

3. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

O.C. 1186-2020, 11 November 2020

Supplemental Pension Plans Act
(chapter R-15.1)

Measures related to supplemental pension plans to reduce the consequences of the public health emergency declared on 13 March 2020 due to the COVID-19 pandemic

Regulation respecting measures related to supplemental pension plans to reduce the consequences of the public health emergency declared on 13 March 2020 due to the COVID-19 pandemic

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 characteristics of the category or by reason of the complexity of the Act in relation to the number of members in the plan and it may also prescribe special rules applicable to the plan or category;

WHEREAS, under the third paragraph of section 2 of the Act, a regulation made under the second paragraph of that section 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 penultimate 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 measures related to supplemental pension plans to reduce the consequences of the public health emergency declared on 13 March 2020 due to the COVID-19 pandemic was published in Part 2 of the *Gazette officielle du Québec* dated 15 July 2020 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 measures related to supplemental pension plans to reduce the consequences of the public health emergency declared on 13 March 2020 due to the COVID-19 pandemic, attached to this Order in Council, be made.

YVES OUELLET,
Clerk of the Conseil exécutif

Regulation respecting measures related to supplemental pension plans to reduce the consequences of the public health emergency declared on 13 March 2020 due to the COVID-19 pandemic

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

DIVISION I
DEFINED BENEFIT PENSION PLANS

1. This Division applies to a pension plan to which Chapter X or Chapter X.2 of the Supplemental Pension Plans Act (chapter R-15.1) applies and to a pension plan to which a regulation made under section 2 of the Act applies.

2. Despite section 36 of the Act, the temporary cessation of accrued benefits does not terminate active membership under the following conditions:

(1) it only applies to the service that is subsequent to 14 July 2020;

(2) it must begin in 2020 and end, subject to tax requirements, not later than within 12 months after the date on which benefits cease to be accrued.

For the purposes of subparagraph 2 of the first paragraph, where a plan is subject to more than one period of temporary cessation of accrued benefits, the 12-month period applies as of the date on which the first period begins where benefits cease to be accrued.

3. Despite the first paragraph of section 120 of the Act and despite the last paragraph of section 119 of the Act as it read on 31 December 2009 under the first paragraph of section 64.1 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), where the purpose of an amendment is to

terminate the required current service contributions, those contributions cease to be paid as of the date on which the amendment becomes effective.

4. Despite the second paragraph of section 118 of the Act, an actuarial valuation as at 31 December 2020 is not required for a pension plan whose funding level determined in the actuarial valuation as at 31 December 2019 or after that date is less than 90 %.

The notice referred to in the first paragraph of section 119.1 of the Act on the financial position of the plan as at 31 December 2020 must be sent to Retraite Québec, not later than nine months after that date.

In addition, the pension plan must be subject to an actuarial valuation not later than on 31 December 2021.

5. An actuarial valuation as at 31 December 2020 is not required in respect of negotiated contribution plans referred to in Chapter X.2 of the Act and of target-benefit pension plans covered by the Regulation respecting target-benefit pension plans in certain pulp and paper sector enterprises (chapter R-15.1, r. 6.1.01).

Retraite Québec must be informed of the financial position of the plans referred to in the first paragraph as at 31 December 2020 by means of a notice referred to in section 119.1 of the Act. In the case of negotiated contribution plans, the notice must be sent to Retraite Québec within six months of the fiscal year ending on 31 December 2020.

6. For the purpose of paying benefits after 16 April 2020, but prior to 1 January 2021, the degree of solvency to be used pursuant to the third paragraph of section 143 or the first paragraph of section 146.20 of the Act is the one established by an actuary based on the the financial position of the plan estimated on the last working day of the month that precedes the date on which the value of benefits is established. Despite the foregoing, if the date on which the value is established is prior to 1 April 2020, the degree of solvency must be determined based on the financial position of the plan estimated at 31 March 2020.

For an estimate of the financial position of the plan, in particular the actual rate of return of the pension fund or, if the rate is unknown, the estimated rate of return of the pension fund, changes in interest rates determined on a solvency basis and contributions paid under the plan since the last complete actuarial valuation of the plan must be taken into account.

In addition, for a payment made after 31 December 2020, the last degree of solvency estimated in 2020 must be used until a more recent degree is established

(1) in an actuarial valuation report sent to Retraite Québec; or

(2) in the notice referred to in section 119.1 of the Act sent to Retraite Québec.

Member-funded pension plans to which Division X 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) applies are not covered by these provisions.

7. Section 6 applies for the purpose of establishing the value of a member's benefits in the assignment of a member's benefits or the seizure of such benefits for non-payment of support referred to in section 146.22 of the Act.

8. The periods provided for in the following provisions of the Act that expire after 12 March 2020 but before 1 January 2021 are extended by three months:

(1) the nine-month period provided for in section 112, to send to each member and beneficiary a summary of the provisions of the pension plan that were amended during the last fiscal year and a brief description of the rights and obligations arising therefrom and the annual statement;

(2) the nine-month period provided for in subparagraph 1 of the first paragraph of section 119, to send to Retraite Québec an actuarial valuation report referred to in subparagraph 2, 4 or 5 of the first paragraph or the second paragraph of section 118;

(3) the four-month period provided for in subparagraph 1.1 of the first paragraph of section 119, to send to Retraite Québec an actuarial valuation report referred to in subparagraph 3° of the first paragraph of section 118;

(4) the time fixed by Retraite Québec, which must be at least 60 days, provided for in subparagraph 2 of the first paragraph of section 119, to send to Retraite Québec an actuarial valuation report referred to in subparagraph 6 of the first paragraph of section 118, until such time;

(5) the nine-month period provided for in the second paragraph of section 119, to send to Retraite Québec an actuarial valuation report that is not referred to in section 118;

(6) the nine-month period provided for in the first paragraph of section 119.1, to send to Retraite Québec a notice on the financial position of the plan;

(7) the six-month period provided for in section 146.16, to send to Retraite Québec an actuarial valuation report of a negotiated contribution plan;

(8) the 18-month period provided for in section 146.28, to send to Retraite Québec the recovery plan of a negotiated contribution plan;

(9) the 24-month period provided for in the first paragraph of section 146.37, to file with Retraite Québec an application for the registration of amendments covered by the recovery plan of a negotiated contribution plan;

(10) the six-month period provided for in section 161, to send to Retraite Québec an annual statement and cause to be prepared a financial report of the plan;

(11) the nine-month period provided for in the first paragraph of section 166, to call each member and beneficiary and the employer to attend an annual meeting;

(12) the 90-day period provided for in section 207.2, to send to Retraite Québec a termination report.

Every period prescribed by the Act as it read on 31 December 2009 under the first paragraph of section 64.1 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) and every period prescribed by a regulation made under section 2 of the Act, that expires after 12 March 2020 but before 1 January 2021, and that concerns one of the obligations described in the first paragraph, with the necessary modifications, is also extended by three months.

9. Despite the three-month extension of the period provided for in subparagraph 6 of the first paragraph of section 8, the notice on the financial position of the plan as at 31 December 2019 referred to in the first paragraph of section 119.1 of the Act remains required when the pension committee sends to Retraite Québec an actuarial valuation report that establishes the degree of solvency of the plan after 30 September 2020 but prior to 1 January 2021.

DIVISION II DEFINED CONTRIBUTION PLANS

10. This Division applies to a defined contribution plan to which the Act applies and a defined contribution plan to which a regulation made under section 2 of the Act applies.

This Division also applies to defined contribution provisions set out in a plan referred to in Division I.

11. Section 2 applies to the temporary cessation of benefits accrued under a plan referred to in section 10.

12. Contributions cease to be required as of the date on which the amendment becomes effective for that purpose intended to temporarily cease the accrual of benefits covered by a regulation made under section 2 of the Act.

13. Despite subparagraph 29 of the first paragraph of section 10 and the third paragraph of section 11.1 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), no amendment to the plan may become effective, if made under a collective agreement or an arbitration award in lieu thereof or rendered compulsory by an order or decree, before the date on which the collective agreement, award or order becomes effective and, in other cases, before the date the notice provided for in section 26 of the Act is sent.

14. The periods set out in the following provisions of the Act that expire after 12 March 2020 but before 1 January 2021, are extended by three months:

(1) the nine-month period provided for in section 112, to send to each member and beneficiary a summary of the provisions of the pension plan that were amended during the last fiscal year and a brief description of the rights and obligations arising therefrom and the annual statement;

(2) the six-month period provided for in section 161, to send to Retraite Québec an annual statement and cause to be prepared a financial report of the plan;

(3) the nine-month period provided for in the first paragraph of section 166, to call each member and beneficiary and the employer to attend an annual meeting;

(4) the 90-day period provided for in section 207.2, to send to Retraite Québec a termination report.

Every period prescribed by a regulation made under section 2 of the Act, that expires after 12 March 2020 but before 1 January 2021, and that concerns one of the obligations described in the first paragraph, with the necessary modifications, is also extended by three months.

15. 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 15 July 2020, except sections 6 and 7 that apply from 17 April 2020 and sections 8, 9 and 14 that apply from 13 March 2020.