that must be considered separately in accordance with the provisions of a regulation made under the second paragraph of section 2 of the Act, this Regulation applies separately in respect of each of the components of the plan.

3. The pension plan referred to in section 1 must be funded in accordance with the solvency requirements prescribed by this Regulation.

4. The provisions of the Act and those provided for in a regulation made under the second paragraph of section 2 of the Act apply to a multi-jurisdictional pension plan except to the extent provided for in this Regulation.

In the case of a discrepancy, the provisions of this Regulation prevail over those of the Act and the regulation referred to in the first paragraph.

DIVISION II
CONTRIBUTIONS

5. In addition to the contributions referred to in section 38.1 of the Act, the amortization payments under a multi-jurisdictional pension plan include solvency amortization payments, intended to amortize the solvency deficiency determined in accordance with section 8.

6. For the purposes of section 42.1 of the Act, a solvency amortization payment, intended to amortize the solvency deficiency determined in accordance with section 8, is considered to be a stabilization amortization payment.

7. For monitoring purposes provided for in section 42.2 of the Act, the solvency amortization payments paid pursuant to this Regulation by the employer are considered to be stabilization amortization payments and, where applicable, those paid by the members are considered to be technical amortization payments.

DIVISION III
FUNDING

8. Where the degree of solvency of a multi-jurisdictional pension plan determined in an actuarial valuation after 30 December 2018 in which the amount of the actuarial deficiency referred to in sections 131 and 132 of the Act is less than 75% must be established, a solvency deficiency must be determined at the date of the actuarial valuation.

The solvency deficiency corresponds, at the date of the actuarial valuation referred to in the first paragraph, to the amount by which 75% of the plan's liabilities on a solvency basis exceeds the plan's assets to which the following is added:

(1) the special improvement payment provided for in section 139 of the Act;

(2) the current value of the amortization payments provided for at the date of the actuarial valuation to amortize, in the 5 years following that date, any funding deficiency; the interest rate used to establish the value is the same as the one used to establish the plan's liabilities on a solvency basis.

For the purposes of the second paragraph, the plan's liabilities include the value of the additional obligations arising from any amendment to the plan considered for the first time at the date of the actuarial valuation, calculated on the assumption that the effective date of the amendment is the valuation date.

9. At the date of the actuarial valuation referred to in the first paragraph of section 8, the amortization payments that remain to be paid in relation to a solvency deficiency determined in a prior actuarial valuation are eliminated.

10. The amortization period of a solvency deficiency begins at the date of the actuarial valuation in which the deficiency is determined. It expires at the end of a fiscal year of the pension plan that ends not later than 5 years after the date of the actuarial valuation.

11. The manner provided for in sections 136 and 137 of the Act applies to a solvency deficiency.

DIVISION IV
PENSION PLAN SUBJECT TO SPECIAL FUNDING RULES

12. This Division applies to a multi-jurisdictional pension plan subject to the funding requirements on a funding basis covered by a regulation made under the second paragraph of section 2 of the Act.

In addition, the provisions provided for in Divisions II and III do not apply to such a pension plan.

13. Where an actuarial valuation after 30 December 2018 shows that the degree of solvency of a pension plan referred to in section 12 is less than 75%, a solvency deficiency must be determined at the date of the actuarial valuation.

The solvency deficiency corresponds, at the date of the actuarial valuation referred to in the first paragraph, to the amount by which 75% of the pension plan's liabilities on a solvency basis exceeds the plan's assets increased by the current value of amortization payments provided for at the date of the actuarial valuation to amortize, in the 10 years following that date, any funding deficiency; the interest rate used to establish the value is the same as the one used to establish the plan's liabilities on a solvency basis.

For the purposes of the second paragraph, the plan's liabilities include the value of the additional obligations arising from any amendment to the plan considered for the first time at the date of the actuarial valuation, calculated on the assumption that the effective date of the amendment is the date of the actuarial valuation.

14. At the date of the actuarial valuation referred to in the first paragraph of section 13, the amortization payments that remain to be paid in relation to a solvency deficiency determined in a prior actuarial valuation are eliminated.

15. The amortization period of a solvency deficiency begins at the date of the actuarial valuation in which the deficiency is determined. It expires at the end of a fiscal year of the pension plan that ends not later than 10 years after the date of the actuarial valuation.

16. Every solvency deficiency must be amortized in the manner provided for in section 136 of the Supplemental Pension Plans Act in force since 1 January 2016.

In addition, the rules provided for in section 137 of the Act apply in respect of monthly solvency amortization payments.

17. Solvency amortization payments to amortize solvency deficiencies are added to the amortization payments provided for in a regulation made under the second paragraph of section 2 of the Act to amortize funding deficiencies.

Where a regulation made under the second paragraph of section 2 of the Act provides rules relating to the determination of the cost of the plan's obligations, such payments must be included in that cost.

DIVISION V
MISCELLANEOUS

18. The report on an actuarial valuation of a multi-jurisdictional pension plan in which a solvency deficiency is determined in accordance with section 8 or section 13 must also contain the following information:

(1) the date at which the solvency deficiency was determined and the date of the end of the period provided for its amortization;

(2) the monthly solvency amortization payments payable until the end of the amortization period and their present value;

(3) if the members contribute to solvency amortization payments, the portion for which they are responsible and the amounts, hourly rate or rate of the remuneration that must be paid for that purpose.

19. For the purposes of section 10, the amortization period of a solvency deficiency determined as a multi-employer pension plan to which Chapter X.2 of the Act applies expires at the end of a fiscal year of the pension plan that ends not later than 10 years after the date of the actuarial valuation.

In addition, for the purposes of subparagraph 2 of the second paragraph of section 8, the current value of the amortization payments provided for at the date of the actuarial valuation must be taken into account to amortize, in the 10 years following that date, any funding deficiency.

DIVISION VI
TRANSITIONAL AND FINAL

20. Any multi-jurisdictional pension plan must be the subject of a complete actuarial valuation as at 31 December 2018. Where such a valuation is not referred to in section 118 or 146.16 of the Act or covered by a regulation made under the second paragraph of section 2 of the Act, the report on the actuarial valuation as at 31 December 2018 must be sent to Retraite Québec within 9 months of the valuation date.

Despite the foregoing, the actuarial valuation provided for in the first paragraph is not required, where the notice referred to in section 119.1 of the Act establishes that the degree of solvency of a plan at 31 December 2018 is equal to 75% or more.

In addition, where the notice referred to in section 119.1 of the Act establishes that the degree of solvency of a plan at 31 December 2018 is less than 75%, the actuarial valuation provided for in the first paragraph is not required if the actuary attests, in the document accompanying the notice referred to in section 3.2 of the Regulation respecting supplemental pension plans (chapter R-15.1, r. 6), that the contributions required at the date of the last complete actuarial valuation whose report was sent to Retraite Québec would have been sufficient if the solvency requirements provided for in this Regulation had applied at that date.

21. The report on a complete actuarial valuation as at 31 December 2018 sent to Retraite Québec before 25 April 2019 that establishes the degree of solvency of a multi-jurisdictional plan at a percentage less than 75%, must be amended and sent to Retraite Québec before the expiry of the period provided for under the Act for its sending.

22. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*. Despite the foregoing, it has effect from 31 December 2018.

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