

**Supplemental Pension Plans Act  
(R.S.Q., chapter R-15.1)  
and related provisions**

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**This document is published for purposes of convenience and is not intended to replace official texts for applying or interpreting the *Supplemental Pension Plans Act* and its regulations. Only texts published in the *Gazette officielle du Québec* or by the Direction de la refonte des lois et règlements of the Ministère de la Justice are authentic.**

## **Supplemental Pension Plans Act and their amendments.**

*An Act to amend the supplemental Pension Plans Act*  
(1992, chapter 60)

*An Act to amend the supplemental Pension Plans Act*  
(1993, chapter 45)

*An Act to amend the supplemental Pension Plans Act*  
(1994, chapter 24)

*An Act to amend various legislative provisions respecting the pension plans in the public and parapublic sectors*  
(1995, chapter 46)

*An Act to amend the Act respecting the Québec Pension Plan and the Supplemental Pension Plans Act in order to facilitate phased retirement and early retirement*  
(1997, chapter 19)

*An Act respecting the implementation of the Act respecting administrative justice*  
(1997, chapter 43)

*An Act to amend the Public Curator Act and other legislative provisions relating to property under the provisional administration of the Public Curator*  
(1997, chapter 80)

*An Act respecting the negotiation of agreements concerning the reduction of labour costs in the municipal sector*  
(1998, chapter 2 )

*An Act to amend various legislative provisions concerning de facto spouses*  
(1999, chapter 14)

*An Act to harmonize public statutes with the Civil Code*  
(1999, chapter 40)

*An Act to amend the Supplemental Pension Plans Act and other legislative provisions*  
(2000, chapter 41)

*An Act instituting civil unions and establishing new rules of filiation*  
(2002, chapter 6)

*An Act to amend the Act respecting the Québec Pension Plan and other legislative provisions*  
(2002, chapter 52)

*An Act to amend various legislative provisions concerning municipal affairs*  
(2004, chapter 20)

*An Act to amend the Supplemental Pension Plans Act*  
(2005, chapter 5)

*An Act respecting the funding of certain pension plans*  
(2005, chapter 25)

*An Act to abolish certain public bodies and transfer administrative responsibilities respecting the funding of certain pension plans*  
(2005, chapter. 44)

*An Act to amend the Supplemental Pension Plans Act, particularly with respect to the funding and administration of pensions plans*  
(2006, chapter 42)

*An Act to amend the Supplemental Pension Plans Act, the Act respecting the Québec Pension Plan and other legislative provisions*  
(2008, chapter 21)

*An Act to amend the Supplemental Pension Plans Act the Act and other legislative provisions in order to reduce the effects of the financial crisis on plans covered by the Act*  
(2009, chapter 1)

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## **R.S.Q., Chapter R-15.1**

### **SUPPLEMENTAL PENSION PLANS ACT**

#### **CHAPTER I**

##### **APPLICATION AND INTERPRETATION**

**1.** This Act applies to pension plans provided

(1) for employees who report for work at an establishment of their employer located in Québec or, if not, who receive their remuneration from such an establishment, provided, in the latter case, they do not report for work at any other establishment of their employer;

(2) for employees not referred to in paragraph 1 who, while residing in Québec and being employed by an employer whose main establishment is located in Québec, work outside Québec, provided the plans are not governed by an Act of a legislative body other than the Parliament of Québec which provides for a deferred pension.

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1989, c. 38, s. 1.

**2.** This Act does not apply to

(1) a pension plan to which the employer is not required to make contributions. However, it applies to a pension plan where membership therein is a condition precedent to membership in another plan to which an employer is required to make contributions or, conversely, where membership therein is conditioned by membership in that other plan; where that is the case, such pension plans are deemed, for the purposes of this Act, to constitute a single pension plan;

(2) a pension plan established for employees who are also members of a plan governed by this Act, if their employer makes contributions to both plans in their respect, and if, under the terms of the other plan, they are entitled to benefits at least equal to the maximum benefits which may be paid under the terms of a registered pension plan defined in section 1 of the Taxation Act (R.S.Q., chapter I-3);

(3) a profit sharing plan or a deferred profit sharing plan referred to in Titles I and II of Book VII of Part I of the Taxation Act;

(4) a pension plan established by an Act, unless such Act renders the plan subject to this Act.

(5) a pension plan not established by an Act and administered by the Commission administrative des régimes de retraite et d'assurances, or a pension plan under which the Commission is responsible for the payment of the benefits, except if the Government subjects such pension plan to this Act

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 this Act, particularly by reason of the special characteristics of the plan or

category or by reason of the complexity of the Act in relation to the number of members in the plan. The Government may also prescribe special rules applicable to the plan or category.

A regulation made under the second paragraph 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 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). The regulation, if it is made in relation to a pension plan administered by the Commission de la construction du Québec or a mandatary of the Commission de la construction du Québec may, if it so provides, have retroactive effect from a date that is prior to the date of its coming into force.

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1989, c. 38, s. 2; 1991, c. 25, s. 178; 1993, c. 45, s. 1; 1995, c. 46, s. 30; 1999, c. 40, s. 254; 2000, c. 41, s. 1; 2002, c. 52, s. 7, 2009, c. 1, s.1.

**2.1.** This Act, except sections 6, 64 and 107, the first paragraph of section 110 and section 171.1, which apply with the necessary modifications, does not apply to a pension plan if

(1) all the members of the pension plan are persons connected with the employer within the meaning of subsection 3 of section 8500 of the Income Tax Regulations (Consolidated Regulations of Canada, 1978, chapter 945) and membership in the plan is optional and is restricted to those persons ;

(2) only employees described in section 1 may become members of the pension plan ; and

(3) active membership in the plan ceases when the member ceases to be a person connected with the employer.

Moreover, such a pension plan is deemed, for the purposes of section 98, not to be a pension plan governed by this Act.

A pension plan to which the first paragraph applies becomes subject to this Act upon being amended to allow other persons to become members.

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2000, c. 41, s. 2.

**3.** For the purposes of this Act,

"actuary" means any member of the Canadian Institute of Actuaries having the title of "Fellow" or a status recognized as equivalent by such Institute;

"accountant" means any person who, being a member of a professional order of accountants listed in Schedule I to the Professional Code (R. S. Q., chapter C-26), is authorized under the Act constituting the order to act as an accountant for the purposes of a provision of this Act.

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1989, c. 38, s. 3; 1994, c. 40, s. 457.

**4.** For the purposes of this Act, any person who avails himself of the services of a worker who is not an employee and makes contributions to a pension plan in respect of such worker is deemed to be the worker's employer.

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1989, c. 38, s. 4; 1999, c. 40, s. 254.

**5.** Any provision of a pension plan which is incompatible with this Act is without effect.

However, a pension plan may contain provisions that are more advantageous to members or beneficiaries than those contained in this Act.

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1989, c. 38, s. 5; 1999, c. 40, s. 254.

## **CHAPTER II**

### **PENSION PLANS**

#### **Division I**

#### **NATURE**

##### *§1.—General provisions*

**6.** A pension plan is a contract under which retirement benefits are provided to the member, under given conditions and at a given age, the funding of which is ensured by contributions payable either by the employer only, or by both the employer and the member.

Every pension plan, with the exception of insured plans, shall have a pension fund into which, in particular, contributions and the income derived therefrom are paid. The pension fund shall constitute a trust patrimony appropriated mainly to the payment of the refunds and pension benefits to which the members and beneficiaries are entitled.

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1989, c. 38, s. 6.

##### *§2.—Types of plans*

**7.** A defined contribution pension plan is a plan under which employer contributions and, where applicable, member contributions, or the method used for calculating them, are set in advance and the normal pension payable is based on the amounts credited to the member.

A defined benefit pension plan is a plan under which the normal pension payable is either a set amount, independent of the member's remuneration, or an amount corresponding to a percentage of the member's remuneration.

A defined benefit-defined contribution pension plan is a plan under which employer contributions and, where applicable, member contributions and the normal pension, or the method used for calculating them, are set in advance.

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1989, c. 38, s. 7.

**8.** A contributory pension plan is a plan to which member contributions are paid by the members.

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1989, c. 38, s. 8.

**9.** An insured pension plan is a plan under which refunds and pension benefits are at all times guaranteed by an insurer.

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1989, c. 38, s. 9.

**10.** Only an insurer who is authorized to carry on life insurance business in Québec or elsewhere in Canada where an agreement referred to in section 249 is applicable may guarantee the refunds or pension benefits provided under a pension plan.

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1989, c. 38, s. 10.

**11.** A multi-employer pension plan is a plan in which the members are the employees of two or more employers.

However, a plan is not considered to be a multi-employer pension plan if the following conditions are met :

(1) the employers who are parties to the plan are either subsidiaries of the same parent company or a parent company and its subsidiaries;

(2) the plan provides that the subsidiaries that are parties to the plan and the parent company agree that the plan not be considered to be a multi-employer pension plan.

The employers party to a plan to which the second paragraph applies are solidarily liable for the obligations incumbent upon each employer under the plan or under this Act.

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1989, c. 38, s. 11; 2000, c. 41, s. 3.

**12.** A parent company is a legal person which controls another company, which is, by that fact, a subsidiary of the parent company.

A legal person controls another legal person if it holds, directly or indirectly, otherwise than as security, securities entitling it to elect in all cases a majority of the directors of that other legal person.

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1989, c. 38, s. 12.

## Division II

### ESTABLISHMENT AND EFFECTIVE DATE

**13.** A pension plan becomes effective on the earlier of the following dates :

- (1) the date from which, for the purposes of determining the normal pension, the employees' service is taken into account as it is completed;
- (2) the date on which member contributions begin to be collected.

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1989, c. 38, s. 13.

**14.** Unless an extension is granted by the Régie des rentes du Québec, any person who establishes a pension plan shall set it down in writing not later than ninety days after the day on which the plan becomes effective.

The text of the plan shall indicate

- (1) the name of the employer who is a party to the plan;
- (2) the number of members required to constitute the pension committee responsible for the administration of the plan, together with the conditions and time limits applicable to the designation or replacement of the members;
- (3) the requirements for membership and withdrawal;
- (4) the contributory or non-contributory nature of the plan;
- (5) the optional or compulsory nature of membership in the plan;
- (6) in the case of a multi-employer pension plan, the conditions for participation and for withdrawal of an employer;
- (7) the normal retirement age;
- (8) where the plan is guaranteed, the name of the insurer;
- (9) the member and employer contributions, or the method used for calculating the contributions;
- (10) in the case of a defined benefit plan or a defined benefit-defined contribution pension plan, the normal pension or the method used for calculating the normal pension;
- (11) the nature of the refunds and pension benefits, the method used for calculating benefits or refunds, if any, and the conditions to be met to be entitled thereto;
- (12) if applicable, the powers under which the pension committee is authorized to transfer benefits accumulated by a member under the plan or any asset of the plan to another plan, and the rules applicable to such a transfer;
- (13) the effective date of the plan;

(14) the fiscal year of the plan;

(15) the conditions on which and the person or persons by whom the plan may be amended;

(16) which of the employer only, the members and beneficiaries only or both the employer and the members and beneficiaries will be entitled to the surplus of assets determined upon the termination of the plan, and, in the latter case, the percentage of such a surplus due to them. The percentages may, where the surplus is to be used to increase pension benefits, take into account the value of the obligations arising from such increases.

(16.1) in the case of a plan to which the second paragraph of section 146.4 does not apply, the employer's right, if any, 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;

(17) in the case of a pension plan to which the third paragraph of section 146.4 does not apply and if applicable, the employer's right to appropriate all or part of the surplus assets to the payment of employer contributions.

1989, c. 38, s. 14; 1992, c. 60, s. 1; 2000, c. 41, s. 4; 2006, c. 42, s. 1 (1 January 2010).

**14.1.** Unless expressly provided by this Act, no provision of a defined benefit plan or defined benefit-defined contribution pension plan may operate to make the following conditional on an extrinsic factor so that they are limited or reduced:

(1) the crediting of service or the accumulation of benefits under the plan;

(2) the amount or value of the benefits accumulated in respect of service prior to the date on which the value of the obligations arising from the plan are established with regard to the member or beneficiary whose rights are at stake.

The following, in particular, are considered to be extrinsic factors:

(1) the financial position of the pension fund;

(2) employer contributions paid in relation to the obligations arising from the pension plan with regard to the member or beneficiary;

(3) the exercised discretionary powers attributed exclusively to a person other than a member or beneficiary;

(4) certification or cancellation of the certification of an association of employees;

(5) technological or economic changes in the employer's enterprise or the division, merger, alienation or closing down of the enterprise; and

(6) the withdrawal of an employer from the pension plan or the termination of the pension plan.

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2008, c. 21, s. 1.

**15.** Any insurance contract under which an insurer guarantees refunds and pension benefits provided under a pension plan is an integral part of the plan; however, where a plan is not insured, the contract is part of the plan only to the extent that the recipient of the insured refunds or pension benefits continues to be a member of the said plan.

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1989, c. 38, s. 15.

**16.** Where a pension plan becomes effective before it is registered with the Régie des rentes du Québec, the employer or, where a pension committee has been formed, the pension committee shall notify the Régie thereof in writing within 30 days.

The notice shall indicate, in addition to the name and address of the employer who is a party to the plan, the effective date of the plan and, if applicable, the date on which member contributions began to be collected. The notice shall also indicate in a concise manner

- (1) the type of plan established;
- (2) the normal pension or the method used for calculating the normal pension;
- (3) the member or employer contributions or the method used for calculating the contributions;
- (4) where applicable, the name and address of the person to whom powers have been delegated.

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1989, c. 38, s. 16.

**17.** (Repealed).

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2000, c. 41, s. 5.

**18.** A pension plan whose registration is revoked by the Régie under section 32 shall cease to be effective on the date of revocation.

A pension plan which is not registered or whose registration is deemed to be revoked under section 32.1 shall cease to be effective as soon as

- (1) the plan is terminated and has no assets ; and
- (2) no member or beneficiary has any rights or benefits remaining under the plan or under this Act.

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1989, c. 38, s. 18; 2000, c. 41, s. 6.

## Division III

## AMENDMENT

**19.** No amendment to a pension plan may become effective before the date it is registered with the Régie, except in the following cases :

(1) where the object of the amendment is the participation of another employer in a pension plan, in which case the amendment becomes effective on the date determined pursuant to section 13;

(1.1) where the object of the amendment is the withdrawal of a bankrupt employer from the multi-employer pension plan, in which case the amendment becomes effective on the date of the bankruptcy;

(2) where the amendment is to become effective on a given date prior to its registration, in which case the amendment may, provided it is registered, become effective on that date.

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1989, c. 38, s. 19; 2000, c. 41, s. 7.

**20.** No amendment to a pension plan which cancels refunds or pension benefits, limits eligibility therefor or reduces the amount or value of the benefits of members or beneficiaries 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 is sent.

However, the limit set under the first paragraph in respect of the effective date of an amendment reducing benefits does not apply

(1) where the amendment is made to allow the plan to remain a registered pension plan within the meaning of section 1 of the Taxation Act (R.S.Q., chapter I-3);

(2) where the affected members or beneficiaries have agreed to the amendment and where the effective date of the amendment is the date of the bankruptcy pursuant to subparagraph 1.1 of the first paragraph of section 19, provided the Régie has authorized the amendment.

If an amendment reducing pension benefits pertains to the normal pension, the method used for calculating the normal pension or any other pension benefit established on the basis of such pension or method, it may only apply to the service that is subsequent to the effective date of the amendment and if such an amendment pertains to the assumptions referred to in the second paragraph of section 61, it may only apply to the determination of the benefits accrued to a member at a date that is subsequent to the effective date of the amendment. These restrictions are not applicable, however, in the cases mentioned in the second paragraph.

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1989, c. 38, s. 20; 1991, c. 25, s. 179; 1992, c. 60, s. 2; 2000, c. 41, s. 8.

**21.** No amendment to a pension plan may reduce a pension benefit the payment of which began prior to the date on which the amendment became effective.

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1989, c. 38, s. 21.

**21.1.** No amendment to a pension plan to which subparagraph 16.1 or 17 of the second paragraph of section 14 applies may pertain to the right referred to in that subparagraph, unless all requirements imposed by the first paragraph of section 146.5 and section 146.6 are satisfied.

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2000, c. 41, s. 9; 2006, c. 42, s. 2 (1 January 2010).

**21.2.** No amendment to a pension plan may pertain to the allocation of surplus assets in the event of termination.

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2000, c. 41, s. 9.

**21.3.** In the case of a pension plan to which the conditions set out in subparagraphs 1 and 2 of the first paragraph of section 146.1 apply, no amendment having an impact on the funding or solvency of the plan may be made unless the surplus assets are appropriated to the payment of the value of the additional obligations arising from the amendment.

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2008, c. 21, s. 2 (1 January 2010).

**22.** Any amendment made to a pension plan for the purpose of converting the plan into a plan of another type or substituting a new employer for the former employer is subject to the authorization of the Régie and the conditions it may fix.

In addition, if the amendment is intended to convert benefits resulting from the application of provisions which grant members defined benefits for service credited to them under the plan up to the date on which the amendment becomes effective, into amounts which, credited as defined contributions, will be used to purchase a pension of an indeterminate amount, such an amendment may be authorized only if the value of the benefits of every member who agrees to the conversion is equal to or greater than the value to which he would have been entitled had the plan been terminated on the date on which the amendment is to become effective. However, the latter value shall be established without taking into account the rights which may result from the application of subdivision 4.1 of Division II of Chapter XIII.

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1989, c. 38, s. 22; 1992, c. 60, s. 3; 2000, c. 41, s. 10.

**23.** The remuneration received or, as the case may be, the hours of work completed prior to an amendment mentioned in section 22 shall be taken into account for the application of section 34.

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1989, c. 38, s. 23; 2000, c. 41, s. 11.

**CHAPTER III****REGISTRATION OF PENSION PLANS AND AMENDMENTS**

**24.** Every pension plan and every amendment to a pension plan shall be registered with the Régie.

The employer or, where a pension committee has been formed, the pension committee shall file an application for registration with the Régie, accompanied with

(1) a copy of the plan or amendment, certified by the employer or by the committee, and, where the plan is insured, a copy of the insurance contract, certified by the insurer;

(2) where the application is for the registration of the plan, the name and address of the employer or, in the case of a pension committee, the names and addresses of the committee members;

(3) the employer's written acknowledgment of the obligations incumbent upon the employer under the plan or amendment, unless

(a) the committee attests that it has obtained such acknowledgment from the employer and that the acknowledgment may, on request, be filed with the Régie ;

(b) the amendment has been made mandatory by a new legislative or regulatory provision giving no latitude to the employer ; or

(c) the amendment is being made pursuant to Chapter X.1 or results from the application of section 199 ;

(4) (*strike out*);

(5) (*strike out*);

(6) any other document or information prescribed by regulation;

(7) the fees prescribed by regulation.

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1989, c. 38, s. 24; 2000, c. 41, s. 12; 2006, c. 42, a. 3 (1 January 2010).

**25.** Unless an extension is granted by the Régie, every application for the registration of a pension plan shall be filed not later than ninety days after the date on which the plan becomes effective; every application for the registration of an amendment whose object is the participation of another employer in a pension plan shall be filed not later than the last day of the twelfth month following the month in which the amendment becomes effective.

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1989, c. 38, s. 25; 2000, c. 41, s. 13.

**26.** A pension committee which proposes to apply for the registration of an amendment shall inform the members thereof

(1) by transmitting to each member a written notice setting out the object of the proposed amendment and its effective date and stating that the text of the amendment may be examined at the committee's office and at the employer's establishment specified, which must be located within 150 km of the member's place of employment or, where the employer has no establishment within that distance, that the text may be obtained, without charge, on written request; or

(2) by publishing the notice in a newspaper circulated in the localities where at least half of the members reside or, only as concerns active members, by sending the notice to the employer who, on receipt thereof, shall post it in a conspicuous place within the establishment, in an area ordinarily frequented by the members. However, the means of information provided for in this subparagraph cannot be used if the object of the proposed amendment is

- the cancellation of refunds or pension benefits, new conditions limiting eligibility therefor or a reduction in the amount or value of the benefits of members or beneficiaries;
- the allocation of a surplus of assets or the appropriation of such surplus to the payment of the value of the additional obligations arising from any amendment to the plan or the payment of employer contributions;
- the merging of the assets and liabilities of several plans;
- the division of the plan's assets and liabilities among several plans.

A copy of the notice shall also be transmitted to the Régie.

This section does not apply where the amendment results from the application of Chapter X.1. In addition, where the amendment is made pursuant to a collective agreement or an arbitration award in lieu thereof, or is rendered compulsory by an order or decree, this section does not apply in respect of active members who are subject to the collective agreement, arbitration award or order or decree and represented by a certified association within the meaning of the Labour Code (chapter C-27).

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1989, c. 38, s. 26; 1992, c. 60, s. 4; 2000, c. 41, s. 14; 2006, c. 42, a. 4 (1 January 2010).

**27.** The Régie shall send, to the applicant whose application for registration meets the requirements prescribed by this Act, an acknowledgment of receipt showing the date of receipt of the application.

If the application for registration is incomplete, the Régie shall forthwith notify the applicant, and specify the information which remains to be filed.

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1989, c. 38, s. 27.

**28.** The Régie may, after giving the interested parties an opportunity to present observations, refuse to register a pension plan, or part thereof, or an amendment which, in its opinion, is not in conformity with this Act. It shall inform the parties by means of a written notice specifying the reasons for its refusal.

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1989, c. 38, s. 28; 1997, c. 43, s. 649.

**29.** Upon registering a pension plan or an amendment, the Régie shall notify the applicant. The Régie shall assign a number to each plan it registers."

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1989, c. 38, s. 29; 2000, c. 41, s. 15.

**30.** Every pension plan or amendment in respect of which an application for registration has been acknowledged is deemed to be registered if, 90 days after the date indicated in the acknowledgment, the applicant has not received from the Régie a request for additional information, a notice extending the period of examination of the application, a notice of refusal or a notice of registration.

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1989, c. 38, s. 30; 2000, c. 41, s. 16.

**31.** The registration of a pension plan or of an amendment does not constitute proof of its conformity with this Act.

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1989, c. 38, s. 31.

**32.** The Régie may revoke the registration of a pension plan in either of the following cases :

(1) if, by reason of a merger under Chapter XII, the members or beneficiaries no longer have any benefits under the plan or this Act, and the plan no longer holds any assets;

(2) if the plan ceases to be governed by this Act.

Moreover, the Régie may, after giving the interested parties an opportunity to present observations, revoke the registration of any part of the plan or of an amendment which is not in conformity with this Act.

The Régie shall notify the interested parties of any revocation of registration by means of a written notice specifying the reasons therefor.

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1989, c. 38, s. 32; 1997, c. 43, s. 650; 2000, c. 41, s. 17.

**32.1.** The registration of a terminated pension plan is deemed to be revoked 60 days after the later of

(1) the date of expiry of the time limits provided for in sections 210 and 210.1 or determined by the Régie for the satisfaction of the rights of the employer, the members and the beneficiaries under the plan and under this Act; and

(2) the date on which the orders of the Régie concerning the plan are complied with.

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2000, c. 41, s. 18.

## CHAPTER IV

### MEMBERSHIP

**33.** An employee eligible for membership in a pension plan becomes a member of the plan from the first of the following :

- (1) when contributions to the plan are paid by the employee or by the employer on behalf of the employee;
- (2) when the employee meets the membership requirements set out in the plan.

The employee shall remain a member until all benefits accumulated by him under the plan are paid, in particular, by means of a transfer to another plan, by the replacement of his pension pursuant to section 92 or upon termination of the plan.

The holder of an insured annuity purchased directly from an insurer, otherwise than pursuant to section 98, using benefits accrued under the plan shall remain a member of the plan.

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1989, c. 38, s. 33; 1992, c. 60, s. 5; 2000, c. 41, s. 19.

**34.** Unless another plan providing similar benefits in which he is eligible for membership is established, an employee is entitled to become a member of a pension plan , on the same conditions as those applicable to other members, if his employment is similar or identical to that of members belonging to the class of employees for whom the plan is established and if, in the calendar year preceding his application for membership, he met either of the following requirements :

- (1) he received from the employer a remuneration equal to or greater than 35 % of the Maximum Pensionable Earnings, established for the reference year in accordance with the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9);
- (2) he completed at least 700 hours of employment with the employer.

The optional or compulsory nature of the membership does not constitute a requirement for the purposes of the first paragraph.

Where an employee has been employed by two or more employers participating in a multi-employer pension plan, the minimum remuneration required shall be determined on the basis of the overall remuneration from, or the overall hours of work for, each of the participating employers, in either of the following cases :

- (1) the employees eligible for membership in the plan are governed by the same collective agreement or arbitration award in lieu thereof;
- (2) the participating employers are a parent company and its subsidiaries or subsidiaries of the same parent company.

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1989, c. 38, s. 34; 2000, c. 41, s. 20.

**35.** The Régie may order a pension committee to accept, as member of the plan, every employee who meets the requirements set out in section 34

(1) where it is of the opinion that, in view, in particular, of the nature and requirements of the employment concerned, those of the elements serving to determine the class of employees for whom the plan is established which are invoked as grounds to dismiss the employee's application for membership are unreasonable;

(2) where there is a dispute as to whether or not the employee belongs to the class of employees for whom the plan is established.

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1989, c. 38, s. 35.

**36.** For the purposes of this Act, every member of a pension plan is deemed to be an active member

(1) until he ceases to be a member in accordance with the withdrawal requirements or until he no longer meets the eligibility requirements fixed by the plan;

(2) until his period of continuous employment, as defined in section 54, is terminated;

(3) until he dies.

The plan may, however, provide that the member remains an active member for a given period after the end of his period of continuous employment. Notwithstanding the second paragraph of section 5, the said period, increased by any period of layoff with a right of recall referred to in section 54, shall not exceed 24 consecutive months.

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1989, c. 38, s. 36; 1994, c. 24, s. 1; 1999, c. 40, s. 254; 2000, c. 41, s. 21.

## CHAPTER V

### CONTRIBUTIONS

**37.** The member contribution is the contribution that an active member is required to pay or the amount he elects to pay with a concurrent contribution by the employer.

The employer contribution is the contribution that the employer is required to pay.

An additional voluntary contribution is the amount that a member elects to pay without a concurrent contribution by the employer.

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1989, c. 38, s. 37.

**38.** A current service contribution is the amount that the employer and, as the case may be, the active members are required to pay to ensure payment of the refunds and pension benefits provided under the pension plan in respect of service completed during a fiscal year of the plan and credited under the plan.

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1989, c. 38, s. 38.

**39.** The employer shall, in each fiscal year of the pension plan, pay as employer contributions an amount which, when added to the member contributions, is equal to or greater than,

(1) in the case of an insured plan, the current service contribution as established in section 40;

(2) in the case of an uninsured plan, the sum of the following amounts:

(a) the current service contribution determined in accordance with sections 138 and 139; and

(b) the higher of the following amounts: the amortization payment determined in respect of the funding deficiency or the sum of the amortization payments determined in respect of the solvency deficiencies and the special amortization payments payable during the fiscal year.

In the case of a multi-employer plan, the employer contribution shall be paid jointly by the employers who are parties to the plan.

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1989, c. 38, s. 39; 2006, c. 42, a. 5 (1 January 2010); 2008, c. 21, a. 30 (1 January 2010).

**39.1.** Notwithstanding section 39, the Régie may authorize an employer, to the extent and for the period determined by the Régie, to pay a lesser contribution into the pension fund than would otherwise be required if

(1) the pension plan is a designated plan within the meaning of section 8515 of the Income Tax Regulations on the date on which the amount of contribution to be paid is determined;

(2) the said Regulations exclude the payment as an eligible contribution of all or part of the contribution that should be paid by the employer pursuant to section 39; and

(3) all members and beneficiaries agree thereto.

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2000, c. 41, s. 22; 2006, c. 42, s. 6 (1 January 2010).

**40.** In the case of an insured plan, the current service contribution shall correspond to the premium required by the insurer to guarantee the refunds and pension benefits to which the members are entitled in respect of service completed in any fiscal year of the plan and credited under the plan.

Furthermore, where an insurer guarantees refunds and pension benefits in respect of service credited for a period prior to the current fiscal year of the plan, the required premium shall, to ensure that the plan remains insured, be paid to the insurer in a lump sum as soon as the service is credited or the related benefits are improved under the plan.

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1989, c. 38, s. 40.

**41.** The employer contribution, less the portion the employer is relieved of paying under section 42.1 or that relates to a special amortization payment, must be paid in as

many instalments as there are months in the fiscal year of the plan, each being paid not later than the last day of the month following the month for which it is made.

The monthly payments shall be of equal amounts. However, if they relate to the current service contribution, 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 proportion shall be uniform unless it is established by reference to a variable authorized by the Régie.

In the case of a pension plan to which Chapter X applies, where the employer contribution is not determined at the beginning of the fiscal year, the employer shall, until an actuarial valuation report is transmitted to the Régie, continue to pay the monthly amounts fixed for the preceding fiscal year. If the contribution so paid is less than what should have been paid according to the report, the first monthly amount payable after the transmission of the report to the Régie shall be increased by the difference between the monthly amounts paid and the amounts that should have been paid according to the report, plus any portion of the contribution the employer is relieved of paying under section 42.1 and the interest provided for in section 48 where applicable. The amount of the contribution may also be adjusted if the contribution that should have been paid according to the report is less than what was paid.

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1989, c. 38, s. 41; 2000, c. 41, s. 23; 2006, c. 42, s. 7 (1 January 2010); 2008, c. 21, s. 31 (1 January 2010).

**42.** If the amortization period for an unfunded actuarial liability begins in the course of a fiscal year of the plan, the amortization payment determined for that year must be paid in as many monthly payments as there are months in the portion of the fiscal year included in the amortization period.

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1989, c. 38, s. 42; 2006, c. 42, s. 8 (1 January 2010).

**42.1.** Under the conditions prescribed by regulation, an employer may, upon providing the pension committee with a letter of credit established in accordance with the regulations, be relieved of paying the portion of the employer contribution that relates to an amortization payment in relation to a solvency deficiency or a special amortization payment, up to the total of the amortization payments determined for the current fiscal year of the pension plan in respect of the solvency deficiencies and the special amortization payments payable during the year.

However, employers who are parties to a multi-employer pension plan may not avail themselves of the provisions of the first paragraph.

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2006, c. 42, s. 9 (1 January 2010); 2008, c. 21, s. 32 (1 January 2010).

**43.** Every person or body who or which collects member contributions or additional voluntary contributions shall, on or before the last day of the month following the month in which they are received, pay such contributions into the pension fund on behalf of the members or, in the case of an insured plan, to the insurer.

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1989, c. 38, s. 43.

**44.** All member contributions and additional voluntary contributions and, in the case of a defined contribution plan, all employer contributions shall bear interest, from the first

day of the month following the month in which they are payable into the pension fund or to the insurer,

(1) in the case of an uninsured plan other than a defined contribution plan, at the rate of return derived from the investment of the plan assets, less investment expenses and administration costs, or, if the plan so provides and to the extent that the contribution relates to refunds or pension benefits that remain insured, at the monthly rate of return on personal five-year term deposits with chartered banks, as compiled by the Bank of Canada;

(2) in the case of a defined contribution plan, at the rate of return derived from the investment of all the assets of the plan or, where the plan so provides, of only such part of the assets as may be related to a particular group of members, less investment expenses and administration costs;

(3) in the case of an insured plan, at the monthly rate referred to in subparagraph 1 or, if the plan so provides, at the rate of return derived from the investment of the insurer's assets that are not included in the separate groups of assets constituted by the insurer, less, in the last case, investment expenses and administration costs.

However, if the plan provides that the members may direct what investments are made with all or part of the contributions credited to their accounts or if additional voluntary contributions are invested into a separate uninsured plan, all such investments shall be excluded from the plan assets for the purposes of subparagraphs 1 and 2 of the first paragraph, and the contributions so invested shall bear interest at the rate of return on such investments.

The provisions of this section which are applicable to the contributions paid under a defined contribution plan also apply to the contributions paid under terms in a defined benefit plan that are identical to those of a defined contribution plan.

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1989, c. 38, s. 44; 2000, c. 41, s. 24.

**45.** Despite subparagraph 2 of the first paragraph of section 44, employer contributions paid under a defined contribution pension plan may, if the plan so provides, bear interest at the rate of return on the investment of the contributions paid by the members under that plan or another pension plan which may or may not be governed by this Act, insofar as the investment is decided by the members.

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1989, c. 38, s. 45.

**45.1.** Where the interest due on the amounts credited to a member is to be calculated on the basis of the return obtained on the assets invested, and the investment results in a loss, such amounts may be reduced proportionally to the fraction that the amount of the loss is of such assets.

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1992, c. 60, s. 6.

**46.** Unless provided in the plan, the method used for calculating the rates of return and the method used for applying the monthly rate of interest shall, for the purposes of sections 44 and 45, be determined by the actuary or the accountant selected by the

pension committee; in the case of an insured plan, the methods shall be determined by the insurer.

The method used to calculate the loss incurred by the assets and the resulting reduction of the value of the contributions shall, for the purposes of section 45.1, be determined in the same way.

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1989, c. 38, s. 46; 1992, c. 60, s. 7.

**47.** Where a member or beneficiary has become entitled to a benefit under the terms of the pension plan,

- additional voluntary contributions,
- member or employer contributions paid under a defined contribution plan or under terms in a defined benefit plan that are identical to those of a defined contribution plan, and
- member contributions above the limit set by section 60,

shall continue, subject to the provisions of section 45.1, to bear interest at the rate prescribed by section 44 or 45 until such contributions are used to replace a pension under section 92, are transferred in accordance with section 98 or are refunded, or until an additional pension is purchased with such contributions as provided in section 83.

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1989, c. 38, s. 47; 1992, c. 60, s. 8; 2000, c. 41, s. 25.

**48.** Unless a pension plan or, in the case of an insured plan, an insurance contract sets a higher rate of interest, any contribution which has not been paid into the pension fund or to the insurer shall bear interest, from the last day of the month following the month for which it should have been paid or, as the case may be, the last day of the month following the month in which it was collected, at the rate prescribed by section 44 or 45 or, in the case of the employer contribution under a defined benefit plan, at the rate of return of the pension fund.

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1989, c. 38, s. 48; 2000, c. 41, s. 26.

**49.** Until contributions and accrued interest are paid into the pension fund or to the insurer, they are deemed to be held in trust by the employer, whether or not the latter has kept them separate from his property.

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1989, c. 38, s. 49.

**50.** The employer shall, on remitting the contributions, inform the pension committee or, in the case of an insured pension plan, the insurer, of the reason for any significant variation in the contributions payable into the pension fund or to the insurer.

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1989, c. 38, s. 50.

**51.** The pension committee or, in the case of an insured pension plan, the insurer shall notify the Régie of any unpaid contribution within 60 days after it becomes due.

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1989, c. 38, s. 51; 2000, c. 41, s. 27.

**52.** Unless they have exercised the prudence, diligence and care that a reasonable person would have exercised in comparable circumstances or unless, in the same circumstances they were unaware of the default, the directors of a legal person which, as an employer, is a party to a pension plan, shall be solidarily liable for contributions which become due and remain unpaid during their term in office, up to a contributory period of six months.

In the case of a multi-employer pension plan that is not considered as such pursuant to section 11, the directors of a subsidiary are liable for the contributions only if the parent company fails to pay the contributions referred to in the first paragraph. Where the directors of the subsidiary also fail to pay the contributions for which they are liable under this paragraph, the directors of the parent company become liable for the contributions.

The six-month limit set out in the first paragraph does not apply where the pension fund is managed by the employer.

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1989, c. 38, s. 52.

**53.** A director shall be liable under section 52 only in either of the following cases :

(1) where the legal person has been prosecuted within two years after the date the unpaid contribution became due and full satisfaction of the amount awarded by judgment was not obtained upon execution;

(2) where the legal person was, within two years of the date the unpaid contribution became due, the subject of a winding-up order or became bankrupt within the meaning of the Bankruptcy Act (R.S.C., 1985, chapter B-3) and the claim filed has not been discharged.

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1989, c. 38, s. 53.

## **CHAPTER VI**

### **REFUNDS AND PENSION BENEFITS**

#### **Division I**

##### **GENERAL PROVISIONS**

**54.** The period of continuous employment of an employee is the period during which the employee is employed by an employer, regardless of periods of temporary interruption and periods of disability during which the member continues to accumulate benefits. A period of layoff with a right of recall shall not, for the purposes of this paragraph and notwithstanding the second paragraph of section 5, be considered to be a period of temporary interruption beyond 24 consecutive months, unless the plan so permits and the employee consents thereto.

A change of employer does not, for the purposes of a pension plan, interrupt the period of continuous employment of an employee, provided the Régie authorized the transfer of obligations in the cases referred to in section 22 or in Chapter XII.

In the case of a multi-employer pension plan, even where it is not considered as such pursuant to section 11, a change of employer does not interrupt the period of continuous employment of an employee if the former employer and the successor employer are parties to the plan.

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1989, c. 38, s. 54; 1994, c. 24, s. 2.

**55.** The credited service of a member is the service counted under the terms of a pension plan for the vesting or calculation of pension benefits.

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1989, c. 38, s. 55.

**56.** (Repealed).

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2000, c. 41, s. 28.

**57.** Unless approved by the Régie,

- employer contributions paid under a defined contribution plan or under terms in a defined benefit plan which are identical to those of a defined contribution plan,
- the method used for calculating the employer contributions, and
- the method used for calculating the normal pension payable under the terms of a defined benefit plan or a defined contribution-defined benefit plan,

shall not, with respect to members of the same class of employees and for the same period of credited service, vary according to the number of years of employment or of credited service.

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1989, c. 38, s. 57.

**58.** Except in the following cases, a pension paid under a pension plan must be a life pension and may not be paid in any other form during the lifetime of the member or, in the case of a spouse's pension, during the lifetime of the spouse:

(1) the temporary pension provided for in section 91.1 and the pension derived from that pension;

(2) a pension provided for in section 67.2; and

(3) the bridging benefit representing the fraction of a pension which, under the terms of the pension plan, must be paid to the member or beneficiary until a date that is neither earlier than the date on which the member becomes eligible for an early retirement pension payable under the Act respecting the Québec Pension Plan (chapter R-9), the Canada Pension Plan (Revised Statutes of Canada, 1985, chapter C-8), the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9) or an income security program prescribed by regulation, nor later than the date on which the member becomes eligible for a retirement pension under such an Act or program.

A plan to which Chapter X applies, however, may provide that payment of a pension may be suspended for a given period at the request of the member when the member is re-employed by the employer party to the plan or, in the case of a multi-employer plan, even a plan not considered to be a multi-employer plan pursuant to section 11, by one of the employers who are parties to the plan, subject to the following conditions :

(1) if the suspension begins before the first day of the month following the month during which the member attains 65 years of age or, in the case of a member who attains 65 years of age on the first day of a month, before that day, the member accumulates new benefits in respect of his work during the period of suspension preceding that day, in accordance with the terms and conditions provided under the plan for employees of his class, up to the maximum period of service that may be credited to him under the pension plan for the purpose of calculating the normal pension;

(2) if the pension suspended is a retirement pension reduced by reason of payment having begun before the normal retirement age, the reduction must be recalculated at the end of the suspension;

(3) if the suspension continues or begins after the day referred to in subparagraph 1, the pension of which payment was suspended shall be adjusted to take account of any recalculation of the reduction pursuant to subparagraph 2 and of any new accumulated benefits referred to in subparagraph 1. The adjustment formula shall be the same as that prescribed in the plan, pursuant to the second paragraph of section 79, for the amount of pension not paid during a postponement period.

A member who is entitled to a retirement pension, other than the normal pension, the payment of which is suspended under the second paragraph may, after the day mentioned in subparagraph 1 of that paragraph, apply for the payment of the pension as provided in section 77, which applies with the necessary modifications.

Furthermore, the additional pension resulting from the contributions paid during suspension of the pension shall be established in accordance with the rules set forth in section 78 for the calculation of the minimum value of the pension resulting from contributions paid during a postponement period.

Suspension of the pension ends upon termination of the member's period of continuous employment or at the time established under paragraph 2 of section 80.

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1989, c. 38, s. 58; 1994, c. 24, s. 3; 1997, c. 19, s. 5; 2000, c. 41, s. 29; 2008, c. 21, s. 3.

**59.** The periodic amounts payable as pension benefits, except in the case of the pension provided for in section 67.2, shall be equal unless

(0.1) the pension is adjusted under the second paragraph of section 58 or the second or third paragraph of section 67.4;

(1) the pension is replaced

(a) by a temporary pension provided for in section 91.1 or a pension derived therefrom, in which cases only the periodic amounts relating to that part of the pension that is not replaced must be equal;

(b) by a pension referred to in section 92;

(2) each payable amount is uniformly increased by reason of the application, in determining the pension, of an index or rate specified in the plan, by reason of a redetermination of the pension pursuant to section 89.1 or by reason of the option authorized by subparagraph 2 of the first paragraph of section 93 or is uniformly modified by reason of a redetermination of the pension pursuant to the fifth paragraph of section 87, by reason of options authorized by section 91.1 or by subparagraphs 3, 4 and 6 of the first paragraph of section 93 or by reason of the partition of benefits between the member and the member's spouse in accordance with Chapter VIII;

(3) the pension is replaced by a lump sum payment or by a series of payments made pursuant to subparagraph 4 or 6 of the first paragraph of section 93 ;

(4) the pension is increased by reason of the termination of a disability pension under the Act respecting the Québec Pension Plan when the member reaches 65 years of age; or

(5) the amounts payable as a bridging benefit referred to in the first paragraph of section 58 are reduced pursuant to the plan on a date that occurs between the dates mentioned in that paragraph.

1989, c. 38, s. 59; 1997, c. 19, s. 6; 2000, c. 41, s. 30; 2008, c. 21, s. 4.

**60.** The member contributions paid by a member, including accrued interest, established at the time of the earliest of the following events, shall not be used to pay more than 50 % of the value

(1) of any pension benefit to which the member becomes entitled, including benefits related thereto;

(1.1) of any benefit to which the member would have become entitled, including benefits related thereto, if the member had retired on the date of application for payment of the benefit, in the case of a benefit paid under subdivision 0.1 of Division III of Chapter VI;

(2) of any benefit to which a beneficiary becomes entitled, where the member dies before becoming entitled to a pension pursuant to subparagraph 2 of the first paragraph of section 86;

This section does not apply

(1) to pension benefits accrued under the terms of a defined contribution pension plan;

(2) to pension benefits accrued under terms in a defined benefit pension plan which are identical to those of a defined contribution pension plan;

(3) to benefits resulting from a transfer of benefits or assets, even a transfer other than a transfer under Chapter VII;

(4) to the additional pension referred to in the third paragraph of section 58, in the second paragraph of section 67.4 or in section 78 or 83;

(5) to that part of any pension benefits accrued for a period of service which, even though no employer contributions were paid in respect of the member, was nevertheless credited by reason of the exercise by the member of an election offered to him under the plan for that purpose, insofar as it is provided that all the obligations arising from the election, as estimated at the date the election is exercised, are to be borne by the member. In such a case, the value of the obligations, determined on the basis of the assumptions referred to in section 61, must be equal, at that date, to the amount paid by the member;

(6) to a benefit to which subparagraph 1 of the first paragraph applies and which was purchased with amounts to be refunded, or is the result of the conversion of a benefit other than a life pension;

(7) to an additional benefit under section 60.1;

(8) to a pension provided for in section 67.2.

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1989, c. 38, s. 60; 1992, c. 60, s. 9; 1994, c. 24, s. 4; 2000, c. 41, s. 31; 2008, c. 21, s. 5.

**60.1.** A member who ceases to be an active member is entitled to an additional pension benefit determined as prescribed by regulation and equal to or greater than the amount by which A exceeds B, where

"A" is the value of the pension determined pursuant to the second paragraph and of related benefits, increased by the member contributions which, assuming the member had been entitled to such a pension under the plan, would be above the limit set in section 60; and

"B" is equal to the value of the pension benefit to which the member would be entitled without reference to the second paragraph and of related benefits, increased by the member contributions which are above the limit set in section 60.

For the purpose of calculating the additional pension benefit, the value of a pension having the same characteristics as the normal pension, except the pension supplement provided by the pension plan for the payment of a minimum pension, shall be determined, based on the assumption that payment of the pension begins at the normal retirement age and allowing for adjustment of the pension between the date the member ceases to be an active member until the date the member reaches the age that is ten years under normal retirement age. The adjustment shall be the percentage corresponding to 50% of the change in the seasonally unadjusted All-Items Consumer Price Index for Canada published by Statistics Canada between the month the member ceases to be an active member and the month the adjustment ceases; however, the annualized adjustment rate cannot be less than 0% or greater than 2%.

If the member dies before becoming entitled to a pension, the value of the additional pension benefit shall be determined based on the assumption that the member ceased to be an active member on the day of the member's death, for a reason other than death.

This section does not apply to benefits referred to in subparagraphs 1 to 6 of the second paragraph of section 60.

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2000, c. 41, s. 32.

**61.** The value of a pension benefit to which sections 60 and 60.1 apply shall be determined at the date of vesting on the basis of the actuarial assumptions determined by regulation.

However, with the authorization of the Régie and on the conditions it fixes, the value may be determined on the basis of the actuarial assumptions determined by the plan, provided the resulting value is always equal to or greater than the value that would result from the application of the first paragraph.

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1989, c. 38, s. 61; 1999, c. 40, s. 254; 2000, c. 41, s. 33.

**62.** Any benefit determined on the basis of the normal pension shall, where the pension is established with reference to the progression of the member's remuneration in the course of his period of employment, take into account the progression until the end of the member's period of continuous employment, except

(1) where the pension plan provides that the pension will cease to be established with reference to the progression of the member's remuneration before the end of the member's period of continuous employment, provided that date is not prior to the date on which the member ceases to be an active member;

(2) where the pension plan is amended to provide that, in respect of service credited to the member from the effective date of the amendment, the pension shall cease to be established with reference to the progression of the member's remuneration.

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1989, c. 38, s. 62.

**63.** In the case of an insured plan, or of an uninsured plan under which refunds or pension benefits are guaranteed by an insurer, coverage for service completed in the course of a fiscal year of the plan and credited under such plan shall be granted as the insurer receives contributions from the employer or from the pension committee.

Coverage for service credited in respect of any period prior to the current fiscal year of the plan shall be granted upon receipt of the total amount of the premium required by the insurer.

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1989, c. 38, s. 63.

**63.1.** Where a pension plan cannot continue to be a registered pension plan as defined in section 1 of the Taxation Act, either because the value of the benefits accrued to a member or a beneficiary under defined-benefit provisions exceeds the amount which may be transferred directly to another plan or because the amount of contributions paid each year into the pension fund under defined-contribution provisions exceeds the limits imposed, the pension committee must refund the excess to the member or beneficiary concerned.

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1992, c. 60, s.10; 2000, c. 41, s. 34.

**64.** The designation of beneficiaries and the revocation thereof are governed by articles 2445 to 2459 of the Civil Code, adapted as required.

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1989, c. 38, s. 64; 1999, c. 40, s. 254; 2000, c. 41, s. 35.

**65.** With the exception of sections 63, 63.1, 64, 67, 83, 84, 86 and 93, this chapter does not apply to additional voluntary contributions.

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1989, c. 38, s. 65; 2000, c. 41, s. 36.

## Division II

### REFUNDS

**66.** A member who ceases to be an active member is entitled to a refund of the value of the benefits accrued to the member if less than 20% of the Maximum Pensionable Earnings established pursuant to the Act respecting the Québec Pension Plan for the year in which the member ceases to be an active member. This right may be exercised, before a pension commences to be paid to the member under the plan, by applying within 90 days after receiving the statement provided for in section 113 and, subsequently, every five years from the date on which the member ceased to be an active member, within 90 days after the date of expiry of the fifth year.

Where the requirements set out in the first paragraph are met, the pension committee may refund the value of the member's pension to the member in satisfaction of the member's rights under the plan. The committee must first send a notice to the member requesting instructions as to the refund formula ; where no reply is received within 30 days of the sending of the notice, the committee may make the refund, which possibility shall be mentioned in the notice.

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1989, c. 38, s. 66; 2000, c. 41, s. 37.

**66.1.** A member who has ceased to be an active member, whose period of continuous employment has ceased and who has not been residing in Canada for at least two years is entitled to a refund of the value of the benefits accrued to the member.

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2000, c. 41, s. 38.

**67.** Every member who ceases to be an active member is entitled to withdraw the value of additional voluntary contributions credited to his account, with accrued interest, except if the contributions have been used to purchase a pension or , subject to section 102, if the amounts come from a transfer, even otherwise than under section 98.

The right to withdraw contributions may be exercised by applying within 90 days after receiving the statement provided for in section 113 and, subsequently, every five years from the date on which the member ceased to be an active member, within 90 days after the date of expiry of the fifth year.

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1989, c. 38, s. 67; 2000, c. 41, s. 39.

**67.1.** Notwithstanding the second paragraph of section 5, no pension plan may provide for refunds contrary to the provisions of this Act.

However, this section does not prevent a plan from allowing more time for the exercise of the right to a refund.

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2000, c. 41, s. 40.

§0.1.—*Phased retirement benefits*

**67.2.** A pension plan to which Chapter X applies or which is referred to in paragraph 1 of section 116 may provide that a pension be paid, on application, to a member who is employed by an employer party to the plan and who meets the following conditions:

- (1) the member makes an agreement to that effect with the employer;
- (2) the member is at least 60 years of age or, if under 60 years of age, the member is at least 55 years of age and, if the period of continuous employment ended on the date payment of the pension begins, would be entitled to an early retirement pension without any reduction by reason of payment having begun before the normal retirement age; and
- (3) the member is under 65 years of age.

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2008, c. 21, s. 6.

**67.3.** The details of the pension paid under section 67.2 are set under the agreement referred to in that section. However, the annual amount of the pension may not exceed,

- (1) in the case of a member who receives a retirement pension under the plan or is entitled to a retirement pension that is suspended at the time the member applies for payment of the pension, 60% of the annual amount of the pension to which the member is entitled at that time, not considering any benefits referred to in section 83 or 104; or,

- (2) in the case of a member not referred to in subparagraph 1 who is not receiving a retirement pension under the plan on the date the member applies for payment of the pension, 60% of the annual amount of any pension to which the member would have been entitled if the member had retired on that date, not considering any benefits referred to in section 83 or 104, the spouse's right to a pension referred to in section 87, or the options provided for in the plan.

In case of conflict, the details set out in the agreement prevail over those set out in the plan.

Neither the agreement nor, despite the second paragraph of section 5, the plan may contain provisions that allow the payment of the pension payable under section 67.2 if the member is 65 years of age or over. In addition, the member may not receive, for the same period, that pension and another benefit payable under the plan, except benefits referred to in section 67.5, 83 or 104.

The payment of any benefit, other than benefits referred to in section 67.5, 83 or 104, that the member receives at the time the member applies for payment of a pension provided for in section 67.2, is suspended for the period during which the member receives that pension. The plan may provide that the payment of benefits provided for in section 67.5, 83 or 104 is suspended at the request of the member who receives a pension provided for in section 67.2.

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2008, c. 21, s. 6.

**67.4.** The remuneration paid during the period beginning with the payment of a benefit referred to in this subdivision and ending on the date on which the payment of the retirement pension begins or begins again, or the date the member reaches 65 years of age, whichever occurs first, may not be taken into consideration for the calculation of the benefits relating to credited service that does not relate to that period, unless it is to the advantage of the member.

Also, the following adjustments apply:

(1) in the case referred to in subparagraph 1 of the first paragraph of section 67.3, if contributions are paid during that period, the member is entitled to an additional pension determined in accordance with the rules set forth in section 78 for the calculation of the minimum value of the pension resulting from the contributions paid during a postponement period. In addition, if the retirement pension of the member was reduced by reason of payment having begun before the normal retirement age, the reduction must be recalculated at the end of the suspension of payment provided for in section 67.3; and

(2) in the case referred to in subparagraph 2 of the first paragraph of section 67.3, if contributions were paid during that same period, the member is entitled to a pension that cannot be less than the pension resulting from the application of the rules set forth in section 78.

The adjustments provided for in the second paragraph also apply to the benefits referred to in section 83 or 104, the payment of which was suspended under the fourth paragraph of section 67.3.

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2008, c. 21, s. 6.

**67.5.** A pension plan which, without being a defined contribution plan, includes provisions identical to those of that type of plan, and a plan referred to in paragraph 2 or 3 of section 116 may provide that a benefit other than a pension be paid, on application, to a member at least 55 years of age but under 65 years of age who is employed by an employer party to the plan with whom the active member makes an agreement to that effect.

The details of the benefit are set under the agreement, with the proviso that the annual amount of the benefit may not exceed 60% of the ceiling on the life income the member could receive under a replacement pension purchased under section 92. That amount is established at the beginning of the year during which payment of the benefit begins, based on the amounts credited to the member at that date and the age of the member at the end of the preceding year. The amount must be redetermined at the beginning of each year. Neither the agreement nor, despite the second paragraph of section 5, the plan may contain provisions that are more advantageous than those contained in this section.

In case of conflict, the details set out in the agreement prevail over those set out in the plan.

The value of the benefits to which the member is entitled, established on the date the benefit is paid, is reduced by the amount of that benefit.”

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2008, c. 21, s. 6.

## Division III

## PENSION BENEFITS

§1.—*Deferred pension*

**68.** A deferred pension is a retirement pension, payment of which is deferred until normal retirement age.

A deferred pension shall have the same characteristics as the normal pension, except

- (1) those relating to a postponed pension referred to in sections 76 to 80;
- (2) the pension supplement provided by the pension plan for the payment of a minimum normal pension, which may, with the authorization of the Régie, not be counted for the purpose of determining the deferred pension.

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1989, c. 38, s. 68.

**69.** Every member who ceases to be an active member is entitled to a deferred pension equal to or greater than the normal pension.

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1989, c. 38, s. 69; 2000, c. 41, s. 41.

§1.1—*Early benefit*

**69.1.** Any active member whose working time is reduced pursuant to an agreement with his employer and who is 10 years or less under normal retirement age or who has attained or exceeded that age is entitled, on request, for each year covered by the agreement, to the payment, in a lump sum, of a benefit equal to the lowest of the following amounts:

- (1) 70% of the reduction in his remuneration resulting from the reduction in his working time during the year ;
- (2) 40% of the Maximum Pensionable Earnings for the year concerned established pursuant to the Act respecting the Québec Pension Plan (chapter R-9);
- (3) the value of his benefits under the plan, established on the assumption that he ceases to be an active member on the date on which he applies for the payment of the benefit.

Notwithstanding the second paragraph of section 5, the plan may not contain provisions that are more advantageous than those contained in the first paragraph. Moreover, an active member may not receive, in the same year, the benefit provided for in this section and that provided for in section 67.5 or payable under section 77 or replacing that pension.

The reduction in the member's pension resulting from the payment of the benefit provided for in this section may not exceed the amount of the benefit. Moreover, the remuneration paid during the period in which the member is entitled to the benefit shall

not be taken into consideration for the computation of the benefits relating to credited service that does not relate to that period, unless it is to the advantage of the member.

The employer shall, within 60 days of the date on which he becomes party to an agreement referred to in the first paragraph, transmit to the pension committee the name of every member to whom that paragraph applies.

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1997, c. 19, s. 7; 2000, c. 41, s. 42; 2008, c. 21, s. 7.

### §2.—*Early retirement pension*

**70.** An early retirement pension is a retirement pension, payment of which begins before normal retirement age.

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1989, c. 38, s. 70.

**71.** Every member whose period of continuous employment is terminated within ten years of the date on which the member will attain normal retirement age is entitled to an early retirement pension.

However, a member who is entitled to a deferred pension may, whether or not he has terminated continuous employment, receive early payment of that pension if he applies therefor within ten years of attaining the normal retirement age fixed by the plan giving him entitlement to the deferred pension.

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1989, c. 38, s. 71; 1992, c. 60, s. 11; 2000, c. 41, s. 43.

**72.** The value of the early retirement pension shall be equal to or greater than the value of the normal pension, discounted on the date on which payment of the early retirement pension begins.

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1989, c. 38, s. 72.

### §3.—*Normal pension*

**73.** A normal pension is a retirement pension, payment of which begins at normal retirement age.

Normal retirement age shall not be later than the first day of the month following the month in which the member attains 65 years of age.

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1989, c. 38, s. 73.

**74.** Unless section 76 prescribes the postponement of the normal pension, every active member, except an active member who has received a retirement pension under the pension plan, is entitled to the normal pension on attaining normal retirement age.

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1989, c. 38, s. 74; 2008, c. 21, s. 8.

§4.—*Postponed pension*

**75.** A postponed pension is a retirement pension, payment of which begins after normal retirement age.

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1989, c. 38, s. 75.

**76.** The normal pension of a member shall be postponed if, after normal retirement age, he remains employed by the employer by whom he was employed at normal retirement age.

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1989, c. 38, s. 76.

**77.** Every member is entitled, on application, to the payment of all or part of his normal pension during the postponement period but only to the extent necessary to offset any permanent reduction in remuneration that occurred during such period.

However, unless otherwise stipulated in the pension plan, the member may, following an agreement with his employer, receive all or part of his pension, regardless of the limit set by the first paragraph.

No member may exercise this right more than once per 12 month period, except pursuant to an agreement with the pension committee.

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1989, c. 38, s. 77.

**78.** If contributions are paid during the postponement period, the resulting additional amount of pension shall be of a value equal to or greater than that of the benefits that could be purchased, at the end of the postponement period, with the member contributions paid during such period, including accrued interest. The additional pension must also meet the requirements set out in section 84.

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1989, c. 38, s. 78; 2000, c. 41, s. 44.

**79.** Where all or part of a normal pension is postponed, the amount of pension not paid during the postponement period shall be adjusted at the end of the postponement.

The pension plan shall prescribe the adjustment formula.

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1989, c. 38, s. 79.

**80.** Postponement of the normal pension ends

(1) upon termination of the member's period of continuous employment with the employer by whom he was employed at normal retirement age;

(2) when, by reason of the postponement, the plan no longer qualifies as a registered pension plan as defined in section 1 of the Taxation Act (R.S.Q., Chapter I-3).

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1989, c. 38, s. 80; 1991, c. 25, s. 180.

**81.** Where a normal pension is postponed under this Act or where a pension plan allows a member who is entitled to a pension that has become payable to replace all or part of it, if he decides to postpone it until after normal retirement age, by an adjusted

pension, the adjustment shall be made so as to ensure that the pension payable at the end of the postponement is actuarially equivalent to the pension the payment of which would have begun at normal retirement age, had the pension not been postponed.

The actuarially equivalent pension shall be determined on the basis of the assumptions referred to in section 61 and which, at the date the member attained normal retirement age, were used to determine the value of the pension benefits to which section 60 applies and to which the member is entitled on that date.

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1989, c. 38, s. 81; 2000, c. 41, s. 45.

#### §5.—*Disability pension*

**82.** The value of the pension granted under the pension plan to a member who has become disabled and who, for that reason, had to terminate his employment with an employer who is a party to the plan or cease to be an active member, shall be equal to or greater than the value of the benefits to which the member would have been entitled had he not become disabled, discounted on the date payment of the pension begins.

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1989, c. 38, s. 82.

**82.1.** Notwithstanding section 58, the plan may provide that payment of the disability pension is interrupted when the member ceases to be disabled within the meaning of the plan.

The value of the benefits accumulated by the member in respect of service credited under the plan before payment of the disability pension begins shall not, at the time payment of the pension is interrupted, be less than the amount  $m$  calculated according the following formula :

$$a \times \frac{b}{c} = m$$

where

- “a” represents the value of the benefits accumulated by the member on the date on which payment of the disability pension begins, established regardless of the value of that pension;
- “b” represents the value of a pension of \$1 paid annually beginning on the date on which payment of the disability pension is interrupted and on each anniversary date thereafter;
- “c” represents the value of a pension of \$1 paid annually beginning on the date on which payment of the disability pension begins and on each anniversary date thereafter.

Values are established on the date on which payment of the disability pension is interrupted, on the basis of the assumptions referred to in section 61 and used on that date to determine the value of the pension benefits to which section 60 applies.

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1994, c. 24, s. 5; 2000, c. 41, s. 46.

### §6.—*Additional pension*

**83.** Except in the case of a defined contribution plan, every member whose member contributions, with accrued interest, exceed the limit set by section 60, or who is credited with voluntary additional contributions, is entitled, from the date on which a pension other than a pension provided for in section 67.2 begins to be paid to him under the pension plan, to purchase an additional pension with such excess amount or contributions and accrued interest.

The plan may, however, allow the member to choose between the additional pension purchased with his additional voluntary contributions and any other benefits of equal value determined by the plan.

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1989, c. 38, s. 83; 2008, c. 21, s. 9.

**84.** The additional pension shall be determined on the basis of the assumptions referred to in section 61 and which, at the date of determination of the pension, are used to determine the value of other benefits to which section 60 applies and which are vested on that date.

In addition, the additional pension shall have the same characteristics as the normal pension, except the pension supplement provided by the pension plan for the payment of a minimum normal pension.

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1989, c. 38, s. 84; 2000, c. 41, s. 47.

### §7.—*Survivor Benefits*

**85.** For the purposes of this subdivision, the spouse of a member is the person who, on the day of reference defined in the second paragraph,

- (1) is married to or in a civil union with the member;
- (2) has been living in a conjugal relationship with a member who is neither married nor in a civil union, whether the person is of the opposite or the same sex, for a period of not less than three years, or for a period of not less than one year if
  - at least one child is born, or to be born, of their union;
  - they have adopted, jointly, at least one child while living together in a conjugal relationship; or
  - one of them has adopted at least one child who is the child of the other, while living together in a conjugal relationship.

Spousal status is established as at either the day a member begins receiving payment of a retirement or disability pension, a pension that replaces it or a bridging benefit, or the day preceding the death of the member, whichever date is adopted by the pension plan, or, if neither is adopted, whichever date occurs first. However, if the member dies without having received payment of such a pension or benefit, spousal status is established as at the day preceding the death.

For the purposes of subparagraph 2 of the first paragraph, the birth or adoption of a child prior to the period of conjugal relationship existing on the day as of which spousal status is established may qualify a person as a spouse.

Notwithstanding subparagraph 1 of the first paragraph, a person who is legally separated from bed and board on the day as of which spousal status is established is not entitled to any benefit under this subdivision unless the person is the member's successor or was named in a notice sent by the member under section 89.

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1989, c. 38, s. 85; 1999, c. 14, s. 26; 2000, c. 41, s. 48; 2002, c. 6, s. 194; 2008, c. 21, s. 10.

**86.** Where a member dies without having received payment of a retirement or disability pension, a pension that replaces it or a bridging benefit, the member's spouse or, if there is no spouse, the member's successors shall be entitled to a lump sum benefit equal to or greater than

(1) the value of any retirement or disability pension to which the member was entitled prior to death ; or

(2) if the member was not entitled to a retirement or disability pension prior to death, the value of the deferred pension to which the member would have been entitled had the member ceased to be an active member on that day and not died.

The value of the benefit provided for in the first paragraph shall be determined without reference to the assumptions as to survival or mortality for the period prior to the first payment of the pension. Moreover, the following shall be added, where applicable, to the value of the benefit :

(1) any voluntary additional contribution credited to the account of the member and any member contribution paid in excess of the limit set in section 60 as well as the value of the additional pension under section 60.1, with accrued interest, as well as any amounts previously transferred, even otherwise than under section 98, with accrued interest, or the value of the pension purchased with those amounts without reference to the death of the member; and

(2) any interest accrued between the date of death and the date of payment of the lump sum benefit, at the rate used for determining the value thereof.

This section does not apply if the surviving spouse of the member is entitled, upon the member's death, to a pension equal to or greater than the benefit provided for in this section.

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1989, c. 38, s. 86; 1997, c. 19, s. 8; 1999, c. 40, s. 254; 2000, c. 41, s. 49; 2008, c. 21, s. 11.

**87.** The spouse of a member is entitled to a pension from the death of the member if, before his death, the member was receiving any of the following pensions:

(1) a retirement or disability pension or a pension that replaces it;

(2) a pension the amount of which is adjusted to take into account an amount equal to the benefits determined under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9), the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of paragraph u of section 1 of the latter Act;

- (3) *(deleted)*;
- (4) a bridging benefit referred to in the first paragraph of section 58.

The spouse is also entitled to a pension as of the death of the member if, before the death, the member was entitled to a pension referred to in the first paragraph, the payment of which was suspended under the second paragraph of section 58 or under section 67.3.

The amount of the spouse's pension must be equal to or greater than 60% of the amount of the member's pension, including,

- (1) when the member dies during the period during which payment of the pension was suspended under section 58 or 67.3, the proceeds of the adjustment of the pension required by section 58 or 67.4 at the end of the period of suspension; and
- (2) during the period of replacement, the amount of any temporary pension and, until the date on which the member, had the member survived, would have ceased receiving it, the amount of any bridging benefit.

The amount calculated in accordance with the third paragraph is increased by an amount equal to or greater than 60% of the amount of the pension provided for in section 83 or 104 that the member was receiving before the member's death or the payment of which was suspended under section 58 or 67.3, adjusted, if the member died while the pension was suspended, as provided for in section 58 or 67.4, with the necessary modifications.

The sum of the pension provided for the spouse and the member's pension, reduced accordingly, shall, on the date payment of the pension begins, be at least actuarially equivalent to the pension the member would have received had it not been for the benefit granted to the spouse by this section. In addition, if payment of a pension provided for in section 83 or 104 began before the date a person acquired the status of spouse of the member, the pension must be redetermined at that date to take into account the spouse's entitlement to the pension provided for in this section.

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1989, c. 38, s. 87; 1997, c. 19, s. 9; 2000, c. 41, s. 50; 2008, c. 21, s. 12.

**88.** Where a member whose pension was postponed dies during the postponement period, his spouse shall be entitled to a pension the value of which shall be equal to or greater than the higher of

- (1) the value of the pension the spouse would have been entitled to receive pursuant to section 87 if payment of the postponed pension had begun on the day preceding the death of the member, unless the spouse has waived such pension; and
- (2) the value of the death benefit the spouse would have been entitled to receive pursuant to section 86.

Where only part of the pension has been postponed, the spouse is entitled, in addition to the pension to which he is entitled pursuant to section 87 in respect of the partial pension the member was receiving, to a pension the value of which must be equal to or greater than the higher of the values described in the first paragraph,

reduced by multiplying it by the fraction that the part of the postponed pension is of the total pension.

Where the member does not have a spouse, his successors shall be entitled to the pension benefit referred to in section 86, reduced as provided in the second paragraph of this section in the case of partial postponement of the pension.

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1989, c. 38, s. 88; 1994, c. 24, s. 6; 1999, c. 40, s. 254.

**88.1.** The spouse of a member may waive the rights conferred by this subdivision by transmitting to the pension committee a statement containing the information prescribed by regulation. The spouse may also revoke the waiver provided the committee is notified in writing before the member's death or, in the case of the pension referred to in the second paragraph of section 87, before the first payment of the member's pension.

A waiver under this section does not entail a waiver of the rights which may devolve upon the spouse as the member's successor. In addition, notwithstanding such a waiver, the pension plan is deemed, for the purposes of article 415 of the Civil Code, to be governed by an Act which grants a right to death benefits to the surviving spouse.

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2000, c. 41, s. 51.

**89.** The right of a member's spouse to benefits under this subdivision is terminated by separation from bed and board, divorce or marriage annulment, by the dissolution or annulment of their civil union or by the cessation of conjugal relationship except if the member has notified the pension committee in writing to pay the pension to the spouse notwithstanding the divorce, annulment of marriage, separation from bed and board, dissolution or annulment of the civil union or cessation of conjugal relationship.

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1989, c. 38, s. 89; 1999, c. 40, s. 254; 2000, c. 41, s. 52; 2002, c. 6, s. 195.

**89.1.** Where a member's pension has been established so as to provide for the member's spouse's right to a pension under section 87 and the spouse's right is terminated pursuant to section 89, the member is entitled, on request to the pension committee, to a pension redetermination as of the effective date of the judgment granting the separation from bed and board, the divorce or the annulment of marriage, as of the date of dissolution of the civil union or as of the date of the cessation of the conjugal relationship. The redetermined pension shall be in the same amount and have the same characteristics as the pension that would be payable to the member at the date of redetermination had the member not had a spouse on the date the payment of the pension began.

Unless the pension committee has received the notice provided for in section 89, it must also redetermine the member's pension if the benefits accrued to the member under the plan are partitioned, pursuant to section 107 or 110, subsequent to the first payment to the member of a pension established so as to provide for the spouse's right to a pension under section 87.

The redetermination of a pension under this section cannot alone operate to reduce the amount of a pension paid to the member.

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2000, c. 41, s. 52; 2002, c. 6, s. 196.

**90.** Payment of a pension to a spouse shall not cease by reason of the fact that the spouse has remarried, has contracted a civil union or is living in a conjugal relationship with another person of the opposite or the same sex.

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1989, c. 38, s. 90; 1999, c. 14, s. 27; 2002, c. 6, s. 197.

Division IV

## OPTIONS

**91.** (Repealed).

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2000, c. 41, s. 53.

**91.1.** Every member or spouse who has become entitled to a pension under a pension plan is entitled, under conditions prescribed by regulation, to replace the pension, in whole or in part, before payment begins, by a temporary pension the amount of which is fixed by him before payment begins and which meets the following requirements :

(1) the annual amount of the pension must not exceed 40% of the Maximum Pensionable Earnings established pursuant to the Act respecting the Québec Pension Plan for the year in which payment of the pension begins, that limit being reduced, where applicable, by the annual amount of any other temporary benefit to which he is entitled under the plan;

(2) payment of the temporary pension must not begin more than ten years before the member or spouse attains normal retirement age, and must end no later than the last day of the month following the month in which the member or spouse attains 65 years of age.

Notwithstanding subparagraph 2 of the first paragraph, the pension plan may allow a member or spouse who is more than ten years under normal retirement age and who has become entitled to a pension to elect, before payment of the pension begins, to replace it by a pension the amount of which is adjusted by reference to the benefits determined under the Old Age Security Act, the Act respecting the Québec Pension Plan or a similar plan within the meaning of paragraph *u* of section 1 of the latter Act. In such a case, the annual amount of the replacement pension increased, where applicable, by the annual amount of any other temporary benefit to which the member or the spouse is entitled under the plan shall not exceed the lesser of

(1) 40% of the Maximum Pensionable Earnings established pursuant to the Act respecting the Québec Pension Plan for the year in which payment of the pension begins ; and

(2) the amount of the temporary benefit to which the member or spouse would be entitled if the entire life pension were converted into a temporary pension ceasing on the last day of the month following the month in which the member or the spouse attains 65 years of age.

Upon attaining the age which is ten years under normal retirement age, a member or spouse who is receiving a pension under the second paragraph is entitled to elect to replace it by a temporary pension which meets the conditions set out in the first paragraph.

Notwithstanding the second paragraph of section 5, the plan may not contain provisions that are more advantageous than those contained in this section.

The value of the temporary pension shall be equal to or greater than the value of the pension or of the part of the pension it replaces, discounted on the date of the replacement.

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1997, c. 19, s. 10; 2000, c. 41, s. 54.

**92.** Every member or spouse who has become entitled to a pension under a pension plan is entitled, under conditions prescribed by regulation, to replace the pension by a life or temporary pension, purchased under a contract, the amount of which may vary each year. The pension may also, in the cases determined by regulation, be replaced by a lump-sum payment.

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1989, c. 38, s. 92; 1997, c. 19, s. 11.

**92.1.** Unless payment of the pension is guaranteed for a longer period, a member who has become entitled to a pension under a pension plan is entitled to elect, before payment of the pension begins, to replace it by a pension the payment of which is guaranteed for ten years.

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2000, c. 41, s. 55

**93.** The pension plan may permit a member or the spouse of a member who has become entitled to a pension to elect, before payment of the pension begins, to replace all or part of the pension

(1) *(deleted)*;

(2) by a pension the amount of which is increased periodically according to an index or at a rate provided in the plan;

(3) by a pension the amount of which is adjusted by reason of provisions relating to the payment of benefits payable after the death of the member or his spouse, or by reason of amendments to such provisions; unless the spouse consents thereto, before the date on which payment of the member's pension begins, the amount of the spouse's pension which results from the election shall not be less than 60% of the amount of the member's pension;

(4) by a single payment or a series of payments in the event of a physical or mental disability that reduces life expectancy;

(5) *(deleted)*;

(6) by other benefits prescribed by regulation.

The replacement value shall be equal to or greater than the value of the replaced pension, discounted at the time of replacement.

No option other than those mentioned in the first paragraph may be permitted by the plan.

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1989, c. 38, s. 93, 1997, c. 19, s. 12; 2000, c. 41, s. 56.

**93.1.** Despite sections 91.1 to 93, a member who has become entitled to a pension provided for in section 67.2 may not replace it.

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2008, c. 21, s. 13.

## Division V

### INTEGRATION

**94.** Where a pension plan provides that, for the purpose of determining the normal pension, all or part of the benefits payable under the public plan established by the Act respecting the Québec Pension Plan or the Canada Pension Plan will serve to reduce the member's benefits, the reduction shall not be greater than the amount  $m$  calculated according to the following formula :

$$r \times \frac{a}{35} = m$$

where

" $r$ " represents all or part of the benefit payable under the public plan;

" $a$ " represents the number of years of service credited under the pension plan.

The fraction  $\frac{a}{35}$  shall not be greater than 1.

No reduction other than the reduction made by reference to the retirement benefit payable under the public plan may be made in determining the normal pension.

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1989, c. 38, s. 94; 2000, c. 41, s. 57.

**95.** The amount of the benefit payable under a public plan that is required to be deducted under a pension plan shall, if necessary, be established on the basis of an estimation from the time the member becomes entitled to a pension under the plan and without reference to any reduction of that benefit subsequent to a partition of benefits between spouses.

If, under the plan, the deferred pension is determined with reference to the remuneration paid to the member after he became entitled to a deferred pension, the amount shall be established at a date not subsequent to the date of the last remuneration included in the calculation.

Moreover, where the amount is an estimation, it shall be based on data that are compatible with those used for the determination of the benefits paid under the public plan at the date of estimation.

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1989, c. 38, s. 95; 2000, c. 41, s. 58.

**96.** In no case may benefits derived from an amendment to a public plan referred to in section 94 be taken into account for the determination of a benefit if that results in a reduction of the benefits of the member, except

(1) where the member applies therefor, provided the resulting benefit is of an equal or greater value;

(2) where the pension plan is amended to take into account the new benefits derived from the public plan, provided only the pension benefits relating to service credited after the amendment are reduced;

(3) where the benefit concerned is not determined on the basis of the normal pension, or where the value of the benefit exceeds the value of the deferred pension, provided the plan is amended to provide for the reduction of the benefit or excess value and only the benefits the payment of which begins after the amendment are reduced.

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1989, c. 38, s. 96; 2000, c. 41, s. 59.

**97.** The normal pension determined with reference to a benefit payable under the terms of a public plan referred to in section 94 shall not be reduced again to take into account an amendment to the public plan or an increase of the benefit.

The same rule applies in respect of any other benefit determined with reference to the benefit payable under the terms of a social security program established by law.

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1989, c. 38, s. 97.

## **CHAPTER VII**

### **TRANSFERS OF BENEFITS AND ASSETS**

**98.** Every plan member is entitled, subject to the conditions and time limits set out in this chapter, to transfer to such pension plan as he indicates

(1) the additional voluntary contributions credited to his account, with accrued interest;

(2) the amount corresponding to the value of any pension benefit, including a benefit guaranteed by an insurer, to which the member is entitled but of which payment has not begun. Such value must be equal to or greater than,

(a) where the transfer is applied for within the time limit set out in subparagraph 1 of the second paragraph of section 99, the value of the member's pension benefit determined pursuant to section 61;

(b) where the transfer is not applied for within that time limit, the value of the member's pension benefit determined with reference to related benefits and on the basis of the assumptions referred to in section 61 which are used, on the day the transfer is applied for, to determine the value of other pension benefits to which section 60 applies and which are vested on that date;

(3) the member contributions which exceed the limit set by section 60, with accrued interest;

(4) the amounts previously transferred, even otherwise than under this chapter, with accrued interest, or the amount corresponding to the value of the pension purchased with the amounts transferred ; that value must be determined on the basis of the assumptions referred to in section 61 which are used, at the date of vesting of the pension if the transfer is applied for within the time limit set out in subparagraph 1 of the second paragraph of section 99 or at the date the transfer is applied for in other cases, to determine the value of other pension benefits to which section 60 applies and which are vested on that date;

Interest calculated, until the date of transfer, at the rate used to determine the value of the pension benefit to which the member is entitled shall be added to the values referred to in subparagraphs a and b of subparagraph 2 and in subparagraph 4 of the first paragraph.

For the purposes of this section, the expression "pension plan" includes, in addition to the pension plans governed by this Act, any pension plan or annuity contract prescribed by regulation.

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1989, c. 38, s. 98; 2000, c. 41, s. 60.

**99.** The right to a transfer under section 98 may be exercised by a member who is at least ten years under the normal retirement age set by the plan. However, a pension plan may prohibit members who, upon termination of continuous employment, would be entitled to an early retirement pension equal to or greater than the normal pension from making transfers to another pension plan.

Moreover, this right may be exercised within one of the following time limits :

(1) within 90 days from receipt of a statement pursuant to section 113;

(2) subsequently and not later than the date provided for in paragraph 3, every five years, within 90 days from the date of expiry of every fifth year from the date on which the member ceased to be an active member;

(3) within 90 days from the date on which a member who ceased to be an active member attains an age which is ten years under normal retirement age.

The age restriction in respect of the member and the prohibition referred to in the first paragraph, and the time limit fixed in subparagraph 3 of the second paragraph do not apply to the transfer of amounts from a defined contribution plan or to the transfer of contributions paid under terms in a defined benefit plan that are identical to those of a defined contribution plan. A member who is less than ten years under normal retirement age or who has attained or exceeded normal retirement age is entitled to transfer those amounts at all times, insofar as payment of the pension has not begun.

The pension committee has 60 days from the receipt of a transfer application to effect the transfer.

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1989, c. 38, s. 99; 2000, c. 41, s. 61.

**100.** *(Repealed).*


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2000, c. 41, s. 62.

**101.** The conditions set out in sections 143 to 146 for the payment of the benefits of members and beneficiaries apply to the payment of transferred amounts.

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1989, c. 38, s. 101; 2006, c. 42, s. 10 (*1 January 2010*).

**102.** Unless the pension plan provides that the amount must be used for the purchase of a pension, a member who ceases to be an active member is entitled to the refund of any amount transferred, even otherwise than under this chapter, which would have been refundable under the pension plan from which it was transferred.

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1989, c. 38, s. 102; 1997, c. 19, s. 13; 2000, c. 41, s. 63.

**103.** Unless the pension plan sets a higher rate of interest, and subject to the provisions of section 45.1, any amount transferred, even otherwise than under this chapter, bears interest, from the date of the transfer and until a pension is purchased with such amount or such amount is refunded under section 102, at the rate prescribed by section 44 or 45 if the amount is transferred to a pension plan governed by this Act.

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1989, c. 38, s. 103; 1992, c. 60, s.12; 2000, c. 41, s. 64.

**104.** From the date payment of a pension other than a pension provided for in section 67.2 begins, a member is entitled to the pension purchased with amounts transferred, even otherwise than under this chapter, which were not refunded pursuant to section 102.

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1989, c. 38, s. 104; 2000, c. 41, s. 65; 2008, c. 21, s. 14.

**105.** The amount of the pension paid under a pension plan governed by this Act and purchased with amounts transferred, even otherwise than under this chapter, shall be determined on the basis of the assumptions referred to in section 61 which, at the date of determination of the pension, are used to determine the value of other pension benefits to which section 60 applies and which are vested on that date.

The pension shall have the same characteristics as the normal pension, except the pension supplement provided by the plan for the payment of a minimum normal pension.

This section does not apply to a pension purchased with amounts transferred under section 106.

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1989, c. 38, s. 105; 2000, c. 41, s. 66.

**106.** Where the transfer is made at the request of a member who availed himself of a general agreement prescribing the conditions of transfer, between pension plans, of benefits or assets in respect of a given group of members, the benefits attributed to the member following the transfer shall be equal to or greater than the benefits which, determined on the basis of the assumptions referred to in section 61 which at the date of the transfer, are used to determine the value of other pension benefits to which section 60 applies and which are vested on that date, would have resulted from the transfer to a

plan not governed by this Act of the assets related to the benefits that the member had accumulated before the transfer.

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1989, c. 38, s. 106; 2000, c. 41, s. 67.

## **CHAPTER VIII**

### **TRANSFER OF BENEFITS BETWEEN SPOUSES**

**107.** In the event of separation from bed and board, divorce or marriage annulment or the dissolution otherwise than by death or the annulment of a civil union, the benefits accumulated by a member under a plan shall, upon application in writing to the pension committee, be partitioned between the member and his spouse to the extent provided in the Civil Code or by a court or a notarized joint declaration dissolving a civil union judgment.

Where the court or the notarized declaration awards to the spouse of a member, in payment for a compensatory allowance, benefits accumulated by the member under a pension plan, the benefits shall, upon application in writing to the pension committee, be transferred to the spouse to the extent provided by the court judgment or by the notarized declaration.

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1989, c. 38, s. 107; 2002, c. 6, s. 198.

**108.** Upon presentation of an application for separation from bed and board, divorce or marriage annulment, for the dissolution or annulment of a civil union or for the payment of a compensatory allowance, the member and his or her spouse are entitled, upon application in writing to the pension committee, to obtain a statement of the benefits accumulated by the member under the plan and the value thereof at the date of the institution of the action; the statement shall also contain any other information prescribed by regulation. The benefits and the value thereof shall be determined according to the rules fixed by regulation.

The spouse may thereupon examine the text of the pension plan and the documents referred to in section 114, on the conditions provided therein.

The member and the member's spouse are also entitled to receive a statement of benefits, upon an application in writing to the pension committee, for the purposes of pre-hearing mediation concerning a family matter or of a joint procedure before a notary for the dissolution of their civil union. The statement shall contain the information determined by regulation.

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1989, c. 38, s. 108; 2000, c. 41, s. 68; 2002, c. 6, s. 199.

**109.** Except as provided by regulation, the benefits awarded to the spouse following partition of the benefits of the member or as payment for a compensatory allowance can only be used for the purchase of a life pension, whether or not the benefits have been transferred to a pension plan contemplated in section 98.

However, the benefits awarded to the spouse following a seizure for non-payment of support in accordance with the last paragraph of article 553 of the Code of Civil Procedure shall be paid in a lump sum, subject to the terms and conditions prescribed by regulation.

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1989, c. 38, s. 109; 2000, c. 41, s. 69.

**110.** In the event of cessation of conjugal relationship between a spouse, within the meaning of subparagraph 2 of the first paragraph of section 85, and a member of the plan, the member and spouse may, in the ensuing year, agree in writing to a partition of the benefits accumulated by the member under the pension plan; such an agreement cannot, however, confer on the spouse more than 50 % of the value of such benefits.

For that purpose, the member and the spouse shall be entitled to obtain, upon application in writing to the pension committee, the statement described in section 108 and established at the date on which they ceased to live together in a conjugal relationship.

An agreement under the first paragraph may also apply to the amounts transferred to another pension plan pursuant to section 98.

Section 109 applies to benefits conferred on the spouse pursuant to an agreement referred to above. In addition, the last paragraph of article 553 of the Code of Civil Procedure, adapted as required, applies to the partition of benefits agreed upon between the spouses for the purposes of this section.

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1989, c. 38, s. 110; 2000, c. 41, s. 70.

**110.1.** The cost of producing the statement referred to in section 108 and the expenses incurred for effecting the transfer of benefits between spouses may be claimed from the spouses only up to the limit fixed by the Minister, after consultation with the Régie, and published in the Gazette officielle du Québec. The limit may vary according to the type of plan.

The costs and expenses claimed from the spouses shall be divided equally between them, unless they decide to opt for another form of apportionment. Payment of the amount that must be borne by each spouse may be effected by the pension committee through a reduction of the value of the spouse's benefits, unless that spouse chooses another method of payment.

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1994, c. 24, s. 7.

## **CHAPTER IX**

### **INFORMATION TO MEMBERS**

**111.** The pension committee shall provide to each member or employee eligible for membership a written summary of the pension plan, including each of the particulars referred to in the second paragraph of section 14, together with a brief description of a member's rights and obligations under the plan and this Act and a statement of the principal advantages of membership in the pension plan.

The documents shall be provided within 90 days following

- (1) the date on which the employee becomes eligible for membership under the plan or becomes a member; or
- (2) the date of registration of the pension plan.

The employer shall transmit, in writing, to the pension committee such information concerning employees eligible for membership as is necessary for the purposes of this section.

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1989, c. 38, s. 111; 2000, c. 41, s. 71.

**111.1.** If a pension plan provides that the pension paid to members is reduced by direct or indirect reference to the benefits payable under a public plan referred to in section 94, any document provided to a member, a beneficiary or an eligible employee concerning the benefits payable under the pension plan or the manner of calculating them must mention the reduction and the manner of calculating it.

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2000, c. 41, s. 72.

**112.** Within nine months after the end of every fiscal year, the pension committee shall transmit to each member and beneficiary a document containing 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, together with an annual statement containing the information prescribed by regulation in particular with respect to

- (1) the benefits accrued to the member during the last fiscal year and from the beginning of membership in the plan until the end of the last fiscal year ; and
- (2) the financial position of the pension plan.

The pension committee is not required to send an annual statement to members to whom a statement was sent under section 113 indicating their accrued benefits as of a more recent date.

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1989, c. 38, s. 112; 2000, c. 41, s. 73; 2008, c. 21, s. 15.

**112.1.** The pension committee shall, within 60 days of the payment of the benefit referred to in section 69.1, provide the member with a statement containing the information determined by regulation and concerning, in particular, the effect of the payment on the annual amount of normal pension resulting from the service credited to him.

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1997, c. 19, s. 14.

**113.** Within 60 days after the date on which the pension committee is informed that a member has ceased to be an active member, it shall provide to the member, or to any other person entitled to a refund or pension benefit, a statement setting out the information prescribed by regulation and specifying, as of the date of the event giving entitlement thereto, the amount of the refund or the nature and value of the benefit, and

the nature of and the requirements for entitlement to other benefits provided under the plan.

In addition, within 60 days of a written request therefor, the pension committee shall, without charge, provide the member with the aforementioned statement, updated on the basis of the most recent data available; the updating shall include a new determination of the value of the member's benefits only where the member may exercise the right of transfer provided for in section 98.

Moreover, within 30 days of a written request therefor, the pension committee shall, without charge, provide the member with the data used to prepare the statement or to update it, in particular the data used to calculate the benefits to which he is entitled.

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1989, c. 38, s. 113; 2000, c. 41, s. 74.

**113.1.** When it has been notified that an association has been formed to represent, for the purposes of the pension plan, active members not represented by a certified association, non-active members or beneficiaries of the plan, the pension committee must enclose a notice giving such information as it possesses with respect to the name and address of the association, its purpose and admission procedures with the following documents sent to the persons the association is mandated to represent:

- (1) the annual statement sent out under section 112; and
- (2) the notice sent to the members and beneficiaries under the second paragraph of section 146.3.1, section 146.6, the second paragraph of section 196 or the first paragraph of section 230.4.

The exemption provided by the second paragraph of section 112 does not dispense the pension committee from sending members the notice provided for in the first paragraph.

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2008, c. 21, s. 16.

**113.2.** If an association referred to in section 113.1 requests the name and address of the persons it is meant to represent, the pension committee must inform each person concerned of the request in a notice enclosed with the first of the following documents to be sent to the person after the committee receives the request:

- (1) the annual statement sent under section 112; or
- (2) the statement provided under the first paragraph of section 113.

The notice must include a note explaining that the person concerned may, within 30 days of receiving the notice, consent to the committee's sending the information in question to the association concerned.

The committee must provide the association with the name and address of the persons who gave their consent

- (1) within 30 days following the expiry of the deadline given in the second paragraph, as regards persons who gave their consent after receiving a notice enclosed with the annual statement sent out under section 112; or

(2) at the latest 30 days after the end of the fiscal year of the plan during which consent was given, as regards persons who gave their consent after receiving a notice enclosed with the statement provided for under the first paragraph of section 113.

The committee is not required to comply more than once with a request made under the first paragraph by the same association. If it does, it may charge a fee.”

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2008, c. 21, s. 16.

**114.** Within 30 days of a written request therefor, the pension committee shall permit an employee eligible for membership or a member or beneficiary to examine, without charge, during usual working hours, the text of the pension plan or any other document prescribed by regulation. The pension committee shall, subject to the same conditions, permit a member or beneficiary to examine the terms of the plan as they stood on any date included in the period during which the employee concerned was a member.

The examination shall take place either at the office of the pension committee or at the establishment of the employer designated by the committee, whichever is closer to the applicant's residence.

Where a copy of a document for which an examination request was made is sent without charge, within 30 days of the request, to the person who made the request, the pension committee is dispensed from the obligation to permit examination of the document.

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1989, c. 38, s. 114; 2000, c. 41, s. 75.

**115.** The pension committee is not required to provide documents without charge to any one person more than once within a period of 12 months.

The same applies in respect of requests for the examination of documents.

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1989, c. 38, s. 115.

## **CHAPTER X**

### **SOLVENCY AND FUNDING**

#### **Division I**

#### **GENERAL PROVISIONS**

**116.** This chapter does not apply

(1) to an insured pension plan in respect of which the insurer has undertaken to pay all costs and satisfy all rights arising from the termination of the plan;

(2) to an uninsured pension plan under which the benefits to which the members and beneficiaries are entitled derive only and at all times from amounts credited to them; or

(3) to an uninsured pension plan under which the benefits to which the members and beneficiaries are entitled are either pension benefits and refunds that are insured at all times or benefits described in paragraph 2.

1989, c. 38, s. 116; 2000, c. 41, s. 76; 2006, c. 42, s. 11 (1 January 2010).

**117.** For the purposes of this chapter, a defined benefit-defined contribution plan shall be considered to be a defined benefit plan.

1989, c. 38, s. 117; 2006, c. 42, s. 11 (1 January 2010).

**118.** Every pension plan shall be the subject of an actuarial valuation

- (1) at the date on which it becomes effective;
- (2) at the end of each fiscal year; or
- (3) whenever so required by the Régie, at the date fixed by the Régie.

The actuarial valuations carried out under the first paragraph must be complete actuarial valuations, although the valuations provided for in subparagraph 2 of that paragraph may be partial actuarial valuations if the pension plan is both solvent and funded at the end of the fiscal year. However, a plan must be the subject of a complete actuarial valuation not later than 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.

1989, c. 38, s. 118; 2006, c. 42, s. 11 (1 January 2010).

**119.** The pension committee must transmit a report to the Régie on every actuarial valuation referred to in section 118

- (1) within nine months after the date of the actuarial valuation in the case of an actuarial valuation required under subparagraph 2 of the first paragraph of that section; or
- (2) within the time fixed by the Régie, which shall be at least 60 days, in the case of an actuarial valuation required under subparagraph 3 of the first paragraph of that section.

A report on an actuarial valuation not referred to in section 118 must be transmitted to the Régie within nine months after the date of the actuarial valuation.

All reports on an actuarial valuation transmitted to the Régie must be accompanied by a summary drawn up on the form provided by the Régie, along with the attestations and documents mentioned in the form.

1989, c. 38, s. 119; 2000, c. 41, s. 77; 2006, c. 42, s. 11 (1 January 2010); 2009, c. 1, s. 4 (1 January 2010).

**120.** The funding of a pension plan must be based on an actuarial valuation report prepared at the request of the pension committee and transmitted to the Régie. Unless the report concerns a partial actuarial valuation carried out under the conditions set out

in the second paragraph of section 118, it must refer to a complete actuarial valuation of the plan.

Except in the case provided for in section 121, an actuarial valuation report that has been transmitted to the Régie can be amended or replaced only at the request of or with the authorization of the Régie and subject to the conditions fixed by the Régie. If a report is amended or replaced, any unfunded actuarial liability determined by the valuation must be re-established and any actuarial certification required for the purposes of such valuation must be renewed.

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1989, c. 38, s. 120; 2006, c. 42, s. 11.

**121.** Any amendment to a pension plan having an impact on the funding of the plan must be considered for the first time not later than the latest of the following dates:

(1) the date of the last actuarial valuation of the plan, the date of which is not later than the date the amendment is made; or

(2) the date of the last actuarial valuation of the plan, the date of which is not later than the date the amendment becomes effective.

If the actuarial valuation report was transmitted to the Régie and an amendment which should have been considered under the first paragraph was not taken into account, the report must be amended or replaced.

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1989, c. 38, s. 121; 2006, c. 42, s. 11.

**122.** Every certification required for the purpose of a partial actuarial valuation must reflect the financial position of the plan at the date of the actuarial valuation, estimated on the basis, in particular, of the actual rate of return of the pension fund, changes in interest rates determined on a solvency basis and the contributions actually paid into the pension fund since the last complete actuarial valuation of the plan.

If a partial actuarial valuation pertains to the amendments to a pension plan, it is limited to the determination of the value of the additional obligations arising from any amendment considered for the first time in the valuation or to the determination, on a funding basis, of the variation in the current service contribution arising from the amendment. The determination of the value or of the variation must be based on the same assumptions and methods as were used for the most recent complete actuarial valuation, unless those assumptions and methods are not appropriate in view of the nature of the amendment made to the pension plan.

However, if the amendment to the pension plan increases the pensions already in payment and the additional obligations arising from the amendment are guaranteed by an insurer at the date on which the actuarial valuation report is prepared, the value of the obligations may be assumed to correspond to the premium paid to the insurer, discounted at the date of actuarial valuation according to the rate of return of the pension fund.

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1989, c. 38, s. 122; 2006, c. 42, s. 11.

Division II

## SOLVENCY

**123.** For the purpose of determining the solvency of a pension plan, the assets of the plan 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 liabilities of the pension plan must be equal to the sum of the following values:

(1) the value of the obligations arising from the plan, assuming that the plan is terminated on that date; and

(2) the value of the obligations arising from any amendment to the plan considered for the first time at the date of the valuation, such value having been computed on the assumption that the effective date of the amendment is the valuation date.

A letter of credit provided by the employer under section 42.1 forms part of the assets of the plan for the purpose of determining its solvency. However, the amount of the letter, or the total amount of such letters, is taken into account for that purpose only up to 15% of the value of the liabilities of the plan.

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1989, c. 38, s. 123; 2006, c. 42, s. 11 (*1 January 2010*); 2008, c. 21, s. 33 (*1<sup>er</sup> January 2010*).

**124.** If the plan provides expressly that the amount of a member's pension must 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 the value of which 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 section 123 and with the first paragraph 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.

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1989, c. 38, s. 124; 2006, c. 42, s. 11 (*1 January 2010*).

**125.** 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.

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1989, c. 38, s. 125; 2006, c. 42, s. 11 (*1 January 2010*).

**126.** The values referred to in the second paragraph of section 123 and in section 124 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 in the 30-day period following the valuation date.

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1989, c. 38, s. 126; 2006, c. 42, s. 11 (*1 January 2010*).

**127.** For the purpose of determining the degree of solvency of a pension plan, the value of the plan's assets and that of its liabilities are both reduced by an amount representing 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; and

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

The degree of solvency of the plan at the date of a complete actuarial valuation corresponds to the value of the assets, increased by the special amortization payment provided for in section 132 but reduced as provided in the first paragraph, over the value of the liabilities reduced in the same manner, expressed as a percentage.

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1989, c. 38, s. 127; 1994, c. 24, s. 8; 2006, c. 42, s. 11 (*1 January 2010*).

**128.** At the date of the actuarial valuation to which the pension plan is subject, a reserve must be established equal to the lesser of the following amounts:

(1) the amount of the actuarial gains determined in the valuation;

(2) the amount of the provision for adverse deviation calculated in accordance with the regulations.

The amount of the actuarial gains corresponds to the amount by which the plan's assets, increased by the value of the amortization payments required to amortize a solvency deficiency determined in a prior actuarial valuation and which are not eliminated under section 131, exceed the plan's liabilities, reduced by the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation.

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1989, c. 38, s. 128; 2006, c. 42, s. 11 (*1 January 2010*).

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

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1989, c. 38, s. 129; 2006, c. 42, s. 11 (*1 January 2010*).

**130.** A solvency deficiency includes

(1) the technical actuarial deficiency which, at the date of an actuarial valuation of the pension plan, corresponds to the amount by which the plan's liabilities, reduced by the value of the additional obligations arising from any amendment to the plan

considered for the first time in the valuation, exceed the sum of the plan's assets and the value of the amortization payments required to amortize a solvency deficiency determined in a prior actuarial valuation, which payments are not eliminated under section 131; the value of the amortization payments must be established using the same interest rate as the one used to establish the plan's liabilities; and

- (2) the improvement unfunded actuarial liability which corresponds,
  - (a) if it is determined in a complete actuarial valuation, to the amount by which the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation exceeds the special amortization payment provided for in section 132; or
  - (b) if it is determined in a partial actuarial valuation, to the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation.

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1989, c. 38, s. 130; 2000, c. 41, s. 78; 2006, c. 42, s. 11 (1 January 2010).

**131.** If, at the date of an actuarial valuation, a plan's assets are equal to or greater than the plan's liabilities reduced by the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation, any amortization payments remaining to be paid in connection with any technical actuarial deficiency determined in a prior actuarial valuation are eliminated.

If, at the date of an actuarial valuation, the plan's assets are equal to or greater than the plan's liabilities increased by the provision for adverse deviation referred to in subparagraph 2 of the first paragraph of section 128 and reduced by the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation, any amortization payments remaining to be paid in connection with any improvement unfunded actuarial liability determined in a prior actuarial valuation are eliminated.

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1989, c. 38, s. 131; 2006, c. 42, s. 11 (1 January 2010).

**132.** If the actuarial valuation used to determine the value of the additional obligations arising from an amendment to the pension plan shows that the degree of solvency of the plan is less than 90%, a special amortization payment must be paid into the pension fund, payable in full on the day following the date of the valuation and equal to or greater than the lesser of:

- (1) the amount that corresponds to the value of the additional obligations arising from any amendment to the plan considered for the first time in the evaluation; and
- (2) the amount to be funded to ensure that the degree of solvency of the plan is equal to 90%.

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1989, c. 38, s. 132; 2006, c. 42, s. 11 (1 January 2010).

**133.** The improvement unfunded actuarial liability determined in an actuarial valuation of the pension plan is reduced by the part of the value of the additional obligations

arising from an amendment to the plan considered for the first time in the valuation that is paid for by appropriation of the plan's surplus assets.

If the liability is determined in a partial actuarial valuation, an actuary must certify in the valuation report that a complete actuarial valuation carried out at the date of the valuation would have allowed the establishment, in accordance with the third paragraph of section 146.1, of the amounts that could be appropriated to the payment of the value of the additional obligations arising from the amendment.

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1989, c. 38, s. 133; 2000, c. 41, s. 79; 2006, c. 42, s. 11 (*1 January 2010*).

Division III

## FUNDING

**134.** To determine the funding of a pension plan, the liabilities of the pension plan at the date of the valuation must be equal to the sum of the following values:

(1) the value of the obligations arising from the plan, given the service credited to the members; and

(2) the value of the obligations arising from any amendment to the plan considered for the first time at the date of the valuation, such value having been computed on the assumption that the effective date of the amendment is the valuation date.

A letter of credit provided by the employer under section 42.1 is not included in the assets of the plan for the purpose of determining its funding.

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1989, c. 38, s. 134; 1994, c. 24, s. 9; 2000, c. 41, s. 80; 2006, c. 42, s. 11 (*1 January 2010*).

**134.1.** A plan is funded if, at the date of the actuarial valuation, the value of its assets is equal to or greater than the value of its liabilities.

A plan is partially funded if the value of its assets, increased by the funding deficiency determined at the date of the actuarial valuation, is, at that date, equal to or greater than the value of its liabilities.

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2006, c. 42, s. 11 (*1 January 2010*).

**135.** If, at the date of an actuarial valuation of the pension plan, the plan's assets determined on a funding basis do not cover its liabilities determined on the same basis and reduced by the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation, an amount must be established at that date equal to the amount by which the liabilities thus reduced exceed the assets.

At the same date, an amount must also be established equal to the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation.

The funding deficiency corresponds to the sum of the amount established under the first paragraph and the amount established under the second paragraph. Any such deficiency is reduced by the amount which represents the part of the value of the

obligations referred to in the second paragraph, if any, that is paid for by appropriation of the plan's surplus assets.

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1989, c. 38, s. 135; 2006, c. 42, s. 11 (1 January 2010).

**135.1. (Replaced)**

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1998, c. 2, s. 40; 2006, c. 42, s. 11 (1 January 2010).

**135.2. (Replaced)**

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1998, c. 2, s. 40; 2006, c. 42, s. 11 (1 January 2010).

**135.3. (Replaced)**

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1998, c. 2, s. 40; 2006, c. 42, s. 11 (1 January 2010).

**135.4. (Replaced)**

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1998, c. 2, s. 40; 2006, c. 42, s. 11 (1 January 2010).

**135.5. (Replaced)**

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1998, c. 2, s. 40; 2006, c. 42, s. 11 (1 January 2010).

**136.** The funding method used for 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 in verifying the funding of a plan must be suited, in particular, to the type of plan concerned, its obligations and the position of the pension fund.

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1989, c. 38, s. 136; 2006, c. 42, s. 11 (1 January 2010).

**137.** 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 estimated in the valuation, for the fiscal year or the part of the fiscal year of the pension plan that immediately follows the date of the valuation; and

(2) the value of the assets and the liabilities of the pension plan.

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1989, c. 38, s. 137; 2006, c. 42, s. 11 (1 January 2010).

**138.** The current service contribution must be equal to or greater than the value of the obligations arising from the pension plan in respect of credited service completed during the year or the part of a year referred to in paragraph 1 of section 137. The contribution may, however, be less if it is determined on the basis of a funding method that maintains the plan fully or partially funded at all times.

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1989, c. 38, s. 138; 2000, c. 41, s. 81; 2006, c. 42, s. 11 (1 January 2010).

**139.** The value of the obligations referred to in section 134 or 138, which, under the plan, are to increase according, in particular, to the progression of the members' remuneration, must include the estimated amount of the 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 the value of the plan's obligations.

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1989, c. 38, s. 139; 2006, c. 42, s. 11 (*1 January 2010*).

#### Division IV

### AMORTIZATION OF UNFUNDED ACTUARIAL LIABILITIES

**140.** Every unfunded actuarial liability must be amortized by dividing it into as many amounts as there are full months included in the amortization period.

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1989, c. 38, s. 140; 2000, c. 41, s. 82; 2006, c. 42, s. 11 (*1 January 2010*).

**141.** The monthly amortization payable for any fiscal year or any part of a fiscal year of the plan included in the amortization period must be established as a fixed amount at the date the unfunded actuarial liability is determined.

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1989, c. 38, s. 141; 2006, c. 42, s. 50 (*13 December 2006, application until 31 December 2009*); 2006, c. 42, s. 11 (*1 January 2010*).

**142.** 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 five years after the date of the valuation, if the liability is a solvency deficiency; or

(2) no later than 15 years after the date of the valuation, if the liability is a funding deficiency.

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1989, c. 38, s. 142; 1997, c. 19, s. 15; 2006, c. 42, s. 50 (*13 December 2006, application until 31 December 2009*); 2008, c. 21, s. 17; 2006, c. 42, s. 11 (*1 January 2010*).

#### Division V

### CONDITIONS GOVERNING THE PAYMENT OF BENEFITS

**143.** The value of any benefit to which a member or a beneficiary becomes entitled under a pension plan and which corresponds to the following amounts must be paid in full:

(1) additional voluntary contributions credited to the member's account, with accrued interest;

(2) member or employer contributions paid in respect of a member under terms in a defined benefit plan that are identical to those of a defined contribution plan, with accrued interest; and

(3) amounts credited to a member's account following a transfer, even a transfer other than a transfer under Chapter VII, with accrued interest.

The benefit provided for in section 67.5, the one provided for in section 69.1 and the periodic amounts payable as pension benefits must also be paid in full.

The value of any other benefit may be paid out of the pension fund only in proportion to the degree of solvency of the plan, up to 100%, as established in the last actuarial valuation report transmitted to the Régie.

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1989, c. 38, s. 143; 2006, c. 42, s. 11 (*1 January 2010*); 2008, c. 21, s. 33 (*1 January 2010*).

**144.** The actuary responsible for preparing the actuarial valuation report of the pension plan must determine whether the payment of the benefits that are transferable under an agreement referred to in section 106 could reduce the degree of solvency of the plan or, where that degree exceeds 100%, reduce it to a percentage lower than 100%.

If so, the payment of benefits is permitted only in the proportion fixed by the actuary to avoid such a consequence.

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1989, c. 38, s. 144; 2006, c. 42, s. 11 (*1 January 2010*).

**145.** The value of the benefits which, under section 143 or 144, cannot be paid may be paid up to 5% of the maximum pensionable earnings established under the Act respecting the Québec Pension Plan (chapter R-9) for the year during which the payment is to be made; the total amounts so paid since the last actuarial valuation may not, however, exceed 5% of the assets determined at the time of the actuarial valuation to ascertain the solvency of the pension plan.

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1989, c. 38, s. 145; 2000, c. 41, s. 83; 2006, c. 42, s. 11 (*1 January 2010*).

**145.1.** Despite the limits set in sections 143 to 145, the value of the benefits paid must be equal to or greater than the sum of the contributions paid by the member concerned and the amounts credited to the member's account following a transfer, even a transfer other than a transfer under Chapter VII, with accrued interest.

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2006, c. 42, s. 11 (*1 January 2010*).

**146.** The balance of the value of the benefits which, under the terms of sections 143 to 145.1, cannot be paid must be funded and paid within five years after the date of the initial payment or not later than the date on which the member concerned attains normal retirement age if that age is attained before the expiry of the five-year period."

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1989, c. 38, s. 146; 2006, c. 42, s. 11 (*1 January 2010*).

**CHAPTER X.1****APPROPRIATION OF SURPLUS ASSETS**

2000, c. 41, s. 84; 2006, c. 42, s. 12

## Division I

**GENERAL PROVISIONS**

**146.1.** The surplus assets of a pension plan to which Chapter X applies may only be appropriated to the payment of the value of the additional obligations arising from an amendment to the plan if, without reference to the value of those obligations, the actuarial valuation of the plan determines that, on a funding basis, there are surplus assets and, on a solvency basis, there are surplus assets that exceed the reserve established under section 128, if either of the following conditions are met:

(1) the value of the obligations referred to is paid in full by appropriation of the plan's surplus assets; and

(2) the maximum amount of surplus assets that may be appropriated to that payment of that value is used entirely for that purpose.

The maximum amount of surplus assets that may be appropriated for that purpose is determined in the valuation referred to in the first paragraph.

In the case of a complete actuarial valuation, the maximum amount of surplus assets is equal

(1) on a solvency basis, to the amount by which the plan's assets, reduced by the reserve provided for in section 128, exceed the plan's liabilities reduced by the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation;

(2) on a funding basis, to the amount by which the plan's assets exceed the plan's liabilities, the latter being reduced by the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation.

In the case of a partial actuarial valuation, the maximum amount of surplus assets is equal to 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 establishment, in accordance with the third paragraph, of amounts equal to or greater than the amounts given.

2000, c. 41, s. 84; 2006, c. 42, s. 13 (*1 January 2010*).

**146.2.** In the case of a pension plan other than a plan referred to in section 146.1, the surplus assets of the plan may be appropriated to the payment of the value of the additional obligations arising from an amendment to the plan only to the extent that the amount appropriated for that purpose is limited to the portion of the assets that exceeds the value of the obligations arising from the plan, determined without reference to the additional obligations arising from the amendment and assuming that the plan is terminated.

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2000, c. 41, s. 84; 2006, c. 42, s. 13 (*1 January 2010*).

**146.3.** The surplus assets of a pension plan may only be appropriated to the payment of the value of the additional obligations arising from an amendment to the plan in a manner that is equitable for both the group of active members and the group of non-active members and beneficiaries. Anyone amending the plan must make sure this requirement is satisfied.

For the purposes of the first paragraph, the amount appropriated to the payment of the value of the additional obligations arising from an amendment to the plan is determined on a funding basis.

In order to ensure equitable treatment, the main elements to be taken into consideration are the evolution of the pension plan, any amendments made to it and the circumstances in which those amendments were made, the origin of the surplus assets concerned, the use made in the past of any surplus assets, the characteristics of the benefits provided for under the plan and the characteristics of the pensions being paid out.

2000, c. 41, s. 84; 2006, c. 42, s. 13 (*1 January 2010*).

**146.3.1.** An employer who intends to appropriate the surplus assets of a pension plan to the payment of the value of the additional obligations arising from an amendment to the plan must inform the pension committee of those intentions before the committee applies for the registration of the amendment.

Before applying for the registration of the amendment, the pension committee must send every member and beneficiary of the plan a written notice containing the information provided for in the first paragraph of section 26 and informing them of the value of the additional obligations arising from the amendment and of the portion of that value to be paid by appropriation of the plan's surplus assets. The notice must also inform them that they may notify the pension committee in writing of their opposition to the proposed appropriation of the surplus assets within 60 days after the notice is sent or after the notice provided for in the third paragraph is published, whichever is later.

Unless all members and beneficiaries have been personally advised, the pension committee must also publish in a daily newspaper circulated in the region in Québec where the greatest number of active members reside a notice of the proposed amendment and of the proposed appropriation of the surplus assets. The notice must also inform those persons who have not received a personal notice and who believe they are a member or beneficiary who must be consulted that they may declare their status to the pension committee within 60 days after the publication and that, if they are able to establish their status, they are entitled to receive a copy of the notice provided for in the second paragraph and, if applicable, to notify the committee in writing of their opposition to the proposed appropriation of the surplus assets.

For the purposes of this Act, the notice given under this section is considered to be the notice given under section 26.

2006, c. 42, s. 13 (*1 January 2010*); 2008, c. 21, s. 34 (*1 January 2010*).

**146.3.2.** Upon expiry of the time for expressing opposition, the pension committee must count the notices of opposition received from the group of active members and from the

group of non-active members and beneficiaries. The committee must immediately inform the employer concerned and each of the plan members and beneficiaries of the results.

If 30% or more of the members of a group referred to in the first paragraph are opposed to the proposed appropriation of the surplus assets, it is presumed that the requirement set out in the first paragraph of section 146.3 has not been met with respect to that group. However, if fewer than 30% of the members of such a group are opposed to the appropriation, it is presumed that the requirement has been met with respect to that group.

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2006, c. 42, s. 13 (1 January 2010).

**146.3.3.** The conditions set out in subparagraphs 1 and 2 of the first paragraph of section 146.1 and sections 146.3 to 146.3.2 do not apply in the case of a pension plan to which the second paragraph of section 146.4 does not apply or in the case of a pension plan that was subject to an amendment made in accordance with section 146.5 confirming the employer's right to appropriate the plan's surplus assets to the payment of the value of the additional obligations arising from an amendment to the plan.

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2006, c. 42, s. 13 (1 January 2010); 2008, c. 21, s. 34 (1 January 2010).

**146.3.4.** The surplus assets of a pension plan to which Chapter X applies may only be appropriated to the payment of employer contributions if the actuarial valuation of the plan shows that

- (1) on a solvency basis, assets exceed liabilities increased by the provision for adverse deviation referred to in subparagraph 2 of the first paragraph of section 128; or
- (2) on a funding basis, assets exceed liabilities.

The maximum amount of surplus assets that may be appropriated to the payment of employer contributions is determined in the valuation referred to in the first paragraph.

In the case of a complete actuarial valuation, that amount is equal to the lesser of the following amounts:

- (1) the surplus assets of the plan determined on a solvency basis, reduced by the reserve provided for in section 128; or
- (2) the surplus assets of the plan determined on a funding basis.

In the case of a partial actuarial valuation, the amount corresponds to the amount given by the actuary who certifies that a complete actuarial valuation carried out at the date of the valuation would have allowed the establishment, in accordance with the third paragraph, of a maximum amount equal to or greater than the amount given.

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2006, c. 42, s. 13 (1 January 2010).

**146.3.5.** In the case of a pension plan other than a plan referred to in section 146.3.4,

(1) the assets of the plan may only be appropriated to the payment of employer contributions if they exceed the value of the obligations arising from the plan, assuming that the plan is terminated; and

(2) the maximum amount of surplus assets that may be appropriated for that purpose is limited to the portion of the assets that exceeds the value of the obligations arising from the plan, assuming that the plan is terminated.

2006, c. 42, s. 13 (1 January 2010).

**146.3.6.** The appropriation of the surplus assets of a pension plan to the payment of employer contributions must cease

(1) in the case of a pension plan referred to in section 146.3.4, at the date of any actuarial valuation showing that there are no surplus assets determined on a funding basis, or that assets determined on a solvency basis no longer exceed liabilities increased by the provision for adverse deviation referred to in subparagraph 2 of the first paragraph of section 128; and

(2) in the case of a pension plan referred to in section 146.3.5, as soon as the condition set out in paragraph 1 of that section is no longer met.”

2006, c. 42, s. 13 (1 January 2010).

## Division II

### CONFIRMATION OF CERTAIN EMPLOYER'S RIGHTS REGARDING THE APPROPRIATION OF SURPLUS ASSETS

2000, c. 41, s. 84; 2006, c. 42, s. 14.

**146.4.** The employer's right to appropriate all or part of the surplus assets of a pension plan to the payment of the value of the additional obligations arising from any amendment to the plan or to the payment of employer contributions may be confirmed by an amendment made to the plan in accordance with section 146.5. However, no such amendment may be made while an application for union certification involving members of the plan is pending; if the application is granted, the prohibition is extended to the date of signature of the first collective agreement.

If an amendment referred to in the first paragraph is related to the appropriation of a plan's surplus assets to the payment of the value of the additional obligations arising from any amendment to the plan, it may apply only to a pension plan effective on 31 December 2009 or to a pension plan resulting from the division after that date of a pension plan that was effective on that date.

In addition, if the amendment is related to the appropriation of a plan's surplus assets to the payment of employer contributions, it may apply only to a pension plan effective on 31 December 2000 or to a pension plan resulting from the division after that date of a pension plan that was effective on that date.

2000, c. 41, s. 84; 2006, c. 42, s. 15 (1 January 2010).

**146.5.** An amendment to a pension plan confirming the employer's right to appropriate 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 and operating as provided in section 146.7 can only be made to give effect to a written proposal of the employer which not only satisfies the requirements imposed by law and the pension plan for the amendment of the plan and has received consent from all parties as required thereunder, but also has received the concurrence

(1) of each certified association within the meaning of the Labour Code (chapter C-27) representing active plan members belonging to a class of employees for whom the plan is established;

(2) of any party with whom the employer is bound by a written contract, other than the pension plan, pertaining to the use, before the termination of the plan, of the part of the pension fund that constitutes surplus assets; and

(3) of active members not referred to in subparagraph 1 or 2 and of non-active members and beneficiaries;

(4) in the case of a multi-employer pension plan, even not considered as such under section 11, of all the employers party to the plan on the date on which the proposal is made.

For the purposes of subparagraph 3 of the first paragraph, concurrence must be obtained in accordance with the procedure set out in section 166 or 166.1, as the case may be.

Where there is disagreement concerning the application of the first paragraph, the employer and the parties whose consent is required under that paragraph may, if all agree, refer the matter to an arbitrator, defining his or her mandate. The decision of the arbitrator is binding on all interested persons and the required consent to the amendment is deemed to have been obtained from all the parties.

2000, c. 41, s. 84; 2005, c. 5, s. 1; 2006, c. 42, s. 16 (1 January 2010).

**146.6.** Where a pension committee is planning to apply for the registration of an amendment under section 146.5, it shall, not less than 60 days before the intended effective date of the amendment, inform every member and beneficiary and every certified association referred to in section 146.5 by way of a notice containing the following information:

(1) for each of the last four completed fiscal years, the amount of any surplus assets appropriated to the payment of the value of the additional obligations arising from any amendment to the plan or to the payment of employer contributions;

(2) any provisions of the pension plan in force on the date of the notice which concern the appropriation of surplus assets and their effective date;

(3) the text of the provisions resulting from the amendment; and

(4) any other information determined by regulation.

A copy of the notice shall be provided to the Régie according to the same timeframe.

An application for registration must be submitted with all that is required under section 24 as well as an attestation of the pension committee that the consent required has been obtained from all parties and that documents evidencing such consent can be provided to the Régie by the committee on request.

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2000, c. 41, s. 84; 2006, c. 42, s. 17 (1 January 2010).

**146.7.** From their effective date, the provisions of the pension plan resulting from an amendment under section 146.5 or 146.8 that concern 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 prevail over any other provision of the plan or of an agreement and are binding on every person having rights or obligations under the plan.

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2000, c. 41, s. 84; 2006, c. 42, s. 18 (1 January 2010).

**146.8.** Any amendment of a provision resulting from an amendment made under section 146.5 requires the consent required under the first paragraph of that section.

The application for registration of an amendment under the first paragraph can only be made after the notice provided for in section 146.6 is sent as and when provided therein.

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2000, c. 41, s. 84.

**146.9.** The effective date of an amendment made under section 146.5 or 146.8 must be mentioned in every provision resulting therefrom and in the related application for registration. The amendment cannot determine a date of expiry for the right confirmed.

All provisions concerning the appropriation of 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 must be grouped in an easily identifiable section of the pension plan.

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2000, c. 41, s. 84; 2006, c. 42, s. 19 (1 January 2010).

## CHAPTER XI

### ADMINISTRATION OF A PENSION PLAN

#### Division I

#### ADMINISTRATION

**147.** Every pension plan shall, from its registration, be administered by a pension committee composed of at least one member, designated as and when provided in the pension plan, who is neither a party to the plan nor a third person to whom, under section 176, a loan may not be granted, and the following members:

(1) one member designated by the active members at the meeting held pursuant to section 166 or, in the absence of such a designation, one plan member designated as and when provided in the plan; and

(2) one member designated by the non-active members and beneficiaries at that meeting or, in the absence of such a designation, one plan member or beneficiary designated as and when provided in the plan.

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1989, c. 38, s. 147; 2000, c. 41, s. 85.

**147.1.** At the meeting held pursuant to section 166, the active members as a group and the non-active members and beneficiaries as a group may each designate a pension committee member in addition to those designated under section 147.

An additional member designated under the first paragraph has the same rights as other committee members except the right to vote. Section 156 does not apply in respect of an additional member.

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2000, c. 41, s. 86.

**148.** The term of office of a member of a pension committee shall not exceed three years.

A member of the committee, whose term of office has expired, shall remain in office until he is reappointed or replaced.

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1989, c. 38, s. 148.

**149.** Until its registration, a pension plan which is effective and for which a pension committee has yet to be formed shall be administered by the employer.

The employer shall, for the administration of the pension plan, have the powers, obligations and liability of a pension committee.

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1989, c. 38, s. 149.

**150.** Except in the case of an insured plan, the pension committee shall act in the capacity of a trustee.

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1989, c. 38, s. 150.

**150.1.** The pension committee may, at any time, submit its recommendations to the person or body who may amend the pension plan as to any eventual amendments to the pension plan.

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2000, c. 41, s. 87.

**151.** The pension committee shall exercise the prudence, diligence and skill that a reasonable person would exercise in similar circumstances; it must also act with honesty and loyalty in the best interest of the members or beneficiaries.

The members of the pension committee shall use in the administration of the pension plan all relevant knowledge or skill that they possess or, by reason of their profession or business, ought to possess.

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1989, c. 38, s. 151.

**151.1.** The pension committee is presumed to have acted with prudence where it acted in good faith on the basis of an expert's opinion.

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2006, c. 42, s. 20 (13 December 2006).

**151.2.** The pension committee may adopt internal by-laws establishing its rules of operation and governance. The committee ensures that they are complied with and reviews them regularly.

The internal by-laws determine, in particular,

- (1) the duties and obligations of the committee members;
- (2) the rules of ethics to which those persons are subject;
- (3) the rules governing the appointment of the chair, vice-chair and secretary;
- (4) the procedure for meetings and the frequency of meetings;
- (5) the measures to be taken to provide professional development to committee members;
- (6) the measures to be taken to ensure risk management;
- (7) internal controls;
- (8) the books and registers to be kept;
- (9) the rules to be followed when selecting, remunerating, supervising or evaluating delegates, representatives or service providers; and
- (10) the standards that apply to the services rendered by the committee, namely the standards on communicating with plan members and beneficiaries.

In the event of a discrepancy between the text of the pension plan and the text of the internal by-laws as regards the operation and governance of the committee, the latter prevails. However, in the case of the following subjects, the internal by-laws prevail only if the text of the pension plan expressly so provides:

- (1) the rules governing the appointment of the chair, vice-chair and secretary of the pension committee as well as their duties and obligations;
- (2) quorum and the granting of a casting vote at committee meetings; and
- (3) the proportion of committee members who must participate in a decision in order for it to be valid.

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2006, c. 42, s. 20 (13 December 2007).

**151.3.** The secretary of the pension committee or any other person appointed by the committee provides the committee members with the documents and information needed to administer the pension plan.

Committee members have access to all information on the plan and may obtain a copy of any document. However, they may not have access to personal information unless it is required in the performance of their duties.

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2006, c. 42, s. 20 (13 December 2006).

**152.** Subject to such limitations or prohibitions as may be set out in the pension plan, the pension committee may delegate all or part of its powers, except those conferred by sections 243.3 and 243.7, or be represented by a third person for a specific act.

To such extent as is permitted by the instrument of delegation, the person or body to whom or which the pension committee has delegated powers may subdelegate all or part of such powers.

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1989, c. 38, s. 152; 2000, c. 41, s. 88.

**153.** The person or body exercising delegated powers shall assume the same obligations and incur the same liability as those the pension committee or one of its members would have had to assume or have incurred if the powers had been exercised by the pension committee. The same applies to service providers and representatives who exercise a discretionary power belonging to the committee.

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1989, c. 38, s. 153; 2006, c. 42, s. 21 (13 December 2006).

**154.** The pension committee is accountable for the person to whom it has delegated powers if, among other things, it was not authorized to do so; if it was so authorized, it is accountable only for the care with which it selected the delegatee and gave him instructions.

Service providers and representatives who exercise a discretionary power belonging to the pension committee are considered to be delegates.

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1989, c. 38, s. 154; 1994, c. 24, s. 11; 2006, c. 42, s. 22 (13 December 2006).

**154.1.** The pension committee selects and hires the delegates, representatives and service providers.

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2006, c. 42, s. 23 (13 December 2006).

**154.2.** Delegates, representatives and service providers must submit reports on their work to the pension committee.

Delegates, representatives and service providers must report to the pension committee in writing any situation noted in the normal course of their duties that might adversely affect the financial interests of the pension fund and that requires correction.

If the pension committee fails to take immediate corrective measures, the delegatee, representative or service provider must send a copy of the report to the Régie.

A person who, acting in good faith, sends a report to the committee or the Régie under the second or third paragraph may not be held liable.

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2006, c. 42, s. 23 (13 December 2006).

**154.3.** Delegates, representatives and service providers must provide the pension committee with the documents and information they receive from government authorities and that call into question the conformity of the plan or its administration with this Act.

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2006, c. 42, s. 23 (13 December 2006).

**154.4.** Delegates, representatives and service providers may not exclude or limit their liability. Any clause to that effect is null.

Any clause to that effect in a contract terminated or in effect on 13 December 2006 is null if it is abusive.

The abusive nature of such a clause is assessed, with the necessary modifications, with reference to the articles of the Civil Code on consumer contracts and contracts of adhesion.

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2006, c. 42, s. 23 (13 December 2006).

**155.** Except in the case of the renewal of a designation or the designation of a new member under section 167, the pension committee shall, within 30 days after a member having the right to vote takes office, reexamine the delegations of powers to determine those that are to be maintained and those that are to be revoked.

The revocation of a delegation carries with it the revocation of every subdelegation made by the delegatee, if any.

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1989, c. 38, s. 155; 2000, c. 41, s. 89.

**156.** Every member of the pension committee is presumed to have approved any decision made by the other members. He shall be solidarily liable therefor with the other members unless he expresses his dissent without delay.

He is also presumed to have approved any decision made in his absence unless he makes his dissent known to the other members, in writing, within a reasonable time after becoming aware of the decision.

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1989, c. 38, s. 156; 1999, c. 40, s. 254.

**156.1.** In the cases provided for by regulation, and for the amounts and on the conditions prescribed therein, the pension committee must furnish a guarantee securing the pension fund against losses which may result from theft or embezzlement and a guarantee covering the liability, except that which derives from the failure to act with honesty and loyalty, that may be incurred by a member of the pension committee or the person to whom the committee has delegated a power or given a mandate by reason of his functions.

Effective date undetermined.

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1993, c. 45, s. 2.

**157.** (*Repealed*).

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2000, c. 41, s. 90.

**158.** No member of a pension committee may exercise his powers in his own interest or in the interest of a third person nor may he place himself in a situation of conflict between his personal interest and the duties of his office.

If the committee member is himself a member or a beneficiary of the plan, he shall exercise his powers in the common interest, considering his own interest to be the same as that of the other members or beneficiaries of the plan.

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1989, c. 38, s. 158.

**159.** Every member of a pension committee shall, without delay, notify the committee in writing of any interest he has in an enterprise that is susceptible of causing his personal interest to conflict with the duties of his office, and of any rights, other than those arising from the plan, he may have in or may invoke against the pension fund, specifying, where such is the case, the nature and value of the rights.

The pension committee shall keep at its office a register in which every interest or right notified to it pursuant to the first paragraph shall be recorded. Any interested person may examine the register without charge during usual working hours, and the limit set out in section 115 does not apply to such an examination.

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1989, c. 38, s. 159.

**160.** Unless otherwise stipulated, the fiscal year of a pension plan ends on 31 December each year; the fiscal year shall not exceed or include less than 12 months unless authorized by the Régie.

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1989, c. 38, s. 160.

**161.** The pension committee shall, within six months after the end of each fiscal year of the pension plan or, in the case of the first fiscal year of the plan, within any additional period granted by the Régie, transmit to the Régie an annual statement drawn up on the form it provides, along with the attestations and documents mentioned in the form.

It shall cause to be prepared, within the same time limit, a financial report containing a statement of the plan's assets and a statement of revenues and expenditures for the fiscal year just ended. The report must be audited by an accountant except in the cases prescribed by regulation.

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1989, c. 38, s. 161; 1994, c. 24, s. 13; 2000, c. 41, s. 91; 2006, c. 42, s. 24 (13 December 2006); 2008, c. 21, s. 18.

**161.1. (Repealed).**

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1994, c. 24, s. 14; 2000, c. 41, s. 92; 2006, c. 42, s. 25 (13 December 2006).

**161.2. (Repealed).**

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1994, c.24, s.14; 2000, c. 41, s. 93.

**162.** Unless otherwise stipulated, the members of the pension committee are not entitled to any remuneration and the administration costs shall be borne by the pension fund. The cost of the professional development of committee members is an administration cost.

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1989, c. 38, s. 162; 2006, c. 42, s. 26 (13 December 2006).

**162.1** The pension committee compensates members who sustain a loss in the performance of their duties and who have committed no fault.

If a member has committed a fault other than a deliberate or gross fault and is covered by liability insurance, the committee may compensate up to the amount of the deductible. Before making a decision, the committee must take the adverse effect of the fault on the financial interests of the pension assets and other circumstances into consideration.

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2006, c. 42, s. 27 (14 June 2006).

**163.** Every refund or payment of pension benefits made by the pension committee shall constitute a full discharge where the committee has grounds to believe, on the basis of the information at its disposal, that the persons to whom they are made are the persons who are entitled thereto and the refunds or payments are, in other respects, in conformity with the law and the terms of the plan.

Such discharge is valid only with respect to the sums actually paid, or the value thereof.

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1989, c. 38, s. 163.

**163.1.** The pension committee may, in the course of the general administration of the pension plan, offset a debt of a member or beneficiary toward the pension fund against a pension benefit or refund payable to the member or beneficiary up to the greater of

- (1) 25% of the pension benefit or refund ; and
- (2) 1/12 of the amount to be recovered, without exceeding 50% of the pension benefit or refund.

However, the offset may be applied against up to 100% of a pension benefit or refund if the debtor consents thereto in writing.

As well, a debt of a deceased member may be offset by the committee against the total amount of the death benefit payable to the member's successors.

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2000, c. 41, s. 94.

**164.** Where several persons claim the same benefit under a pension plan, the pension committee may be fully discharged by depositing the amount due with the General Deposit Office of Québec or with a trust company which is, in that case, required to fulfil the obligations prescribed by the second paragraph of article 189.1 of the Code of Civil Procedure, which applies adapted as required.

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1989, c. 38, s. 164.

**165.** The pension committee shall transmit to the Régie the name and last-known address of every untraceable member or beneficiary who is entitled to a refund or to the

payment of pension benefits or other amounts due to him following the withdrawal of an employer from a multi-employer pension plan or the termination of a pension plan.

If the Régie is able, with the information at its disposal, to locate the member or beneficiary, it shall notify him to communicate with the pension committee at the address indicated.

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1989, c. 38, s. 165; 2000, c. 41, s. 95.

**165.1.** As soon as it is informed thereof, the pension committee shall notify the Régie in writing of any effective or proposed division or merger of the pension plan.

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1992, c. 60, s. 13; 2000, c. 41, a. 96.

**166.** Within six months after the end of each fiscal year of the plan, or within such additional period as may be granted by the Régie, the pension committee shall, by written notice, call each member and beneficiary and the employer to a meeting held to

(1) allow the members, the beneficiaries and the employer to be informed of the amendments made to the plan, the entries recorded in the register kept pursuant to section 159 and the financial position of the plan;

(2) enable the group formed of active members, on the one hand, and the group formed of non-active members and beneficiaries, on the other hand, to decide whether or not to designate a pension committee member under section 147 or 147.1 and, if the decision is affirmative, to proceed with the designation either in the manner proposed by the committee or, if none is proposed or if the group refuses the manner proposed, in a manner, determined by the group, which allows the designation to be made at that meeting;

(3) if no special meeting was called pursuant to section 166.1, enable the group formed of active members not referred to in subparagraphs 1 and 2 of the first paragraph of section 146.5, on the one hand, and the group formed of non-active members and beneficiaries, on the other hand, to vote on a proposal to amend the pension plan, made by the employer under section 146.5.

A decision relating to a matter mentioned in subparagraph 2 or 3 of the first paragraph shall be made, for each group, by a majority of the votes cast by its members.

The subjects determined by regulation must, in addition, appear on the agenda of the meeting.

The pension committee shall, in addition, render an account of its administration at that meeting.

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1989, c. 38, s. 166; 1994, c. 24, s. 15; 2000, c. 41, s. 97; 2005, c. 5, s. 2.

**166.1.** Unless the subject is on the agenda of the annual meeting, the pension committee shall, by written notice and within 60 days after receiving a proposal to amend the pension plan, made by the employer under section 146.5, or within such additional period as may be granted by the Régie, call each member and beneficiary belonging to the groups mentioned in subparagraph 3 of the first paragraph of section 166 to a special meeting in order for them to vote on the proposal.

A decision shall be made, for each group, by a majority of the votes cast by its members.

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2005, c. 5, s. 3.

**167.** If a member of the pension committee designated pursuant to section 166 having the right to vote is absent or unable to act or if such a seat on the committee is vacant, the other members of the committee shall designate a new member to fill the seat until the next meeting held pursuant to that section.

The committee may act likewise in case of a delay in replacing any other member having the right to vote that must be designated as and when provided for in the pension plan.

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1989, c. 38, s. 167; 1999, c. 40, s. 254; 2000, c. 41, s. 98.

## Division II

### INVESTMENTS

**168.** Only the pension committee, the person or body to whom or which that power has been delegated or, if the pension plan so provides, the members of the plan may decide how the assets of the plan are to be invested. Where the plan authorizes members to distribute all or part of the amounts credited to them among various investments, it must offer a minimum of three investment options which not only are diversified and involve varying degrees of risk and expected return but also allow the creation of portfolios that are generally well-adapted to the needs of the members.

Investments shall be made according to law and investments selected by the pension committee or the delegatee shall, in addition, be made in conformity with the investment policy.

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1989, c. 38, s. 168; 2000, c. 41, s. 99.

**169.** The pension committee shall establish and adopt a written investment policy, giving particular consideration to the type of pension plan, its characteristics and its financial obligations.

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1989, c. 38, s. 169.

**170.** Unless the Régie authorizes, on the conditions it fixes, that the investment policy be simplified, the policy must set out

- (1) the expected rate of return;
- (2) the degree of risk involved in the investment portfolio, particularly as regards price fluctuations;
- (3) liquidity requirements;
- (4) the proportion of assets that may be invested in debt securities and equity securities, respectively;

- (5) the permitted categories and sub-categories of investments;
- (6) investment portfolio diversification measures conducive to an overall reduction of the degree of risk;
- (7) rules and a time schedule applicable to the valuation of the investment portfolio and to the monitoring of the management of the investment portfolio and those applicable to the review of the investment policy.

Unless they are already set out in the plan, the policy must also include

- (1) rules regarding the solvency of borrowers and the security required for granting loans out of the assets, in particular the lending of securities and hypothecary loans;
- (2) rules applicable to the exercise of the voting rights attached to the securities forming part of the assets;
- (3) the basis for the valuation of investments that are not traded on an organized market;
- (4) rules applicable to the use of futures contracts, options, share purchase warrants or share rights or other financial instruments;
- (5) rules regarding the loans that may be raised by the pension committee.

In the event of a discrepancy between the internal by-laws and the investment policy as regards any matter mentioned in this section, the latter prevails.

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1989, c. 38, s. 170; 2006, c. 42, s. 28 (13 December 2007).

**171.** All deposits and investments of the assets of the pension plan must be made in the name of the pension fund or for its account.

Moreover, the assets of the plan may not serve to secure any obligations other than those of the plan.

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1989, c. 38, s. 171; 2000, c. 41, s. 100.

**171.1.** Unless it is reasonable in the circumstances to act otherwise, the pension committee must endeavour to constitute a diversified portfolio so as to minimize the risk of major losses.

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2000, c. 41, s. 101.

**172.** The assets of the pension plan may not be invested, directly or indirectly, in securities controlled by the employer in a proportion greater than 10% of their book value.

For the purposes of the first paragraph, the letter of credit provided by an employer under section 42.1 is considered to be a security in which the assets of the pension plan are invested and whose book value is equal to the amount of the letter of credit.

For the purposes of this section, a security is controlled by the employer in particular if it is issued by the employer or by a partnership or legal person more than 50% of the voting rights of which are held by the employer.

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1989, c. 38, s. 172; 2000, c. 41, s. 102; 2006, c. 42, s. 29 (1 January 2010).

**173. (Repealed).**

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2000, c. 41, s. 103.

**174.** Except in the case of securities traded on an organized market, the assets of the pension plan shall not be invested in securities issued by a legal person to whom a loan out of such assets is prohibited under sections 176 and 177.

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1989, c. 38, s. 174.

**175.** The assets of a pension plan shall not be invested, directly or indirectly, in shares carrying more than 30 % of the voting rights attached to the shares of a legal person.

The 30 % limit does not apply to the shares of a legal person referred to in paragraph c.1, c.2 or c.3 of section 998 of the Taxation Act.

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1989, c. 38, s. 175.

**176.** No loan out of the assets of the pension plan may be granted

(1) to a member of a pension committee, a delegatee or, where that member or delegatee is a legal person or group without juridical personality, to the directors, officers or employees of the legal person or group;

(2) to an employees' association representing members or to its directors, officers or employees;

(3) to the spouse or child of any person referred to in paragraph 1 or 2;

(4) where the employer is a legal person and administers all or part of the plan,

(a) to a shareholder, associate or member who holds directly or indirectly more than 10 % of the capital stock of the legal person or to his spouse or child;

(b) to a shareholder, associate or member or to his spouse or child if, together, they hold directly or indirectly more than 10 % of the capital stock of the legal person;

(5) where the employer administers all or part of the plan, to any legal person more than 10 % of the capital stock of which is directly or indirectly held by the employer;

(6) to a legal person, other than the employer, more than 10 % of the capital stock of which is held by a person referred to in paragraph 1, 2, 3 or 4;

(7) to a legal person, other than the employer, more than 50 % of the capital stock of which is held by a group composed exclusively of persons referred to in paragraph 1, 2 or 4, of the employer where he administers all or part of the plan, or of the spouse or child of any of them;

(8) to a legal person, other than the employer, controlled by a person referred to in paragraph 1, 2, 3 or 4, or by the employer where he administers all or part of the plan, or by a group composed exclusively of such persons.

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1989, c. 38, s. 176.

**177.** Despite section 176, a loan secured in the manner prescribed by regulation may be granted

- (1) to a member or to the spouse or child of a member;
- (2) to the employer;

(3) to a parent company and a subsidiary provided that one of the companies is the employer and that the total loans granted to them do not exceed 10 % of the total book value of the assets of the pension plan.

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1989, c. 38, s. 177.

**178.** For the purposes of sections 176 and 177, spouses are persons married to or in a civil union with each other or persons of opposite sex or the same sex who have been living in a conjugal relationship for a period of not less than three years, or for a period of not less than one year if

- at least one child is born, or to be born, of their union;
- they have adopted, jointly, at least one child while living in a conjugal relationship; or
- one of them has adopted at least one child who is the child of the other, while living in a conjugal relationship.

For the purposes of the same sections, a natural or legal person is deemed to hold the shares held, directly or indirectly, by a legal person controlled by such natural or legal person. A person who holds, directly or indirectly, otherwise than as security, securities entitling him to elect in all cases a majority of the directors of a legal person controls that legal person.

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1989, c. 38, s. 178; 1999, c. 14, s. 28; 2002, c. 6, s. 200.

**179.** If, as a result of an unforeseen or uncontrollable event, the assets of the pension plan cease to be invested according to law, the pension committee shall, within a reasonable time after it has knowledge of the event, take every step necessary to regularize the situation.

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1989, c. 38, s. 179.

**180.** Every person who makes an investment otherwise than according to law is, by that sole fact and without further proof of wrongdoing, liable for any resulting loss.

The members of a pension committee who approved such an investment are, by that sole fact and without further proof of wrongdoing, solidarity liable for any resulting loss.

However, such persons incur no liability under this section if they acted in good faith on the basis of an expert's opinion.

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1989, c. 38, s. 180; 2006, c. 42, s. 30 (13 December 2006).

**181.** Any investment made in contravention of the law may be annulled by judicial action on the application of the Régie or any interested person.

The court may order any person who is liable under section 180 to pay to the pension fund an amount equal to the resulting loss or to the sums so invested.

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1989, c. 38, s. 181.

**182.** No fee, commission or other benefit in respect of any transaction relating to the investment of the assets of the pension plan may be paid or granted

(1) to the members of a pension committee, to a delegatee or to the spouse or children of any of them;

(2) to the employer, to the employer's employees responsible for the administration of all or part of the plan, or, where the employer is a legal person, to the directors or officers of the legal person;

(3) to the persons or groups referred to in section 176.

The first paragraph does not apply, however, to a person or group referred to therein if such benefit is ordinarily granted to him or it in the performance of his or its duties and if it corresponds to what is usually granted in respect of such a transaction.

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1989, c. 38, s. 182.

### Division III

#### PROVISIONAL ADMINISTRATION

**183.** The Régie may, for the period it fixes, assume the administration of all or part of a pension plan or entrust it to the person or body it designates in any of the following cases :

(1) where the Régie or the investigator it has designated is making an inquiry into the plan's conformity with the law or into its administration;

(2) where, in the opinion of the Régie, the plan or the administration thereof is not in conformity with this Act;

(3) where, in the opinion of the Régie, the pension committee, a member of that committee, a delegatee or, where the member or delegatee is a legal person or a group without juridical personality, any of its directors has committed a malversation, a breach of trust or other form of misconduct;

(4) where the Régie becomes aware that the pension committee or a person to whom it has delegated powers has failed to comply with an order issued by the Régie.

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1989, c. 38, s. 183; 2000, c. 41, s. 104.

**184.** Before deciding to place the pension plan under provisional administration, the Régie shall give the pension committee and, where such is the case, the person or body whose administration or conduct is questioned an opportunity to present observations. However, in cases of emergency, the Régie may make its decision before giving them such an opportunity, provided it does so within 15 days of the decision.

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1989, c. 38, s. 184; 1997, c. 43, s. 651; 2000, c. 41, s. 105.

**185.** The Régie shall transmit its decision to the pension committee and, where such is the case, the person or body whose administration or conduct is questioned and to the employer. It shall also, where the decision contemplates the provisional administration of the whole pension plan, transmit it to the members and to every certified association representing members.

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1989, c. 38, s. 185; 2000, c. 41, s. 106.

**186.** The provisional administrator shall, to the extent set out in the decision of the Régie, exercise the powers of the pension committee; the committee, or the person or body to whom or which such powers have been delegated, becomes, to the same extent, disqualified from exercising such powers.

The provisional administrator shall have the same obligations and liability as the pension committee.

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1989, c. 38, s. 186.

**187.** After having decided to place the pension plan under provisional administration on any of the grounds set out in subparagraph 2 or 3 of the first paragraph of section 183 and having given the person or body whose administration or conduct is questioned an opportunity to present observations, the Régie may dismiss that person or body and disqualify him or it from exercising such functions for a period of five years. In that case, the Régie may, on the conditions and in the manner it determines, see to the replacement of the dismissed person or body.

Section 185 applies to every decision of the Régie made under this section.

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1989, c. 38, s. 187; 1997, c. 43, s. 652; 2000, c. 107.

**188.** The Régie, where it assumes the provisional administration of all or part of the pension plan, or the provisional administrator designated by it may amend the plan to bring it into conformity with the law or to protect the rights of members or beneficiaries.

Before amending the plan, the Régie shall give the employer, the members and every certified association representing members an opportunity to present observations. The Régie shall register every amendment made under this section.

Where the designated provisional administrator proposes to amend the pension plan, he shall, before amending the plan, transmit the notice provided for in section 26 to the pension committee, to the employer, to the members and to every certified association representing members. In that case, the Régie may, in addition to the grounds set out in section 28, refuse to register the amendment applied for if it is of the opinion that the amendment is not in the interest of the members or beneficiaries.

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1989, c. 38, s. 188; 1997, c. 43, s. 653; 2000, c. 41, s. 108.

**189.** Every amendment to the plan whether it is made by the Régie or by the designated provisional administrator shall become effective on the date it is registered and shall be binding on the employer and members.

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1989, c. 38, s. 189.

**190.** The Régie, where it assumes the provisional administration of all or part of the pension plan or, with the approval of the Régie, the designated provisional administrator may terminate the plan or, where two or more employers are parties to the plan, amend the plan to allow for the withdrawal of an employer in accordance with Chapter XIII, which applies adapted as required.

Notice of the date of termination or of the effective date of the amendment with an indication of the members affected shall be given to the pension committee, to the employer, to the members affected and to every certified association representing members.

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1989, c. 38, s. 190; 2000, c. 41, s. 109.

**191.** The Régie shall determine the remuneration and the allowances and indemnities, if any, to be paid to the designated provisional administrator.

The Régie is entitled to the reimbursement of expenses it has incurred for the provisional administration or for lending any of its officers to the designated provisional administrator.

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1989, c. 38, s. 191.

**192.** At the request of the Régie, the designated provisional administrator shall make an inventory.

In addition, the designated provisional administrator shall, on the conditions and in the manner determined by the Régie, take out liability insurance or give any other security to guarantee his administration.

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1989, c. 38, s. 192.

**193.** Without prejudice to the right to claim reimbursement before the court, the expenses relating to the provisional administration shall be borne by the pension fund unless the Régie elects to assume them.

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1989, c. 38, s. 193.

## CHAPTER XII

### DIVISION AND MERGER

**194.** Any division of the assets and liabilities of a pension plan among several plans or any merger of all or part of the assets and liabilities of several pension plans into a single plan, in particular where an employer sells, assigns or otherwise disposes of his enterprise, is subject to the authorization of the Régie and to such conditions as it may prescribe.

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1989, c. 38, s. 194.

**195.** The Régie shall not authorize a division of the assets and liabilities of a pension plan unless the value of the assets to be transferred is equal to the sum of

(1) the market value of the assets which, assuming that the plan is terminated on the effective date of the proposed division, should be allocated, pursuant to sections 220 to 225, to the group of benefits to which the members or beneficiaries affected are entitled ; and

(2) the market value of the additional share of assets that would be allocated to that group of benefits if the surplus remaining after the distribution of assets were itself distributed between the groups of benefits constituted pursuant to subdivision 3 of Division II of Chapter XIII, in such manner that the assets of the plan were distributed among the groups proportionately to the value of the obligations arising from the plan from which the benefits in each of the groups derive.

The value of the obligations referred to in subparagraph 2 of the first paragraph must be determined as provided in Division III of Chapter X and be reduced by the value of the obligations arising from the plan with respect to any portion of a funding deficiency remaining to be paid at the date of division.

Any contribution which, at the date of division, an employer that is a party to a multi-employer pension plan has failed to pay into the pension fund or, as the case may be, to the insurer must be deducted from the share of the assets which is allocated to the group of benefits pertaining to that employer pursuant to the first paragraph. Moreover, the amount determined under the first paragraph must be adjusted to take into account the return on the investment of the plan assets, calculated according to the change in the market value of the assets from the effective date of the division to the date of the transfer, and the contributions paid in respect of and the pension benefits paid to the members and beneficiaries affected during that period.

Furthermore, the Régie may not authorize such a division except where the plan into which a portion of the assets to be divided is to be transferred includes provisions which, in respect of the allocation of any surplus assets in case of termination 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, are identical as to their effects to the provisions of the plan from which such assets are transferred. In verifying whether the effects are identical as required by this paragraph, only the terms in force when the application for authorization is made shall be considered.

Moreover, where, in the hypothetical situation described in the first paragraph, the value of the allocated assets is not sufficient to pay all the benefits of the affected members or beneficiaries and where a new employer will be required, after the division, to assume responsibility for the obligations related to such benefits, the authorization of the Régie may be made conditional to mandatory payment into the pension fund by the employer then responsible for those obligations of an amount to form part of the assets to be transferred, equal to the amount to be funded to ensure full payment of such benefits.

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1989, c. 38, s. 195; 1992, c. 60, s. 14; 2000, c. 41, s. 110; 2006, c. 42, s. 31 (1 January 2010)

**196.** The Régie shall not authorize the merger of all or part of the assets and liabilities of several plans unless all the plans include terms which, in relation to the allocation of surplus assets determined upon termination, have identical effects or unless the applicable terms of the absorbing plan are more advantageous for the members and beneficiaries than the applicable terms of the absorbed plan. In verifying the effects of the applicable terms, only the terms in force when the application for authorization is made shall be considered.

In other cases, the merger may still be authorized if all the members and beneficiaries of the absorbed plan who are affected by the merger are informed by the pension committee by means of a notice in writing only containing the information prescribed by regulation and if less than 30 % of them are opposed to the merger. The provisions of sections 230.4 and 230.6 apply, adapted as required, in respect of the procedure to be followed to inform and consult the said members and beneficiaries.

Moreover, if the proposed merger is to affect all the members or beneficiaries of the plans concerned, the Régie shall not grant its authorization unless all of the assets of every plan concerned are merged. If that is not the case, the authorization shall be granted only on the condition that the assets to be merged from any plan only part of the members or beneficiaries of which are affected be determined, as far as their benefits are concerned, in accordance with the provisions of section 195, which apply adapted as required.

Furthermore, if the absorbing plan or the absorbed plan is a plan to which subparagraph 16.1 or 17 of the second paragraph of section 14 applies or which has been amended pursuant to section 146.5 in order to confirm 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, the merger may only be authorized if the concurrence of all parties whose consent would be required under section 146.5 for the amendment of the absorbed plan has been received.

If the merger is authorized, only the terms of the absorbing plan shall, as far as the employer's right to appropriate surplus assets of the plan to the payment of the value of the additional obligations arising from any amendment to the plan or to the payment of employer contributions and the allocation of surplus assets in the case of termination are concerned, be applicable to the members and beneficiaries of the absorbed plan who are affected by the merger.

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1989, c. 38, s. 196; 1992, c. 60, s. 15; 2000, c. 41, s. 111; 2006, c. 42, s. 32 (1 January 2010).

**197.** Any remuneration received or, as the case may be, any hours of employment completed before a division or merger must be taken into account for the purposes of section 34.

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1989, c. 38, s. 197; 2000, c. 41, s. 112.

## CHAPTER XIII

### RIGHTS OF MEMBERS AND BENEFICIARIES ON WINDING-UP

#### Division I

#### WITHDRAWAL FROM MULTI-EMPLOYER PLAN AND TERMINATION OF PLAN

##### § 1. -- *Withdrawal from multi-employer pension plan*

**198.** The withdrawal of an employer from a multi-employer pension plan is conditional upon the amendment of the plan to that effect. The amendment of the plan is subject to authorization by the Régie.

The date of withdrawal is the effective date of the amendment. If the amendment is made following the bankruptcy of the employer, the effective date of the amendment is the date of the bankruptcy.

The persons affected by the withdrawal are

(1) the active members in the employ of the employer at the date of withdrawal;

(2) the non-active members at that date whose active membership ended while they were in the employ of the employer ; and

(3) the beneficiaries at that date of a pension benefit that derives from the benefit of a member whose active membership ended while the member was in the employ of the employer.

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1989, c. 38, s. 198; 2000, c. 41, s. 114.

**199.** If an employer that is a party to a multi-employer pension plan is bankrupt or becomes insolvent, within the meaning of the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3), the plan must be amended to allow for the withdrawal of the employer and, where applicable, for substitution of another 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 insolvency or bankruptcy, the pension committee shall proceed with the amendment.

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1989, c. 38, s. 199; 1997, c. 43, s. 654; 2000, c. 41, s. 114.

**200.** Before applying for the registration of an amendment allowing for the withdrawal of an employer from a multi-employer pension plan, the pension committee shall, in addition to informing the members as required by section 26, send to every member and beneficiary affected by the withdrawal a notice informing them

(1) of the degree of solvency of the plan as established in the last actuarial valuation ;

(2) of the effect of full payment of benefits under the plan, particularly as concerns the application of the second paragraph of section 230.1 and section 240.2 ;

(3) of the right of non-active members and beneficiaries affected by the withdrawal whose pension is in payment at the date of withdrawal to request, within the following 30 days, that payment of the pension be henceforth assumed by an insurer selected by the pension committee, according to the conditions prescribed by regulation, and that their rights under the plan be thus satisfied ; and

(4) of the option available to members and beneficiaries affected by the withdrawal, other than those to whom paragraph 3 applies, to elect either not to require payment in full of their benefits under the plan or to require payment in full by means of a transfer under section 98, which applies with the necessary modifications, or, where 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.

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1989, c. 38, s. 200; 1992, c. 60, s. 17; 2000, c. 41, s. 114.

**201.** An application for registration of an amendment allowing for the withdrawal of an employer from a multi-employer pension plan must include, in addition to what is required by section 24,

(1) the name of the withdrawing employer and the effective date of the amendment ;

(2) the names of the members and beneficiaries affected, with the status of each, at the date referred to in paragraph 1, as an active member, a non-active member whose pension is not in payment, a non-active member whose pension is in payment or a beneficiary ; and

(3) a copy of the notice provided for in section 200, together with a declaration of the pension committee certifying that the notice has been sent to every member and beneficiary affected.

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1989, c. 38, s. 201; 2000, c. 41, s. 114.

**202.** Within 60 days after the application for registration is filed with the Régie, the pension committee shall require the withdrawing employer to pay any contribution the employer has failed to pay into the pension fund or, as the case may be, to the insurer.

Within the same time or within such additional time as the Régie may grant, the pension committee shall file with the Régie a report establishing the benefits accrued to each member and beneficiary affected and the value thereof, and containing the information prescribed by regulation. The report must be prepared by an actuary ; in the case of a plan referred to in paragraph 2 of section 116, it can be prepared by the pension committee. The value of the benefits accrued to the members and beneficiaries must be determined at the effective date of the amendment allowing for the withdrawal of the employer or, with the authorization of and subject to the conditions determined by the Régie, at the date of the next full actuarial valuation of the plan.

If, within the time prescribed in the second paragraph, the pension committee sends a notice to the Régie certifying that the employer has paid all unpaid contributions in full and, where Chapter X applies to the pension plan, a declaration of an actuary attesting that the plan is solvent at the effective date of the amendment, the pension committee is dispensed from filing the report provided for in the second paragraph.

1989, c. 38, s. 202; 1992, c. 60, s. 18; 2000, c. 41, s. 114.

**203.** The Régie may not authorize the amendment of a multi-employer pension plan to allow for the withdrawal of an employer, unless

(1) the report or, as the case may be, the notice and declaration sent to the Régie pursuant to section 202 are in conformity with this Act ; and

(2) the pension committee attests that the contributions referred to in the first paragraph of section 202 have been paid into the pension fund or to the insurer or will not likely be recovered, despite the pension committee's demands, by reason of the bankruptcy or insolvency of the employer.

1989, c. 38, s. 203; 1992, c. 60, s. 19; 1997, c. 43, s. 655; 2000, c. 41, s. 114.

## *§ 2. -- Termination of pension plan*

**204.** Except if termination is precluded by agreement or the pension plan is a plan rendered compulsory by an order or decree which does not authorize termination, an employer -- or, in the case of a multi-employer pension plan, even not considered as such under section 11, the employers jointly, -- may terminate the plan by means of a written notice of termination to the members and beneficiaries affected, to every certified association representing members, to the pension committee and, where applicable, to the insurer.

The notice shall indicate the date of termination and the names of the members and beneficiaries affected. The date of termination may in no case be subsequent to the day preceding the day on which the benefits of the last member or beneficiary under the plan have been paid in full. Moreover, unless every member whose active membership in the plan is to cease upon or after the termination of the plan consents thereto in writing, the date of termination may not precede the date on which member contributions cease to be collected or the date occurring 30 days before the date on which the notice of termination is given to the active members.

1989, c. 38, s. 204; 1992, c. 60, s. 20; 2000, c. 41, s. 114.

**205.** The Régie may terminate a pension plan

(1) if, without having transmitted a notice of termination, the employer --or, in the case of a multi-employer pension plan, even not considered as such under section 11, every employer -- fails to collect member contributions or to pay employer contributions or the member contributions collected into the pension fund or to the insurer ;

(2) where the pension committee, a person or body to whom powers have been delegated or any party to the plan fails to comply with an order issued by the Régie under this Act ; or

(3) where the plan has no more active members.

Before terminating the plan, the Régie must allow the pension committee at least ten days to present observations.

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1989, c. 38, s. 204; 1992, c. 60, s. 21; 1997, c. 43, s. 656; 2000, c. 41, s. 114.

**206.** A decision of the Régie terminating a pension plan shall indicate the date of termination and the names of the members and beneficiaries affected.

The decision shall be communicated to the pension committee, which shall forthwith transmit it to every member and beneficiary affected, to every certified association representing members affected, to the employer and, where applicable, to the insurer.

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1989, c. 38, s. 206; 1992, c. 60, s. 23; 2000, c. 41, s. 114.

**207.** In addition to the members and beneficiaries whose benefits under the plan have not been paid in full before the date of termination, the members referred to in the second paragraph of section 211 are persons affected by the termination of a pension plan

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1989, c. 38, s. 207; 1992, c. 60, s. 24; 2000, c. 41, s. 114.

**207.1.** Within 15 days after receipt of a notice of termination from the employer or a decision of the Régie terminating the pension plan, the pension committee shall transmit to the Régie, to the employer and to every certified association representing members a declaration of termination containing the information prescribed by regulation, together with the attestations and documents prescribed by regulation.

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1992, c. 60, s. 25; 2000, c. 41, s. 114.

**207.2.** Within 90 days after receipt of a notice of termination or a decision terminating the pension plan, the pension committee shall transmit to the Régie a termination report establishing the benefits accrued to each member and beneficiary affected and the value thereof, and containing the information prescribed by regulation. The report must be prepared by an actuary ; in the case of a plan referred to in paragraph 2 of section 116, the report can be prepared by the pension committee. The Régie shall forthwith send an acknowledgment of receipt to the pension committee, indicating the date on which it received the report.

The pension committee shall also provide a copy of the report to the employer and to every employees' association representing members, informing them that they may present written observations to the committee within the time limit set out in the first paragraph. The committee must send the report in a timely manner so as to allow the employer and the certified associations at least ten days to present observations.

Where applicable, the copy of the report sent to the employer must be accompanied with a notice, a copy of which must be sent to the Régie, indicating

(1) that any amount due by the employer according to the report must be paid into the pension fund or to the insurer, as the case may be ; and

(2) if the employer intends to make an agreement with the other interested parties as to the allocation of the surplus assets determined in the termination report, the date before which the declaration, the agreement or the draft agreement, as the case may be, provided for in sections 230.1 and 230.2 must be transmitted by the employer to the Régie and to the pension committee.

The date referred to in subparagraph 2 is the date occurring 150 days after the date on which the pension committee receives the notice of termination or the decision of the Régie terminating the pension plan.

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2000, c. 41, s. 114.

**207.3.** The pension committee shall transmit to each member and beneficiary affected a copy of the termination declaration, a statement of benefits and of the value thereof, together with the following information :

(1) the various methods for full payment of benefits, including, where applicable, an indication of the pension fund to which benefits could be transferred, and the other options available to the member or beneficiary ;

(2) the procedure for choosing a method, including, where applicable, that applicable to a share of the surplus assets ;

(3) the indication that the termination report and the data used to establish the benefits and the value thereof can be consulted, free of charge, either at the office of the pension committee or at the employer's establishment designated by the committee, whichever is closer to the applicant's residence ;

(4) the indication that the member or beneficiary must make choices and exercise options among those referred to in subparagraphs 1 and 2 before the expiry of the time limit set out in the first paragraph of section 207.2 and may present written observations to the pension committee ; and

(5) any other information determined by regulation.

The committee must transmit the statements in a timely manner so as to allow the members and beneficiaries at least ten days to make choices, exercise options and present observations to the pension committee pursuant to subparagraph 4 of the first paragraph.

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2000, c. 41, s. 114.

**207.4.** Unless all members and beneficiaries who may have rights under the pension plan or under this Act have been personally advised, the pension committee shall publish in a daily newspaper circulated in the region in Québec where the greatest number of active members reside at the date of termination a notice inviting all persons who, though they did not receive the statement provided for in section 207.3, believe they have rights under the plan or under this Act to present their claim to the pension committee before the expiry of the time limit set out in the first paragraph of section 207.2.

The committee must make sure that the notice is published in a timely manner so as to allow interested persons at least ten days to present their claim pursuant to the first paragraph. In the case of a multi-employer pension plan, even not considered as such under section 11, the notice must be published with respect to each employer that is a party to the plan in the region in Québec where the greatest number of members in the employ of the employer reside at the date of termination.

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2000, c. 41, s. 114.

**207.5.** Each time the provisions of subdivision 4.1 of Division II of Chapter XIII are applied to determine to whom surplus assets are to be allocated, the pension committee shall, within 30 days after the date of receipt of a declaration or an agreement provided for in subparagraphs *a* and *b* of paragraph 2 of section 230.1, respectively, or of an arbitration decision under section 243.15, the date from which the employer is in default for failure to transmit a draft agreement in accordance with section 230.2 or the date of an agreement made pursuant to section 230.6, as the case may be, submit to the Régie a supplement to the termination report setting out how the surplus is to be distributed and the share, if any, to be allocated to each of the members and beneficiaries. The supplement must be prepared by an actuary ; in the case of a plan referred to in paragraph 2 of section 116 or where no surplus assets are to be allocated to the members and beneficiaries, the report can be prepared by the pension committee.

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2000, c. 41, s. 114.

**207.6.** A pension plan may not be amended after the date of termination, except to allow any increase in pension benefits resulting from an act to which the allocation of surplus assets is subject, in particular an agreement or an arbitration award referred to in section 230.1.

This section shall not operate to prevent the Régie from registering an amendment to the plan made before the date of termination after that date.

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2000, c. 41, s. 114.

## Division II

## WINDING-UP

*§1.— Interpretation and scope*

**208.** In this division, the term "date of termination", where used in relation to a multi-employer pension plan that is amended to allow for the withdrawal of an employer, means the date at which the value of the benefits accrued to the members and beneficiaries affected is determined.

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1989, c. 38, s. 208; 1992, c. 60, s. 26; 2000, c. 41, s. 116.

**209.** Sections 216 and 218 do not apply to the payment in full of the benefits of members or beneficiaries affected by the withdrawal of an employer from a multi-employer pension plan or by the termination of a pension plan where the value of the plan assets is equal to or greater than the value of its liabilities, both values being established in accordance with this chapter at the date of termination. If the plan assets nevertheless do not permit payment in full of the benefits of the members and beneficiaries affected, the payment shall be proportional to the value of their accrued benefits.

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1989, c. 38, s. 209; 2000, c. 41, s. 116.

*§2.— Calculation of benefits and order of priority for their payment*

**209.1.** Within 30 days after the Régie authorizes an amendment allowing for the withdrawal of an employer from a multi-employer pension plan, the pension committee shall pay in full the benefits of each member and beneficiary affected who has applied therefor, in accordance with the terms of the report transmitted pursuant to the second paragraph of section 202, if any.

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2000, c. 41, s. 117.

**210.** No earlier than 30 and no later than 60 days after the date on which the termination report is received by the Régie, unless additional time is granted by the Régie, the pension committee shall pay in full the benefits of each member and beneficiary affected in accordance with the termination report and this Act.

However, the committee may not proceed under the first paragraph if, within 30 days after receipt of the termination report, the Régie orders the pension committee to postpone the operation for the period determined by the Régie or if the Régie orders pursuant to section 240.4 that an irregularity found in the report be remedied within a specified time. In the latter case, the pension committee shall submit a revised termination report to the Régie, which shall acknowledge receipt thereof. The committee shall proceed to make full payment within 30 days after the expiry of the postponement period or within 30 days after the date on which the Régie receives the revised report.

Notwithstanding the first paragraph, the payment in full of the benefits of a member or beneficiary in accordance with the termination report may be deferred to the date of the satisfaction of the entitlement to surplus assets where the member so requests or where, given the method chosen by the member or beneficiary, the Taxation Act prescribes that all benefits under the plan be paid in a lump sum. Moreover, where

the Régie permits the employer to spread the payment of an amount due by the employer over a period of time pursuant to section 229, the Régie may determine terms and conditions whereby benefits may be paid in full when payment by the employer is completed.

The pension committee may, however, at any time if the plan is solvent and with the authorization of the Régie if the plan is not solvent, pay, in whole or in part and subject to the conditions it fixes, a pension, other than a pension provided for in section 67.2, that is in payment or suspended at the date of termination of the pension plan or a pension the first instalment of which becomes payable after that date. Where the amount of pension benefits paid exceeds the benefits allocated to the recipient in the termination report for the period covered by the pension benefits, the recipient shall repay the overpayment; otherwise, the overpayment may be deducted from the benefits that remain to be paid to him.

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1989, c. 38, s. 210; 1992, c. 60, s. 27; 2000, c. 41, s. 118; 2008, c. 21, s. 19.

**210.1.** No earlier than 10 and no later than 30 days after the expiry of the 30-day time limit set out in section 207.5, unless additional time is granted by the Régie, the pension committee shall satisfy the rights of the employer and the members and the beneficiaries affected, in accordance with the supplement to the termination report and this Act.

The share of the surplus assets to which a member or beneficiary is entitled may be paid in a lump sum or, to the extent permitted by the Taxation Act, be transferred as provided for in section 98, which applies with the necessary modifications, or be used for the purchase of an annuity or another benefit, according to the option specified by the member or beneficiary to the pension committee.

No portion of the assets of the pension plan may be paid to the employer except pursuant to the first paragraph.

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2000, c. 41, s. 119.

**211.** Every member affected by the termination of a pension plan who was still active on the date of termination is entitled, in respect of the service credited to him under the plan to the date of termination, to the value of the normal pension, including benefits ancillary to any pension to which he would have been entitled if he had retired on the day preceding the date of termination.

Where the termination of the plan is brought about by the division, merger, alienation or closing down of an enterprise or part of an enterprise, the same applies to every member whose active membership in the plan ceased during the period extending from the date the members were informed of the event and the date of termination.

The amount of the pension shall, where the pension plan provides that it is to be calculated according to the progression of the member's remuneration, be determined so as to take the progression into account until the date of termination, unless the plan provides expressly that it must be taken into account beyond the date of termination.

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1989, c. 38, s. 211; 1994, c. 24, s. 17; 2000, c. 41, s. 120.

**212.** The value of the benefits accrued to the members and beneficiaries affected by the withdrawal of an employer from a multi-employer pension plan or by the termination

of a pension plan shall be determined at either of the following dates, on the basis of the assumptions referred to in section 61 that were used at that date to determine the value of the pension benefits to which section 60 applies that were vested at that date :

(1) the date the member ceased to be an active member, if the benefits whose value is being determined are those accrued to

(a) a member whose active membership ended before the withdrawal or termination and who, at the date of termination, had already opted, within the time limit set out in subparagraph 1 of the second paragraph of section 99, for the satisfaction of his or her rights under the plan or still had time to exercise such an option, or a beneficiary whose rights under the plan derive from the service credited to such a member ; or

(b) a member to whom the second paragraph of section 211 applies ; or

(2) the date of termination, if the benefits whose value is being determined are those accrued to any other member or beneficiary affected by the withdrawal or termination.

The benefits accrued to the members and beneficiaries referred to in subparagraph 1 of the first paragraph shall bear interest, from the date their value is determined to the date of termination, at the rate used for the purposes of the determination.

The first paragraph does not apply to a pension that must be insured pursuant to section 237 or to a pension referred to in paragraph 3 of section 200.

1989, c. 38, s. 212; 1994, c. 24, s. 18; 2000, c. 41, s. 121.

**212.1.** The value of the assets of a terminated pension plan at the date of termination shall be established according to their liquidation value or an estimate thereof, reduced by the estimated amount of the costs to be paid out of the pension fund upon termination.

The liabilities of a terminated pension plan at the date of termination shall comprise, in addition to the value of the benefits determined under section 212, the value of any pension that must be insured pursuant to section 237, such value being determined

(1) in cases where the pension was insured before the date of termination, on the basis of the assumptions referred to in section 61 that were used at that date;

(2) in cases where the pension was insured after the date of termination but before the preparation of the termination report, by discounting at the date of termination the premium paid to the insurer, according to the estimated rate of return of the pension fund from the date of termination to the date on which the pension was insured; and

(3) in all other cases, by discounting at the date of termination according to the estimated rate of return of the pension fund, for the period extending from the date of termination to the date of the termination report, the premium that would have been paid to an insurer at the date of the termination report, increased by a margin that allows for

any variation in the cost of purchasing the pension between the latter date and the probable date of purchase.

In the cases referred to in subparagraphs 2 and 3 of the second paragraph, the liabilities shall also comprise the value of the pension payments to be made to a member by the pension fund between the date of termination and the date the pension begins to be paid by an insurer, such value being determined according to the rate referred to in the relevant subparagraph.

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2000, c. 41, s. 122.

**213.** *(Replaced)*

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1989, c. 38, s. 213; 1992, c. 60, s. 28; 1994, c. 24, s. 18.

**214.** *(Repealed).*

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2000, c. 41, s. 123.

**215.** *(Repealed).*

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2000, c. 41, s. 123.

**216.** Any benefit derived from obligations arising from an amendment to the pension plan related to service completed in a period preceeding the effective date of the amendment shall, for payment purposes, be reduced

- (1) by 100 %, if the period from the effective date of the amendment to the date of termination is less than one year;
- (2) by 80 %, if the period is one year or more, but less than two years;
- (3) by 60 %, if the period is two years or more, but less than three years;
- (4) by 40 %, if the period is three years or more, but less than four years;
- (5) by 20 %, if the period is four years or more, but less than five years.

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1989, c. 38, s. 216; 1992, c. 60, s. 29; 2000, c. 41, s. 124.

**217.** Except in the case of a share of the surplus assets, any amount due to a member or beneficiary which, pursuant to the pension plan and the provisions of this Act, must be paid following the withdrawal of an employer from a multi-employer pension plan or the termination of the plan shall bear interest, from the date of termination to the date of payment, at the rate used to determine the value of the person's accrued benefits. The rate of interest must be the rate mentioned in section 44 or 45 and which is applicable to the contributions paid under the plan if the amount due is due

- (1) under a defined contribution plan;
- (2) under provisions of the plan which relate to additional voluntary contributions;

(3) under provisions which, in a defined benefit plan, are identical to those of a defined contribution plan;

(4) as member contributions that exceed the limits set under section 60; or

(5) as amounts credited to the plan following a transfer, even a transfer other than a transfer under Chapter VII.

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1989, c. 38, s. 217; 1992, c. 60, s. 30; 2000, c. 41, s. 125; 2006, c. 42, s. 33 (13 December 2006).

**218.** Where an employer withdraws from a multi-employer pension plan or a pension plan is terminated, the amounts to which the members and beneficiaries affected are entitled shall be paid out in the following order:

(1) amounts corresponding to the following values, concurrently:

(a) the value of the additional voluntary contributions paid into the pension fund or to the insurer;

(b) the value of the member or employer contributions paid into the pension fund under provisions which, in a defined benefit plan, are identical to those of a defined contribution plan; and

(c) the value of amounts received by the pension plan following a transfer, even a transfer other than a transfer under Chapter VII;

(2) the value of other benefits, excluding those referred to in subparagraph 4, accrued under the plan and reduced under section 216;

(3) the value of any benefit reduction under section 216; and

(4) the value of benefits payable to members under pension plan terms granting them compensation for cessation of continuous employment due to technological or economic changes in the employer's enterprise or to the division, merger, alienation or closing down of the enterprise.

If the assets are insufficient for the full satisfaction of the rights that are collocated in the same rank, payment shall be made proportionately to the value of the benefits concerned.

The benefits referred to in the first and second paragraphs are the benefits accrued under the plan at the date of termination. The value of those benefits must be established at that date, and is increased by the interest calculated in accordance with section 217.

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1989, c. 38, s. 218; 1992, c. 60, s. 31; 2000, c. 41, s. 126; 2006, c. 42, s. 34 (13 December 2006).

§3.—*Distribution of the assets*

**219.** (Repealed)

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1992, c. 60, s. 32.

**220.** Where an employer withdraws from a multi-employer pension plan or a multi-employer pension plan is terminated, the assets of the plan shall be distributed among the groups of benefits constituted pursuant to this subdivision, according to the value of the benefits in each group and the order of payment established by this Act.

The assets of the plan shall, for the purpose of such distribution, be increased by the amount representing the contributions that any employer who is a party to the plan has, at the date of termination, failed to pay into the pension fund or to the insurer.

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1989, c. 38, s. 220; 2000, c. 41, s. 127.

**221.** The benefits of the members or beneficiaries not affected by the withdrawal of an employer from a multi-employer pension plan shall be determined at the date of termination, in accordance with sections 211 to 216.

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1989, c. 38, s. 221; 2000, c. 41, s. 128.

**222.** Where an employer withdraws from a multi-employer pension plan, the benefits accumulated under the plan by the members or beneficiaries shall be divided into two groups, one of which shall consist of the benefits of the persons affected by the withdrawal.

Where two or more employers withdraw simultaneously from a multi-employer pension plan, the group of benefits of the members or beneficiaries affected by the withdrawal shall be distributed in accordance with section 223.

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1989, c. 38, s. 222; 2000, c. 41, s. 129.

**223.** In the event of termination of a multi-employer plan, the benefits accumulated under the plan by the members or beneficiaries shall be divided into as many groups as there are employers, each group consisting of the benefits accumulated by members in respect of employment with the employer to whom the group of benefits pertains.

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1989, c. 38, s. 223; 2000, c. 41, s. 203.

**224.** Where a member has been employed by more than one participating employer of a multi-employer pension plan, the benefits accumulated under the plan by that member shall, upon the withdrawal of one of the employers or upon the termination of the plan, be included in the group of benefits pertaining to the last employer by whom he was employed while he was an active member.

However, the first paragraph does not apply if the plan provides that, in such a case, the benefits accumulated by the member in respect of his employment with one of the employers shall be included in the group of benefits pertaining to that employer.

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1989, c. 38, s. 224; 2000, c. 41, s.130.

**225.** Upon the withdrawal of an employer from a multi-employer pension plan or upon the termination of a multi-employer pension plan, the remainder of the benefits accrued to the members and beneficiaries affected by the previous withdrawal of an employer shall form a separate group of benefits.

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1989, c. 38, s. 225; 2000, c. 41, s. 131.

**226.** Upon the termination of a pension plan, if a surplus remains after distribution of the assets, the surplus shall be distributed between the groups of benefits formed under this subdivision in such a manner that the total assets are distributed among all groups proportionately to the value of the obligations arising from the plan from which the benefits in each group derive.

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1989, c. 38, s. 226; 2000, c. 41, s. 131.

**227.** Any contribution which, at the date of termination of the pension plan, an employer who is a party to a multi-employer plan has failed to pay into the pension fund or to the insurer, as the case may be, must be deducted from that portion of the assets which is allocated to the group of benefits pertaining to that employer.

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1989, c. 38, s. 227; 2000, c. 41, s. 132.

#### §4.—*Debts of the employer*

**228.** The amount to be funded to ensure full payment of the benefits of the members or beneficiaries affected by the withdrawal of an employer from a multi-employer pension plan or the termination of a pension plan shall constitute a debt of the employer. The amount to be funded shall be established at the date of termination.

If, at the date of termination, the employer has failed to pay contributions into the pension fund or to the insurer, as the case may be, the debt shall be the amount by which the amount to be funded exceeds such contributions.

In the case of a multi-employer plan, this section applies to every employer who is a party to the plan and to whom a group of benefits under subdivision 3 consisting of the benefits of the members or beneficiaries affected by the withdrawal or termination pertains.

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1989, c. 38, s. 228; 1992, c. 60, s. 33; 2000, c. 41, s. 133.

**228.1.** No provision of a defined benefit plan or defined benefit-defined contribution pension plan may operate to limit or reduce the obligations of an employer towards the plan because of the withdrawal of the employer from the pension plan or the termination of the pension plan.

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2008, c. 21, s. 20.

**229.** Any amount owed by an employer under section 228 must, upon its determination, be paid into the pension fund or to the insurer, as the case may be. However, the Régie may, on the conditions it determines, allow any employer to spread the payment of such amount over a period of not more than five years.

Any amount not paid into the pension fund or to the insurer shall bear interest from the date of default, at the rate determined pursuant to section 61 that was applicable at the date of termination.

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1989, c. 38, s. 229; 2000, c. 41, s. 134.

**230.** Any amount paid by an employer under this subdivision, including any amount recovered after the date of termination, particularly in respect of contribution outstanding and unpaid at the date of termination, shall be applied to the payment of benefits of members or beneficiaries in the order of priority established under this Act.

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1989, c. 38, s. 230; 2000, c. 41, s. 135.

§4.0.1. — *Payment options in the event of insufficient assets*

**230.0.0.1.** This subdivision applies to pension plans to which Chapter X applies if

(1) the pension plan is amended to allow for the withdrawal of a participating employer by reason of the bankruptcy or insolvency of the employer or is terminated by reason of the bankruptcy of the employer;

(2) the date of withdrawal of the employer or the date of termination of the plan is subsequent to 30 December 2008 but prior to 1 January 2012; and

(3) on the date of withdrawal of the employer or termination of the plan, the assets do not permit payment in full of the benefits of the members and beneficiaries affected by the withdrawal or termination.

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2009, c. 1, s. 2.

**230.0.0.2.** A member or beneficiary affected by the withdrawal of an employer or the termination of a plan who, on the date of the withdrawal or termination, would have been entitled to a pension had the member or beneficiary applied and whose benefits are reduced by reason of insufficient assets may choose one of the following methods for the payment of benefits:

(1) a transfer referred to in section 98; or

(2) a pension paid out of the assets administered by the Régie under section 230.0.0.4.

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2009, c. 1, s. 2.

**230.0.0.3.** A member or beneficiary affected by the withdrawal of an employer or the termination of a plan, to whom a pension is being paid on the date of withdrawal or termination and whose benefits are reduced by reason of insufficient assets, may request that his or her pension be guaranteed by an insurer or choose one of the following methods for the payment of benefits:

(1) a replacement pension purchased under section 92; or

(2) a pension paid out of the assets administered by the Régie under section 230.0.0.4.

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2009, c. 1, s. 2.

**230.0.0.4.** The Régie shall exercise the powers of the pension committee with respect to the members and beneficiaries of a pension plan who chose the method of payment stipulated under paragraph 2 of section 230.0.0.2 or paragraph 2 of section 230.0.0.3 and over the assets of the plan that correspond to the part of the benefits of the members and beneficiaries payable under section 218. The pension committee, or the person or body to which such powers have been delegated or granted, becomes, to the same extent, disqualified from exercising such powers.

In the exercise of such powers, the Régie shall have the same obligations and liability as the pension committee.

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2009, c. 1, s. 2.

**230.0.0.5.** Despite any other provision, with regard to the assets of a pension plan administered by the Régie, only the members referred to in section 230.0.0.4 are considered members of the plan.

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2009, c. 1, s. 2.

**230.0.0.6.** Unless the Régie elects to assume them, the expenses relating to the administration of the plan by the Régie are borne by the part of the pension fund it administers.

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2009, c. 1, s. 2.

**230.0.0.7.** The Régie may, in accordance with the terms and conditions prescribed by regulation of the Government, amend the pension plan to improve the benefits of the members and beneficiaries referred to in section 230.0.0.4.

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2009, c. 1, s. 2.

**230.0.0.8.** Section 243 does not apply to a decision made by the Régie in the capacity of a trustee or while exercising the powers conferred on it by this subdivision.

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2009, c. 1, s. 2.

**230.0.0.9.** The Régie must have an insurer guarantee the pension it pays to the members and beneficiaries referred to in section 230.0.0.4 not later than the end of the fifth fiscal year of the pension plan that follows the fiscal year during which the Régie began exercising the powers of the pension committee with respect to those members and beneficiaries. It may also, before the expiry of that time limit, have an insurer guarantee any pension it pays, in particular when the amount of the pension is set at an amount equal to or greater than the amount the member or beneficiary was or would have been entitled to before the withdrawal of the employer or the termination of the plan.

The second, third and fourth paragraphs of section 237 then apply, with the necessary modifications.

The amount of the pension guaranteed by an insurer under the first paragraph must be equal to or greater than the amount of the pension that would have been paid if the plan's assets had been increased, on the date of termination, by an amount equal to the difference between the contributions required under this Act and those required under a regulation made under section 2 in order to reduce the effects of the financial crisis.

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2009, c. 1, s. 2.

**230.0.0.10.** If the assets of the plan administered by the Régie are insufficient to pay the pensions as required, to have them guaranteed by an insurer or to pay the expenses relating to the administration, the Government shall pay the required sums to the Régie out of the consolidated revenue fund.

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2009, c. 1, s. 2.

**230.0.0.11.** The Government may make any regulation required for the purposes of this subdivision. It may, in particular,

(1) set the rules applicable to the determination of the value of the benefits accrued to the members and beneficiaries and to the distribution of the assets and liabilities of a pension plan to determine which part of the pension fund of the plan must be administered by the Régie; and

(2) prescribe the terms and conditions that make it possible to improve the benefits of the members and beneficiaries referred to in section 230.0.0.4.

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2009, c. 1, s. 2.

#### *§4.1.—Distribution of surplus assets in the event of termination*

**230.0.1.** The surplus assets of a terminated pension plan shall be equal to the amount by which the value of its assets as determined in accordance with section 212.1 exceeds the value of its liabilities as determined in accordance with that section.

In the case of a multi-employer pension plan, even not considered as such under section 11, or of a multi-employer pension plan that has already been amended to allow for the withdrawal of an employer, the surplus assets must be determined in respect of each employer as provided in subdivision 3.

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2000, c. 41, s. 136.

**230.1.** The allocation of any surplus assets from a pension plan which has been terminated is subject

(1) to an agreement to be made between the employer, the members and the beneficiaries pursuant to sections 230.2 to 230.6; or

(2) where the plan is established pursuant to a collective agreement, an arbitration award in lieu thereof or an order which renders such an agreement compulsory,

- (a) to the application of the provisions, if any, of the agreement or the arbitration award in lieu thereof which provide for the allocation of the surplus assets in the event of termination of the plan. A joint statement by the parties bound by the agreement or award must, in that case, be sent to the pension committee and to the Régie, stating that under the agreement or award the surplus assets will be allocated, as the case may be, to the employer only, to the members and beneficiaries only or to both the employer and the members and beneficiaries and, in the latter case, the percentage due to each; or
- (b) to an agreement to be made between the parties bound by the agreement or award, establishing the surplus assets on the date beneficiaries only or both the employer and the members and beneficiaries is entitled thereto and, in the latter case, the percentage due to each. The parties shall send a copy of the agreement to the pension committee to the Régie.

In all cases, however, the parties bound by the agreement or award may elect to make an agreement pursuant to paragraph 1 of this section. Finally, the application of the provisions of the agreement or award providing for the allocation of the surplus, or the making of an agreement under subparagraph *b* above, does not remove the obligation also to make an agreement under the said paragraph 1 which affects any other members who are not governed by the agreement or award, and the beneficiaries; or

(3) in all the cases provided for in section 230.7, to an arbitration award rendered pursuant to Chapter XIV.1.

However, where members or beneficiaries who have been previously affected by the withdrawal of an employer are affected by the termination, the share of the surplus assets allocated to the group formed of such members and beneficiaries pursuant to subdivision 3 shall be allocated by operation of law to the members and beneficiaries who are part of that group and distributed among them proportionately to the value of their accrued benefits.

Moreover, the first paragraph does not apply if the employer transmits to the pension committee and to the Régie, before the date indicated in the notice sent by the pension committee pursuant to section 207.2, a declaration certifying that the employer consents to all surplus assets being allocated to the members and beneficiaries and distributed proportionately to the value of their accrued benefits. The declaration has the same value and effect as an agreement concluded pursuant to section 230.6.

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1992, c. 60, s. 34; 2000, c. 41, s. 137.

**230.1.1.** Where the value of the assets of a pension plan at the date of termination does not exceed the value of its liabilities at that date, any surplus assets that develop after that date shall, notwithstanding section 230.1, be allocated by operation of law to the members and beneficiaries and distributed among them proportionately to the value of their accrued benefits.

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2000, c. 41, s. 138.

**230.2.** In order that an agreement may be made pursuant to paragraph 1 of section 230.1, the employer must, before the date indicated in the notice sent to the

employer by the pension committee pursuant to section 207.2, send to the pension committee and to the Régie a draft agreement only containing the following particulars:

- (1) the surplus assets determined on termination of the plan;
- (2) to whom such a surplus is to be allocated : to the employer only, to the members and beneficiaries only or to both the employer and the members and beneficiaries and, in the latter case, the percentage due to each;
- (3) where an agreement has been made or a statement sent pursuant to paragraph 2 of section 230.1, the portion of the surplus assets due to those who are governed by the collective agreement or the arbitration award in lieu thereof, and the proportion that the value of their benefits is of the value of the benefits of all the members and beneficiaries;
- (4) to the extent that all or part of the surplus is to be allocated to the members and beneficiaries, the method of apportionment to be used to determine the share of each;
- (5) any other information prescribed by regulation.

Each employer that is a party to a multi-employer pension plan, even not considered as such under section 11, must fulfil the obligation set out in the first paragraph as regards the surplus assets determined in respect of the employer and in respect of the members and beneficiaries whose benefits are included in the group of benefits relating to the employer. However, two or more employers that are parties to the same pension plan may agree to send a joint draft agreement to the pension committee.

The method referred to in subparagraph 4 of the first paragraph shall be the method of proportionalization of the surplus according to the value of the benefits of the members and beneficiaries; however, the following methods may also be used in the conditions described :

- a method which grants members who are non-active on the date of termination a larger share of the surplus assets than they would have received on a proportional basis;
- if an actuary certifies that all or part of the surplus is a result of circumstances related to a given group of members or beneficiaries, a method which grants them a larger share than they would have received on a proportional basis;
- if the plan provides that all or part of the surplus must be used to increase their benefits, a method which grants members or beneficiaries a share of the surplus which, although different from the share they would have received on a proportional basis, corresponds to the share to which they are entitled under the plan;
- a method which combines elements from several of the abovementioned methods;
- any other method, provided that no member or beneficiary subsequently opposes the draft agreement within the period prescribed by section 230.4.

Such a method shall provide for the adjustment of the share of every member or beneficiary in the surplus assets in the event of a change in the amount of the surplus or in the overall value of the benefits of the members and beneficiaries between the date of termination and the date of payment of the share to the persons entitled thereto.

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1992, c. 60, s. 34; 2000, c. 41, s. 139.

**230.3.** If the employer fails to send a draft agreement to the pension committee and to the Régie in accordance with section 230.2, the employer is deemed to have waived entitlement to surplus assets. The surplus assets hence accrue to the members and beneficiaries and shall be distributed among them proportionately to the value of their accrued benefits.

This section does not apply if the members and beneficiaries agreed to arbitration before the date referred to in the first paragraph of section 230.2 or if the pension plan was established pursuant to a collective agreement, an arbitration award in lieu thereof or an order or decree which rendered such an agreement compulsory.

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1992, c. 60, s. 34; 2000, c. 41, s. 140.

**230.4.** Within 15 days after receiving the draft agreement, the pension committee shall send a copy to every member and beneficiary affected, together with a copy of the provisions of the pension plan pertaining to the allocation of surplus assets in the event of termination and a notice only containing the information prescribed by regulation and informing them that they may inform the pension committee in writing of their opposition to the draft agreement within 60 days after receiving the notice or after the publication of the notice provided for in the second paragraph, whichever occurs later.

Unless all members and beneficiaries who may have rights under the pension plan or under this Act have been personally advised, the pension committee shall also, within the time limit set out in the first paragraph, publish in a daily newspaper circulated in the region in Québec where the greatest number of active members at the date of termination reside a notice of the termination of the pension plan, indicating that there are surplus assets and that a draft agreement has been submitted by the employer regarding the distribution of the surplus assets. The notice shall also invite any person who has not received the abovementioned notice and who believes he has rights under the plan or under this Act

- to assert his rights with the pension committee within 60 days after the publication, subject to the additional time granted by section 230.8;
- to the extent that he is able to justify his rights, to consult the text of the draft agreement at the office of the pension committee, or to request a copy thereof from the committee and, where applicable, to inform the committee in writing of his opposition within the abovementioned time.

The time allowed under this section to assert rights or to oppose the draft agreement expires 60 days after the date on which the statement provided for in section 207.3 is sent to every member or beneficiary, where that statement is sent after the copy of the draft agreement.

The pension committee shall also send without delay to the Régie a copy of the notice sent to members and beneficiaries and, where applicable, the notice published in the newspaper.

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1992, c. 60, s. 34; 2000, c. 41, s. 141.

**230.5. (Repealed).**

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2000, c. 41, s. 142.

**230.6.** The draft agreement submitted by the employer is, upon expiry of the time for opposition, deemed to be accepted, unless

- (1) 30 % or more of the members and beneficiaries oppose it;
- (2) at least one member or beneficiary opposes it when the proposed method of apportionment, under the terms of the second paragraph of section 230.2, admits of no opposition;
- (3) the Régie has invalidated it by reason of an irregularity.

The pension committee shall send forthwith to the Régie a statement evidencing the acceptance.

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1992, c. 60, s. 34.

**230.7. Where**

- 30 % or more of the members and beneficiaries oppose the draft agreement submitted by the employer;
- at least one member of beneficiary opposes the draft agreement submitted by the employer when the proposed method of apportionment, under the terms of the third paragraph of section 230.2, admits of no opposition;
- the employer, being a party to a pension plan established pursuant to a collective agreement, an arbitration award in lieu thereof or an order or decree rendering such an agreement compulsory, has failed to send a draft agreement to the pension committee within the time prescribed by section 230.2 or within the additional period granted by the Régie pursuant to the second paragraph of section 240.4;
- the date indicated in the notice sent to the employer by the pension committee pursuant to section 207.2 has been reached, and no statement was sent and no agreement was made as provided, respectively, in subparagraphs a and b of paragraph 2 of section 230.1;
- the agreements made and statements sent do not affect all the members and beneficiaries of the plan;
- the Régie has invalidated the draft agreement submitted by the employer by reason of an irregularity;

- the interested persons have agreed to have recourse to arbitration before expiry of the time prescribed in sections 230.2 to 230.4 or in section 240.4,

the employer, the employees' association and, unless they are prevented from doing so by the effect of other legislation, any member or beneficiary, may have recourse to arbitration pursuant to Chapter XIV.1 in order to determine who is entitled to the surplus assets and what share of that surplus is due to them.

As soon as the pension committee becomes aware of one of the situations authorizing the employer, the certified association and, where applicable, a member or beneficiary to have recourse to arbitration, it shall advise each such party. If no party applies for arbitration within 60 days after the occurrence of the situation, the pension committee shall prepare an application requesting an arbitrator to determine the allocation and, where applicable, the distribution of the surplus assets and to proceed in accordance with section 243.7 ; moreover, in that case, the employer is deemed to have waived entitlement to any portion of surplus assets whose allocation has not been determined by an agreement or a declaration made under section 230.1.

The interested parties referred to in the first paragraph or the pension committee may have recourse to arbitration in order to obtain a determination on any difficulty in interpreting or implementing an agreement or a declaration made under in section 230.1.

The arbitrator or arbitrators seized of a matter may, of his or their own initiative or on application, and after giving the interested persons the opportunity to present their points of view, decide that an agreement or declaration made under section 230.1 is prejudicial to the rights of any employer, member or beneficiary not affected by the agreement or declaration and that as a result all or part of it may not be set up against him. He or they may also, in such a case and notwithstanding the provisions of such an agreement or declaration, fix the share of the surplus assets to be paid to the employer, to the members and to the beneficiaries affected by the agreement or declaration.

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1992, c. 60, s. 34; 1994, c. 24, s. 20; 2000, c. 41, s. 143; 2006, c. 42, s. 35 (13 December 2006).

**230.8.** The recourse to arbitration provided for in the first paragraph of section 230.7 extends the time limit established by the second paragraph of section 230.4 for asserting rights until the date on which the matter is taken under advisement.

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1992, c. 60, s. 34.

#### §5.—*Miscellaneous provisions*

**231.** *(Repealed).*

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2000, c. 41, s. 144.

**232.** *(Repealed).*

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2000, c. 41, s. 144.

**233.** *(Repealed).*

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2000, c. 41, s. 144.

**234.** *(Repealed).*


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2000, c. 41, s. 144.

**235.** *(Repealed).*


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2000, c. 41, s. 144.

**236.** The right to benefits, other than a pension referred to in section 237, accrued under a pension plan to a member affected by the termination of the plan, shall be satisfied by means of a transfer under section 98, which applies with the necessary modifications. However, if a member whose pension was not in payment at the date of termination dies before the transfer is effected, the member's rights, except any entitlement to surplus assets, shall instead be satisfied by the payment of a lump sum benefit to the member's spouse or, if there is no spouse, to the member's successors.

For the purposes of this section, a member's spouse is the person who meets the requirements set out in section 85.

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1989, c. 38, s. 236; 2000, c. 41, s. 145.

**237.** With the exception of a pension provided for in section 67.2, the vested pension of a member or beneficiary affected by the termination of the pension plan, which is in payment or suspended on the date of the termination, shall be guaranteed by an insurer, according to the conditions prescribed by regulation.

The pension shall, subject to the exceptions prescribed by regulation, be a life pension and shall not be paid in any form other than that authorized by this Act.

If no pension of the type to which the member is entitled under the pension plan is available on the market, the pension committee may, in order to have an insurer guarantee the pension, replace the characteristics of the pension that make it unavailable on the market by similar characteristics that do not entail such a result.

The pension thus modified must, on the date payment begins, be of a value equal to that of the member's vested pension; however, if equal value cannot be attained because of the limits set under the Taxation Act, an amount equal to the difference between the value of the pension to which the member is entitled and the value of the modified pension must be paid to the member in a lump sum. These values must be established on the basis of the actuarial assumptions referred to in section 61.

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1989, c. 38, s. 237; 2000, c. 41, s. 146; 2006, c. 42, s. 36 (13 December 2006); 2008, c. 21, s. 21.

**238.** Any amount due to a member or beneficiary affected by the termination of the pension plan that is not claimed within three years after the expiry of the time limit provided in the first paragraph of section 207.2, shall be transferred to the Minister of Revenue; the amount may, however, be transferred before the expiry of that time if the only benefits remaining to be settled are due to untraceable members or beneficiaries. The transfer shall be accompanied by a statement setting out the amount due and indicating, where applicable, the name and last known address of the member or beneficiary.

The provisions of the Public Curator Act (chapter C-81) pertaining to unclaimed property shall apply to the property so transferred to the Minister of Revenue.

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1989, c. 38, s. 238; 1997, c. 80, s. 76; 2000, c. 41, s. 147; 2005, c. 44, s. 54.

**238.1.** Subject to the provisions of section 238, failure by a person to assert his rights within the time prescribed by this Act shall deprive that person of the right to claim payment of the corresponding benefits out of the assets of the pension plan, unless that person shows, before the payment of the benefits of the affected members or beneficiaries begins, that it was impossible for him to act sooner or that he did not receive the information to which he was entitled under this Act for a reason outside his control.

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1992, c. 60, s. 35.

**239.** The assets of an uninsured plan under which certain refunds or pension benefits are guaranteed by an insurer shall, where the plan is terminated or, in the case of a multi-employer pension plan, where an employer withdraws, include the value of the pension benefits guaranteed by the insurer, for the purposes of the settlement of the pension benefits of the members or beneficiaries affected by the withdrawal or termination.

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1989, c. 38, s. 239; 2000, c. 41, s. 148.

**240.** If, in the case referred to in section 239, the value of the insured benefits accrued to the members or beneficiaries affected by a withdrawal from or the termination of a pension plan which the insurer would have to assume were it not for the withdrawal or termination exceeds the value of such benefits as established pursuant to this chapter, the insurer, at the request of the pension committee, must reduce its obligations towards those members and beneficiaries accordingly and insure the uninsured benefits of the members or beneficiaries, up to the amount of the excess.

This section shall not apply to impair the degree of solvency of the plan.

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1989, c. 38, s. 240; 2000, c. 41, s. 149.

**240.1.** (*Repealed*).

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2000, c. 41, s. 150.

**240.2.** The members whose active membership ended three years or less before the date of termination of the plan and whose rights were satisfied before that date shall remain members, notwithstanding the provisions of the second paragraph of section 33, for the sole purpose of the apportionment of any surplus assets which may be made pursuant to this Act.

Whenever the provisions of the first paragraph must be applied, the notice required to be published under the second paragraph of section 230.4 must set out the rules established by this section, unless all members and beneficiaries who may have rights under the pension plan or under this Act have been personally advised. However, where a case has been referred to arbitration under section 230.7 without publication of the notice, the pension committee shall, upon being informed of the referral to arbitration, cause to be published in a daily newspaper circulated in the region of

Québec where the greatest number of members who were active at the date of termination reside, a notice setting out the application for arbitration together with the rule established by this section, and informing interested parties that, until the matter is taken under advisement, they are entitled to assert their rights with the pension committee. A copy of the public notice must be sent without delay to the Régie.

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1992, c. 60, s. 36; 1994, c. 24, s. 22; 2000, c. 41, s. 151.

**240.3.** The Régie may, where it considers it in the best interests of the members and beneficiaries, exempt a terminated pension plan from the application of any provision of this chapter, subject to the specified conditions.

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1992, c. 60, s. 36; 1994, c. 24, s. 23; 2000, c. 41, s. 152.

**240.4.** If the content, transmission or publication of a document provided for in this chapter is not in conformity with the prescriptions of this Act or the regulations, the Régie may order the application, within the time and on the conditions it fixes, of any remedial measure it indicates. The order extends the time allotted by this chapter for responding to the document until the date fixed by the Régie or, if no date is fixed, until such time as the Régie has certified to the person or body having received the order that the order has been complied with.

If an order relating to the content of the draft agreement provided for in section 230.2 is not complied with within the time fixed in the order, the Régie shall invalidate the draft agreement unless it is satisfied that it was impossible for the employer to act sooner or that the employer was unable to correct the irregularity for a reason beyond the employer's control or is of the opinion that an extension is likely to serve the interests of all parties to the plan, in which cases the Régie may grant a 30-day extension.

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2000, c. 41, s. 153.

## CHAPTER XIV

### PROCEEDING BEFORE THE ADMINISTRATIVE TRIBUNAL OF QUÉBEC

1997, c. 43, s. 657; 2006, c. 42, s. 37 (13 December 2006; application to the decisions and orders rendered by the Régie from 13 December 2006).

**241.** *(Repealed)*

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1989, c. 38, s. 241; 1997, c. 43, s. 658; 2006, c. 42, s. 38 (13 December 2006; application to the decisions and orders rendered by the Régie from 13 December 2006).

**242.** *(Repealed)*

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1989, c. 38, s. 242; 1997, c. 43, s. 659; 2006, c. 42, s. 38 (13 December 2006; application to the decisions and orders rendered by the Régie from 13 December 2006).

**243.** A person concerned may contest a decision or order of the Régie before the Administrative Tribunal of Québec within 30 days of notification of the decision or order.

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1989, c. 38, s. 243; 1997, c. 43, s. 660; 2006, c. 42, s. 39 (13 December 2006; application to the decisions and orders rendered by the Régie from 13 December 2006).

**CHAPTER XIV.1**

## ARBITRATION

**243.1.** The provisions of Title I of Book VII of the Code of Civil Procedure (chapter C-25), with the exception of articles 940, 940.1, 940.5 to 942, 942.6, 943 to 944, 944.10, 945.4 and 946 to 947.4 apply, adapted as required and subject to the provisions of this chapter and the regulations, to any arbitration under this Act.

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1992, c. 60, s. 37.

**243.2.** Any matter relating to the allocation of a surplus of assets determined upon the termination of a pension plan comes under the exclusive jurisdiction of the arbitrators appointed pursuant to this chapter.

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1992, c. 60, s. 37; 2000, c. 41, s. 203.

**243.3.** The mission of arbitration shall be entrusted

(1) to one arbitrator, where the value involved does not exceed \$100 000;

(2) to one arbitrator or, if all members of the pension committee having the right to vote who are present at the meeting referred to in the second paragraph of section 243.7 agree thereto, to three arbitrators, where the value involved exceeds \$100,000 without exceeding \$1,000,000 or where the purpose of the arbitration is to obtain a determination on a difficulty in interpreting or implementing an agreement or a declaration;

(3) *(Strike out)*;

(4) to three arbitrators or, if all the members of the pension committee having the right to vote who are present at the meeting referred to in the second paragraph of section 243.7 agree thereto, to one arbitrator, where the value involved exceeds \$ 1 000 000.

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1992, c. 60, s. 37; 2000, c. 41, s. 154.

**243.4.** Only a natural person may act as an arbitrator.

The Government may, by regulation, determine the qualifying criteria and other conditions to be met by any person in order to act as an arbitrator, in particular the experience required in the field of pension plans or the professional training required in subjects related to the issues raised by arbitration.

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1992, c. 60, s. 37.

**243.5.** Recourse to arbitration is introduced by an application made to the pension committee.

The information which must be contained in the application, and the documents which must accompany it, shall be fixed by government regulation.

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1992, c. 60, s. 37.

**243.6. (Repealed).**


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2000, c. 41, s. 155.

**243.7.** Upon receiving an application for arbitration, the pension committee shall select, from among the arbitration bodies accredited by the Government, the body that will be responsible for organizing the arbitration.

The pension committee shall also designate the arbitrator or arbitrators and inform the arbitration body. The designation shall be made upon a unanimous decision of the members of the committee present at a meeting convened for such purpose, which meeting cannot be held unless at least one member designated under paragraph 1 or 2 of section 147 is present. If the pension committee members cannot agree on the designation of the arbitrator or arbitrators, it shall be the duty of the arbitration body to complete the designations from among the arbitrators whose names appear on the list drawn up pursuant to section 243.17. The same applies if the pension plan is not administered by a pension committee that meets the requirements of section 147 or if the Régie has placed the pension plan under provisional administration.

The arbitration body must, as soon as the appointments are made as required by the second paragraph, so inform the parties to the arbitration in the manner prescribed by government regulation.

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1992, c. 60, s. 37; 1994, c. 12, s. 67; 1997, c. 63, s.128; 2000, c. 41, s. 156.

**243.8.** The pension committee shall forward to the arbitration body the application for arbitration, accompanied with the provision for costs and the information, and documents prescribed by regulation of the Government; the body shall, in turn, submit them to the appointed arbitrators.

A copy of the application must also be furnished by the committee to the Régie.

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1992, c. 60, s. 37; 2000, c. 41, s. 157.

**243.9.** At all times during the arbitration proceedings, the arbitrator or arbitrators may, on an application, dismiss the recourse to arbitration if it is proved to them that the recourse is frivolous or clearly devoid of substance.

In such a case, the person who instituted the recourse, notwithstanding the provisions of section 243.18, shall be bound to pay the arbitration costs and the arbitrators, fees, to the extent that the arbitrators determine in view of the circumstances.

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1992, c. 60, s. 37.

**243.10.** The arbitration decision must be rendered within a period of six months from the date on which the arbitrator or arbitrators appointed were seized of the case, unless, before its expiry, the period is extended by an agreement of the parties or by the arbitration body following an application by one of the parties.

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1992, c. 60, s. 37.

**243.11.** No arbitrator may be prosecuted by reason of acts performed in good faith in the performance of his duties.

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1992, c. 60, s. 37.

**243.12.** No arbitrator may be recused except where the prevailing circumstances may give rise to doubts as to his impartiality, independence or qualifications.

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1992, c. 60, s. 37.

**243.13.** Any arbitrator may ask a witness any question he considers useful; he may also summon a witness and require him to state what he knows or produce any document requested by the arbitrator.

If the witness so summoned fails to appear, the arbitrator may apply to a judge for a compelling order in accordance with article 284 of the Code of Civil Procedure (chapter C-25).

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1992, c. 60, s. 37.

**243.14.** The arbitrators shall rule in accordance with the rules of law; they shall also, where circumstances justify it, call on equity.

In particular, the evolution of the pension plan, any amendments made to it and the circumstances in which those amendments were made, the origin of the surplus assets concerned, the use made in the past of any surplus assets, as well as any information sent to members and beneficiaries in relation to any such matter, shall be taken into consideration.

The arbitration decision, upon being rendered, is binding on any person who has rights or obligations under the plan.

Unless the arbitration decision rules only on a difficulty in interpreting or implementing an agreement or a declaration, the arbitration decision must specify, in particular,

(1) who is entitled to the surplus assets as determined at the date of termination of the plan, whether the employer alone, the members and beneficiaries alone or both the employer and the members and beneficiaries and, in the latter case, the amount to be allocated to the members and beneficiaries as well as the method for adjusting that amount in the event of a variation in the surplus assets between the date of termination and the date of implementation of the decision ; and

(2) insofar as some or all of the surplus assets are allocated to members and beneficiaries,

- (a) the identity of each such member or beneficiary and, in the event that other names are added to the names appearing in the termination report, the method for determining the value of their accrued benefits ; and
- (b) the distribution method to be used to determine the share of each member or beneficiary.

No appeal lies from an arbitration decision.

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1992, c. 60, s. 37; 2000, c. 41, s. 158.

**243.15.** A certified copy of the arbitration decision must be filed without delay by the arbitrator or arbitrators who rendered the decision, at the office of the clerk of the Superior Court of the district in which the office of the pension committee is located.

Once filed, the arbitration decision becomes executory as a judgment of that court.

A copy of the arbitration decision must also be sent to the Régie and to the pension committee which, upon receipt, shall transmit to each member or beneficiary involved a notice summarizing the decision and indicating where a copy of it may be obtained.

Unless an application under article 945.6 of the Code of Civil Procedure has been submitted to the arbitrators for the same purpose, the pension committee or the Régie may, within 60 days after receiving a copy of the arbitration decision, apply to the arbitrators for

- (1) the correction of a clerical error in the decision;
- (2) the interpretation of a specific part of the decision; or
- (3) a supplementary decision on a part of the application omitted in the decision.

An interpretation forms an integral part of the decision.

1992, c. 60, s. 37; 2000, c. 41, s. 159.

**243.16.** Except on a question of jurisdiction, no recourse provided under articles 33 and 834 to 846 of the Code of Civil Procedure (chapter C-25) may be exercised, nor any injunction granted, against an arbitration body or an arbitrator acting in his official capacity.

A judge of the Court of Appeal may, on a motion, summarily annul any decision, order or injunction rendered, issued or granted contrary to the first paragraph.

1992, c. 60, s. 37; 2000, c. 41, s. 160.

**243.17.** After consultation with the Régie and the most representative employees' associations, retirees' associations and employers' associations, the Minister shall draw up a list of names from which arbitrators may be designated by an arbitration body.

1992, c. 60, s. 37; 2000, c. 41, s. 161.

**243.18.** The costs of arbitration and the arbitrators' fees shall be payable by the pension fund but only up to the amount of the surplus assets under consideration. The arbitration body alone is competent to draw up the account of such costs and fees for payment. The account must be paid before execution of the arbitration decision begins.

The Government shall determine the arbitration costs that are subject to a tariff, and shall fix the rate applicable to those costs and to the arbitrators' fees.

For the purposes of this section, arbitration costs include the expenses incurred by the arbitration body and the cost of its services.

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1992, c. 60, s. 37.

**243.19.** In addition to the regulatory powers conferred on it by this chapter, the Government may make any other regulation required for the purposes of this chapter, in particular in respect of

- (1) the transmission of any document required under this chapter;
- (2) the time limits applicable to the execution of any obligation, procedure or formality under this chapter.

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1992, c. 60, s. 37.

## CHAPTER XV

### REGULATIONS OF THE RÉGIE DES RENTES DU QUÉBEC

**244.** The Régie may, by regulation,

(1) determine the form and content of any document, certificate or attestation prescribed by this Act and the regulations;

(2) determine the documents and information that must accompany every application for registration of a pension plan or amendment;

(2.1) specify the conditions under which an employer may provide the pension committee with a letter of credit, as well as the form, amount and terms of such a letter;

(3) determine what income security programs are contemplated by section 58;

(3.0.1) determine, for the purposes of section 60.1, the rules applicable to the determination of an additional pension benefit;

(3.1) determine the rules applicable to the establishment of the benefits of the member to whom a benefit has been paid under section 69.1;

(3.2) determine, for the purposes of section 91.1, under what conditions a pension may be replaced by a temporary pension ;

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

(5) determine the benefits which, pursuant to paragraph 6 of section 93, may replace a pension to which a member or his spouse has become entitled, and the conditions attached to such a replacement;

(6) determine, for the purposes of section 98, the plans or annuity contracts not governed by this Act that are included in the expression "pension plan" and the norms applicable to such plans or contracts, or make all or part of this Act and the regulations applicable to them;

(7) determine, for the purposes of section 108, 109 or 110, the rules applicable to the determination of the benefits of the member and their value before and after partition of such benefits or payment of a compensatory allowance, and to the payment of benefits, a seizure for non-payment of support awarded to the spouse, in particular, the rules governing the transfer of the sums of money to which the spouse is entitled, the interest payable thereon and the information to be provided to the spouse within the prescribed time, and the obligations incumbent upon the person responsible for managing the sums thus transferred;

(8) determine any document which may be examined pursuant to section 114;

(8.0.1) for the purposes of section 128, determine the elements that contribute to the establishment of the reserve and the method of calculating the provision for adverse deviation;

(8.1) determine the cases where a pension committee must furnish the guarantees described in section 156.1, and prescribe the amounts and the terms and conditions of such guarantees;

(8.2) prohibit that the assets of a pension plan be encumbered with an immovable hypothec or determine the maximum proportion of the book value of the assets of a plan that may be encumbered with an immovable hypothec;

(8.3) *(strike out)*;

(8.4) determine the cases in which the audit of the financial report referred to in section 161 is not required;

(8.5) determine the subjects, other than those mentioned in the first paragraph of section 166, that must be placed on the agenda of the annual meeting;

(9) limit or prohibit the investment of the assets of a pension plan in certain forms of investments;

(10) determine the security which must be furnished by persons or bodies to whom or which a loan may be granted under section 177;

(11) determine the methods, assumptions, rules or factors which are applicable or prohibited for the purpose of calculating any contribution or benefit, refund, interest rate or rate of return and, where applicable, their actuarial value;

(12) determine the methods, assumptions, rules or factors which are applicable or prohibited for the purpose of calculating the assets and liabilities of a plan and distributing them among the groups of benefits in particular upon the withdrawal of an employer from or the termination of a multi-employer plan, for the purpose of determining the value of the benefits of members and beneficiaries in particular for the purposes of Chapters XIII and XIV.1, and for the purposes of a conversion of the plan

Effective date  
undetermined

into a plan of another type, the division of the assets and liabilities of a plan among several plans or the merger of the assets and liabilities of several plans;

(12.0.1) determine the conditions to be met by a pension insured pursuant to paragraph 3 of section 200 or section 237;

(12.1) prescribe the information other than that required under section 230.2 which must be contained in any draft agreement sent by the employer to the pension committee concerning the apportionment of surplus assets;

(13) determine the procedure for any matter within its competence, the applicable time limits and the required documents;

(14) prescribe the fees payable for the financing of expenses incurred by the Régie for the administration of this Act and the regulations and for any formality prescribed by this Act or the regulations, including fees which may be imposed as a penalty for a delay in carrying out such a formality or failure to provide within the time allotted any information or document provided for in this Act or required by the Régie;

(15) determine, among the provisions of any regulation made under this section, those provisions the contravention of which is punishable under Chapter XVII.

A regulation under subparagraph 4 of the first paragraph relating to factors applicable in computing the maximum annual amount of a replacement pension is not subject to the requirements of sections 8 and 17 of the Regulations Act (chapter R-18.1) as regards publication and the date of coming into force where the Régie is of the opinion that the urgency of the situation justifies that it be so exempted.

A regulation made under subparagraph 8.2 or 9 may prescribe the cases in which and the types of plans to which it applies. It may also prescribe the conditions on which it applies to loans or investments existing on the date it comes into force.

To the extent that it relates to the application, with or without amendment, of a standard of practice of the Canadian Institute of Actuaries, a regulation under this section is not subject to the requirements of sections 8 and 17 of the Regulations Act (chapter R-18.1) as regards publication and the date of coming into force and may, if it so provides, have retroactive effect to a date that is prior to the date of its coming into force but not prior to the date the standard is approved by the Actuarial Standards Board of the Canadian Institute of Actuaries.

The regulations of the Régie shall be submitted to the Government for approval.

1989, c. 38, s. 244; 1992, c. 60, s. 38; 1993, c. 45, s. 3; 1994, c. 24, s. 24; 1997, c. 19, s. 16; 1997, c. 43, s. 661; 2000, c. 41, s. 162; 2006, c. 42, s. 40; 2008, c. 21, s. 22; 2008, c. 21, s. 35 (1 January 2010); 2009, c. 1, s. 3 (15 January 2009).

## CHAPTER XVI

### FUNCTIONS AND POWERS OF THE RÉGIE DES RENTES DU QUÉBEC

**245.** In addition to the other functions conferred on it by this Act, the Régie shall ensure that pension plans are administered and operated according to law.

The Régie also has the duty to encourage financial planning for retirement, in particular by promoting the establishment and improvement of pension plans.

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1989, c. 38, s. 245.

**246.** To exercise its functions under this Act, the Régie, in addition to the other powers conferred on it by this Act and the Act respecting the Québec Pension Plan, may

- (1) *(repealed)*;
- (2) provide information in the form of general or specific instructions regarding the administration of this Act;
- (3) carry out the inspection of any pension plan;
- (4) prepare, or cause to be prepared, any document prescribed or required by this Act and not furnished in accordance with this Act or the requirements of the Régie, at the expense of the person who is required to furnish it;
- (5) in the case of a pension plan to which Chapter X does not apply, require from the pension committee or the insurer, on the conditions and within the time limits established by the Régie, any document or information it considers necessary to measure the funding or solvency of the plan;
- (6) require from the pension committee or the insurer, on the conditions and within the time limits established by the Régie, any document or information it considers necessary to ascertain whether a pension plan, an actuarial valuation or a document required under this Act or required by the Régie is in conformity with this Act or with the requirements of the Régie;
- (6.1) require, subject to the conditions and within the time it fixes, that the pension committee or any party to a contract referred to in section 92 or to a pension plan or annuity contract to which sums may be transferred under section 98 provide it with any document or information the Régie considers necessary for ascertaining that the requirements imposed by this Act in respect of the plan or contract are complied with ;
- (7) *(repealed)*.

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1989, c. 38, s. 246; 1992, c. 60, s. 39; 1997, c. 19, s. 17; 2000, c. 41, s. 163; 2002, c. 52, s. 8.

**247.** For the purpose of inspecting a pension plan, any inspector appointed by the Régie may, at any reasonable time, enter any premises where the pension committee, the person exercising a delegated power or any party to the plan keeps a document relating to the plan, examine such document, and take an extract therefrom or make a copy thereof.

Whoever has custody, possession or control of the document shall, on request, make it available to the inspector and facilitate his examination of it.

On request, the inspector shall identify himself and exhibit a certificate, issued by the Régie, attesting his capacity.

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1989, c. 38, s. 247.

**247.1.** The Régie, on the conditions it fixes, may authorize a departure from the limits established by a regulation made under subparagraph 8.2 or, with respect to immovable property investments, under subparagraph 9 of the first paragraph of section 244.

1994, c. 24, s. 25; 1999, c. 40, s. 254.

**248.** The Régie may make an order directing the pension committee, the person exercising a delegated power or any party to the pension plan to take any remedial measure determined by the Régie within the time and on the conditions it fixes, where it is of the opinion that

- (1) his or its action is contrary to sound financial practices;
- (2) the assumptions, methods or scenarios used
  - for the actuarial valuation of the plan,
  - for the fixing of the interest rate applicable to contributions, or
  - in the preparation of a report or any other document required by the Régie,

do not accord with generally accepted actuarial principles;

(3) the assumptions, methods or scenarios used are inappropriate for the type of plan concerned or in view of its obligations, the financial position of the pension fund or the investment policy;

(4) (*strike out*)

(5) the pension plan or its administration is not in compliance with this Act, for instance by reason of the fact that the plan is not being wound up in accordance with the provisions of Chapter XIII or Chapter XIV.1; or

(6) the content of a document provided for in this Act or required by the Régie is not in compliance with the requirements of this Act or of the Régie.

In addition, if the Régie considers it necessary in the best interests of the members and beneficiaries, it may order any person who has custody, possession or control of funds, securities or other assets of a pension plan not to dispose of them without the authorization of the Régie or otherwise than in accordance with the conditions it fixes.

1989, c. 38, s. 248; 2000, c. 41, s. 164; 2006, c. 42, s. 41 (1 January 2010).

**249.** The Régie may enter into agreements according to law with any government, government department, international body or agency of a government or international body for the purposes of this Act or any other Act applicable, in whole or in part, to pension plans.

The agreements may, in particular,

(1) where a pension plan is governed both by this Act and by an Act of a legislative body other than the Parliament of Québec, determine on what conditions and to what extent each Act applies to the plan in respect of the employees referred to in section 1 who are parties to the plan and prescribe any other rule applicable to the plan;

(2) determine on what conditions and to what extent this Act applies to benefits or assets transferred from a pension plan governed by this Act to a pension plan governed by an Act of a legislative body other than the Parliament of Québec;

(3) provide for the delegation of powers that this Act confers on the Régie or that an Act of a legislative body other than the Parliament of Québec confers on a similar agency.

Every agreement bearing on a matter referred to in the second paragraph must be tabled in the National Assembly within 15 days after the date on which it is entered into if the Assembly is in session or, if not, within 15 days after the opening of the next session or resumption. The agreement acquires force of law from the time it is tabled in the National Assembly.

For the purposes of such an agreement, the Régie may act as the mandatary of the department or agency with which the agreement has been made.

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1989, c. 38, s. 249; 2000, c. 41, s. 165.

**250.** The Régie may delegate any of its powers under this Act to a member of its board of directors, to a member of its personnel or to a committee formed of board members or personnel members. The Régie may also, in the act of delegation, authorize the subdelegation of the powers enumerated therein. In that case, it shall identify the member of its board of directors or the member of its personnel to whom powers may be subdelegated. The act of delegation shall be published in the *Gazette officielle du Québec*.

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1989, c. 38, s. 250; 1992, c. 60, s. 40; 2000, c. 41, s. 166; 2006, c. 42, s. 42 (13 December 2006).

**251.** No document relating to a matter contemplated by this Act is binding on the Régie or may be attributed to it unless it is signed by the president of the Régie or by a member of its board of directors or personnel but, in the latter case, only to the extent provided in the instrument under which powers are delegated to that member or in the internal management by-laws of the Régie.

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1989, c. 38, s. 251.

**252.** Every decision, order or notice of the Régie that must be notified to the members or beneficiaries may be

(1) sent to the employer who shall, as soon as he receives it, post it conspicuously in his establishment in Québec employing the largest number of members concerned, in an area ordinarily frequented by them;

(2) published in a daily newspaper circulated in the locality where that establishment is situated; or

(3) sent to the members of the pension committee who are either plan members or persons designated by the plan members and beneficiaries and to every certified association representing plan members.

Where the Régie uses either of the modes of transmission provided for in subparagraphs 1 and 2 of the first paragraph, a summary of the decision or order may be substituted for the integral text thereof.

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1989, c. 38, s. 252; 2000, c. 41, s. 167.

**253.** The Régie shall periodically post a bulletin on its website containing information on its activities and the general instructions it provides pursuant to paragraph 2 of section 246.

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1989, c. 38, s. 253; 2006, c. 42, s. 43 (*13 December 2006*).

**254.** Where, for the purpose of a decision, a problem arises as to the interpretation of this Act or a pension plan, the Régie may, where it is of the opinion that the interest of the parties to the plan warrants a prompt solution of the problem, postpone its decision and submit the problem to the court by way of a motion.

Articles 454 to 456 of the Code of Civil Procedure apply, adapted as required.

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1989, c. 38, s. 254; 1997, c.43, s. 662.

**255.** The Régie may apply by motion to a judge of the Superior Court to obtain an injunction in respect of any matter contemplated by this Act.

The application for an injunction shall in itself constitute an action.

The procedure provided for in the Code of Civil Procedure applies except that the Régie cannot be required to give security.

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1989, c. 38, s. 255.

**256.** The Régie may, of its own initiative and without notice, intervene in any civil action or arbitration proceedings pertaining to this Act to participate in the proof and hearing.

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1989, c. 38, s. 256; 1992, c. 60, s. 41.

**256.1.** The Régie may intervene before the Administrative Tribunal of Québec in any proceeding relating to this Act at any time until the end of the hearing.

If it wishes to intervene, the Régie shall send a notice to each of the parties and to the Tribunal; the Régie is thereupon considered to be a party to the proceeding.

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2000, c. 41, s. 168.

## CHAPTER XVII

### PENAL PROVISIONS

**257.** Every person is liable to a fine of \$500 to \$25 000 who :

(1) contravenes any provision of the first paragraph of section 14 or 16, sections 17, 25, 26, 39, 41, 42, 43, 51, 58, 119, 158, 159, 161, 166, 168, 169, 171.1 to 176, 179 and 210, subparagraph 1 of the first paragraph of section 252 and section 307;

(1.1) permits the allocation of all or part of the surplus assets determined upon termination of a pension plan otherwise than as provided in subdivision 4.1 of Division II of Chapter XIII;

(2) contravenes any regulatory provision made under subparagraph 9 of the first paragraph of section 244 where, for the purposes of subparagraph 15 of the first paragraph of the said section, such contravention is punishable by a penalty;

(3) contravenes any order issued by the Régie under section 35, 240.4 or 248;

(4) makes a false declaration, hinders or attempts to hinder the Régie, a member of its personnel, a provisional administrator, any person to whom the Régie has delegated a power or any inspector appointed by the Régie, in the carrying out of its or his duties.

(5) makes a false declaration for the purpose of obtaining

(a) temporary pension under section 91.1;

(b) a temporary or life pension or a lump-sum payment under section 92;

(c) a temporary or life pension or a lump-sum payment payable under a pension plan or annuity contract prescribed by regulation pursuant to the third paragraph of section 98.

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1989, c. 38, s. 257; 1992, c. 60, s. 42; 1997, c. 19, s. 18; 2000, c. 41, s. 169; 2006, c. 42, s. 44 (1 January 2010).

**258.** Every person is liable to a fine of not over \$2 000 who

(1) contravenes any provision of sections 111 to 114, 143 to 145, 165.1, 182, 200, 202, 207.1 to 207.5, 209.1, 230.4, 230.6, 243.8, the second paragraph of section 310.1 and sections 313 and 314;

(2) contravenes any regulatory provision other than the provision referred to in paragraph 2 of section 257, where, for the purposes of subparagraph 15 of the first paragraph of section 244, such contravention is punishable by a penalty.

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1989, c. 38, s. 258; 1992, c. 60, s. 43; 2000, c. 41, s. 170; 2006, c. 42, s. 45 (1 January 2010).

**259.** Where any of the offences under sections 257 and 258 is committed by a legal person, the amount of the fine is three times the amount prescribed.

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1989, c. 38, s. 259.

**260.** Every person who, through encouragement or advice or by his orders, incites another person to commit an offence under section 257 or 258 is guilty of the offence

and of any other offence committed by the other person as a result of such encouragement, advice or orders, if he knew or ought to have known that it would probably result in the commission of the offence.

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1989, c. 38, s. 260.

**261.** Every person who, by his act or omission, aids another person to commit an offence under section 257 or 258 is guilty of the offence as if he had committed it himself, if he knew or ought to have known that his act or omission would probably result in aiding the commission of the offence.

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1989, c. 38, s. 261.

**262.** In the event of a subsequent offence, the fine is twice the amount prescribed for a first offence.

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1989, c. 38, s. 262.

**263.** In determining the fines, the court shall take into account the prejudice involved and the benefits derived from the offence, if any.

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1989, c. 38, s. 263.

## CHAPTER XVIII

### MISCELLANEOUS AND TRANSITIONAL PROVISIONS

**264.** Unless otherwise provided by law, the following amounts or contributions are unassignable and unseizable :

(1) all contributions paid or payable into the pension fund or to the insurer, with accrued interest;

(2) all amounts refunded or pension benefits paid under a pension plan or this Act;

(3) all amounts awarded to the spouse of a member following partition or any other transfer of benefits effected pursuant to Chapter VIII, with accrued interest, and the benefits deriving from such amounts.

Except as far as they derive from additional voluntary contributions or represent a portion of the surplus assets allocated after termination of the plan, any of the above-mentioned amounts that have been transferred to a pension plan contemplated by section 98, with accrued interest, and any refunds of benefits resulting from such amounts, and any pension or payment having replaced a pension pursuant to section 92, are also unassignable and unseizable.

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1989, c. 38, s. 264; 1992, c. 60, s. 44; 1997, c. 19, s. 19; 2000, c. 41, s. 171.

**265.** Any amount that an employer fails to pay into the pension fund or to the insurer shall constitute a privileged claim on his movable and immovable property.

Such privilege shall be collocated at the same rank as the claims of suppliers as to movable property and as the claims for servant's wages as to immovable property.

The privilege on the immovable property is created and preserved on the conditions specified in article 2103 of the Civil Code of Lower Canada; the registration required by the said article may be effected by any interested person within sixty days after the day on which the interested person becomes aware of the employer's default.

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1989, c. 38, s. 265.

**266.** Every natural or legal person and every body or group without juridical personality shall, if authorized under another Act to administer a pension plan governed by this Act, be regarded as pension committees.

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1989, c. 38, s. 266.

#### ACT RESPECTING THE CAISSE DE DÉPÔT ET PLACEMENT DU QUÉBEC

**267.** (Amendment integrated into c. C-2, s. 21).

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1989, c. 38, s. 267.

#### CITIES AND TOWNS ACT

**268.** (Amendment integrated into c. C-19, s. 464).

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1989, c. 38, s. 268.

**269.** (Amendment integrated into c. C-19, s. 465).

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1989, c. 38, s. 269.

#### MUNICIPAL CODE OF QUÉBEC

**270.** (Amendment integrated into c. C-27.1, a. 704).

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1989, c. 38, s. 270.

**271.** (Amendment integrated into c. C-27.1, a. 706).

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1989, c. 38, s. 271.

**272.** (Amendment integrated into c. C-27.1, a. 707).

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1989, c. 38, s. 272.

**273.** (Amendment integrated into c. C-27.1, a. 710).

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1989, c. 38, s. 273.

#### ACT RESPECTING LABOUR STANDARDS

**274.** (Amendment integrated into c. N-1.1, s. 49).

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1989, c. 38, s. 274.

ACT RESPECTING THE QUÉBEC PENSION PLAN

**275.** (Amendment integrated into c. R-9, s. 28).

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1989, c. 38, s. 275.

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

**276.** (Amendment integrated into c. R-10, s. 108).

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1989, c. 38, s. 276.

PROFESSIONAL SYNDICATES ACT

**277.** (Amendment integrated into c. S-40, s. 9).

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1989, c. 38, s. 277.

**278.** (Amendment integrated into c. S-40, s. 14).

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1989, c. 38, s. 278.

**279.** (Amendment integrated into c. S-40, s. 17).

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1989, c. 38, s. 279.

**280.** (Amendment integrated into c. S-40, s. 21).

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1989, c. 38, s. 280.

**281.** (Amendment integrated into c. S-40, s. 25).

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1989, c. 38, s. 281.

**282.** Every provision of another Act requiring the approval of the Régie as a condition precedent to the coming into force of a plan, an amendment or an agreement with respect to the transfer of benefits, obligations or assets is hereby repealed as to that requirement.

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1989, c. 38, s. 282.

**283.** This Act replaces the Act respecting supplemental pension plans (chapter R-17).

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1989, c. 38, s. 283; 1992, c. 60, s. 45; 2000, c. 41, s. 172.

**284.** Every registration of a plan made and every certificate of registration issued under the Act respecting supplemental pension plans remain valid.

The same applies to every other decision rendered under the said Act.

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1989, c. 38, s. 284.

**285.** Every agreement entered into pursuant to section 74 of the Act respecting supplemental pension plans remains effective.

Such agreements may, however, be amended, replaced or repealed in accordance with this Act.

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1989, c. 38, s. 285.

**286.** Subject to section 311.1, the Act respecting supplemental pension plans continues to apply to matters pending on 31 December 1989 before the Régie, except matters related to the approval of amendments to a pension plan reducing the amounts or values of the benefits of the members or beneficiaries or concerning

- the conversion of the plan into a plan of another type,
- the substitution of the employer who is a party to the plan,
- the division of the plan's assets and liabilities among several plans, or
- the merging of the assets and liabilities of several plans,

to which sections 20 to 23 and Chapter XII apply.

Any application for review filed after 31 December 1989 with respect to a decision rendered by the Régie before that date shall be decided in accordance with the Act respecting supplemental pension plans.

This section shall not be construed as invalidating any thing that has been validly done.

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1989, c. 38, s. 286; 1992, c. 60, s. 46.

**286.1.** With the exception of the applications for review referred to in section 286 which remain subject to the Act respecting supplemental pension plans, and subject to the provisions of sections 308.2 and 311.1, any applications for review pending before the Régie on 1 January 1993, or introduced after that date and relating to decisions rendered before that date, shall be decided according to the provisions of this Act as they read before that date.

Likewise, applications for review before the Régie and contestations before the Administrative Tribunal of Québec pending on 31 December 2000 or introduced after that date but relating to decisions rendered before that date shall be decided according to the provisions of this Act as they read before that date.

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1992, c. 60, s. 47; 2000, c. 41, s. 173.

**287.** Proceedings for an offence against the Act respecting supplemental pension plans are instituted or continued in accordance with the said Act.

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1989, c. 38, s. 287.

**288.** Unless otherwise provided by this chapter, this Act also applies in respect of service credited under a pension plan before 1 January 1990.

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1989, c. 38, s. 288.

**288.0.1.** The orders made by the Government under section 2 as it read before 5 December 2000 are deemed to be regulations.

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2000, c. 41, s. 174.

**288.0.2.** Section 2.1 only applies to a pension plan registered before 5 December 2000 if

(1) the pension committee has made a written application to that effect to the Régie;

(2) the pension plan has been amended, if necessary, to satisfy the requirements set out in the first paragraph of section 2.1;

(3) all members and beneficiaries at the date of the application under subparagraph 1 have been notified in writing that their pension plan would no longer be subject to this Act and have consented thereto;

(4) the fees prescribed by regulation have been fully paid to the Régie in respect of the last complete fiscal year of the plan; and

(5) the Régie has revoked the registration of the plan, after making sure that all the conditions of this section were fulfilled.

Section 2.1 only applies to a pension plan registered after 4 December 2000 that does not satisfy the requirements set out in that section at the date of its registration if the requirements set out in the first paragraph of this section are satisfied after the benefits that were transferred into the pension plan are transferred into another plan in accordance with section 98.

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2000, c. 41, s. 174.

**288.1.** The provisions of subparagraph 16 of the second paragraph of section 14 are not applicable to pension plans in force on 1 January 1993.

However, subject to any contrary provision of an agreement or arbitration award referred to in section 230.1, where such a plan does not specify to whom the surplus assets determined at the time of termination are to be allocated, only the members and beneficiaries shall be entitled thereto.

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1992, c. 60, s. 48; 2000, c. 41, s. 203.

**288.1.1.** An employer may, upon providing the pension committee with a letter of credit, be relieved of paying a portion of the contribution required under sections 39 and 140. The employer contribution that the employer must pay into the pension fund is reduced accordingly.

The portion of the employer contribution of which an employer may be relieved may not exceed an amount corresponding to the amount obtained by multiplying by 20% the difference, established at the date of the last complete actuarial valuation, between the assets and liabilities of the fund, determined on a solvency basis.

The form, terms and conditions of the letter of credit referred to in the first paragraph must comply with the rules prescribed for the purposes of the Act respecting the funding of certain pension plans (2005, chapter 25), which apply with the necessary modifications.

A letter of credit provided by the employer under the first paragraph forms part of the assets of the plan for the purpose of determining its solvency. However, the amount of the letter, or the total amount of such letters, is taken into account for that purpose only up to 15% of the value of the liabilities of the plan.

This section ceases to have effect on 31 December 2009.

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2008, c. 21, s. 23.

**288.2** (*Repealed*).

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2000, c. 41, s. 175.

**288.3** A letter of credit provided under section 288.1.1 or under paragraph 2 of section 5 of the Act respecting the funding of certain pension plans (2005, chapter 25) and in force on 1 January 2010 is deemed to have been provided under section 42.1. The second paragraph of section 42.1 does not invalidate such a letter of credit.

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2008, c. 21, s. 24(1 January 2010).

**289.** Subject to the provisions of section 45.1, member contributions or additional voluntary contributions paid by a member into the pension fund or to the insurer, as the case may be, before 1 January 1990, with accrued interest, if any, shall bear interest from 1 January 1990 at the rate referred to in section 44 or 45.

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1989, c. 38, s. 289; 1992, c. 60, s. 49; 2000, c. 41, s. 176.

**289.0.1.** Where, before 1 January 2001, an uninsured pension plan other than a defined contribution plan provided that interest would be credited to member contributions or additional voluntary contributions at the monthly rate of return on personal five-year term deposits with chartered banks, as compiled by the Bank of Canada, such contributions, with interest accrued, shall bear interest, from that date and notwithstanding section 20, at the rate of return obtained on the investment of the plan assets, less investment expenses and administration costs.

The first paragraph applies to the contributions referred to therein to the extent that they relate to uninsured benefits or refunds.

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2000, c. 41, s. 177.

**289.1.** Section 59, as it read prior to 5 June 1997, shall continue to apply to a pension to which the member or spouse is entitled on that same date the amount of which is adjusted to take into account an amount equal to the benefits determined under the Old

Age Security Act (Revised Statutes of Canada, 1985, chapter O-9), the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of paragraph u of section 1 of the latter Act.

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1997, c. 19, s. 20.

**289.2.** Paragraph 4 of section 59 does not apply to a member whose pension was in payment before 1 January 2001.

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2000, c. 41, s. 178.

**290.** Unless otherwise stipulated, section 60 does not apply to the benefit to which a member or beneficiary is entitled in respect of service credited under the plan for a period of employment prior to 1 January 1990, without prejudice to the application to that benefit of section 61.

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1989, c. 38, s. 290; 1992, c. 60, s. 50.

**290.1.** Unless otherwise stipulated, section 60.1 does not apply to the pension benefit to which a member or beneficiary is entitled in respect of service credited under the plan for a period of employment prior to 1 January 2001.

A pension plan is exempted from the application of section 60.1 if, as of 16 March 2000, the plan contains a provision that is in force, was registered with the Régie before that date and provides that the deferred pension is adjusted before retirement according to a formula different from the formula provided in the second paragraph of section 60.1, provided the formula is approved by the Régie on the application of the pension committee.

The pension committee must submit the application to the Régie not later than 31 December 2000. However, in the case of a pension plan applicable to employees governed by a collective agreement, an arbitration award in lieu thereof or an order or decree rendering a collective agreement compulsory in force on 1 January 2001, the application must be submitted not later than the day immediately preceding the date of expiry of the collective agreement or arbitration award or the date of expiry, extension or renewal of the order or decree.

If such a formula is amended after being approved by the Régie, the amended formula may be approved by the Régie provided the related application is submitted to the Régie before the effective date of the amendment. If approval is granted, the plan is exempted from the application of section 60.1 in respect of the formula.

The Régie cannot approve an adjustment formula unless it is of the opinion that the value of the pension referred to in the second paragraph of section 60.1 determined according to that formula for the period referred to in that paragraph will be generally equivalent to the value that would be determined pursuant to that paragraph. The Régie may use any assumption, method, rule, scenario or factor it sees fit in order to assess such equivalence.

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2000, c. 41, s. 179.

**291.** The value of the benefits to which section 60 does not apply and to which a member or a beneficiary is entitled in respect of service credited under the plan before 1

January 1990 shall be equal to or greater than the member contributions paid into the plan by the member before that date, with interest accrued to the date on which the value of the benefit is determined, calculated at the rate provided under the plan for the period prior to 1 January 1990 and, subject to the provisions of section 45.1, at the rate referred to in section 44 for the subsequent period.

The value of the benefit shall be determined at the date on which the member or beneficiary becomes entitled thereto, on the basis of the assumptions referred to in section 61 which are applicable to determine the value of other benefits vested at that date in respect of service credited after 31 December 1989.

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1989, c. 38, s. 291; 1992, c. 60, s. 51; 2000, c. 41, s. 180.

**291.1.** Section 61, as it read before 1 January 2001, continues to apply to the determination of the value of the benefits accrued to members or beneficiaries made on the basis of an earlier date.

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2000, c. 41, s. 181.

**292.** Articles 2445 to 2459 of the Civil Code, adapted as required, apply to the revocation of the designation of any person who, on 31 December 1989, is a beneficiary designated by a member.

A member may, however, where the beneficiary is his spouse and the designation has been made without a stipulation as to the revocability or irrevocability of the designation, render the designation revocable by way of a writing to that effect transmitted to the pension committee or to the insurer before 1 January 1992. If the member dies before that date and had not transmitted such a writing, the designation of his spouse is deemed to be revocable.

Within 12 months after 31 December 1989, the pension committee or the insurer shall transmit a copy of this section to every member to whom the second paragraph applies.

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1989, c. 38, s. 292; 1999, c. 40, s. 254; 2000, c. 41, s. 182.

**292.1.** With respect to a pension plan to which a municipality is a party, subdivision 0.1 of Division III of Chapter VI does not apply to members in the employ of the municipality unless the council of the municipality adopts a resolution explicitly providing that it applies to them.

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2008, c. 21, s. 25.

**293.** *(Repealed).*

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2000, c. 41, s. 183.

**294.** *(Repealed).*

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2000, c. 41, s. 183.

**295.** *(Repealed).*

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2000, c. 41, s. 183.

**296.** *(Repealed).*

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2000, c. 41, s. 183.

**297.** Any pension postponed before 1 April 1982 or between 1 April 1982 and 1 January 1990 shall be adjusted in such a manner as to ensure that the pension payable at the end of the postponement is actuarially equivalent, in the former case, to the pension the payment of which would have begun on 1 April 1982 had the pension not been postponed and, in the latter case, to the pension the payment of which would have begun on the date on which the member would have attained normal retirement age had the pension not been postponed.

Such adjustment must not create only surpluses in the pension fund of the plan nor must it create only unfunded liabilities.

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1989, c. 38, s. 297.

**298.** The provisions of subdivision 7 of Division III of Chapter VI relating to the rights of a surviving spouse prevail, where the death of a member occurs after 31 December 1989, over any inconsistent provision which, before that date, gave entitlement to death benefits.

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1989, c. 38, s. 298.

**299.** Service credited to a member under the pension plan before 1 January 1990 shall not be taken into account for the purposes of section 86, unless the plan is amended after 1 January 1990 to increase the benefits accumulated in respect of service credited before that date, in which case section 86 applies to the benefits resulting from the increase.

In addition, the successors of a member who dies between 31 December 1989 and 1 January 2001 shall be entitled to a lump sum benefit equal to or greater than the member contributions and additional voluntary contributions paid by the member before 31 December 1989, with interest accrued to the date of payment of the benefit, calculated at the rate provided in the plan for the period prior to 1 January 1990 and, subject to the provisions of section 45.1, at the rate referred to in section 44 for the subsequent period.

Where the death occurs after 31 December 2000, the benefit provided for in the second paragraph shall be made to the member's spouse or, if there is no surviving spouse, to the member's successors. However, the spouse may waive entitlement to such benefit, in which case section 88.1 applies, with the necessary modifications. Moreover, this paragraph does not apply if the surviving spouse is entitled, as of the member's death, to a pension the value of which is equal to or greater than the benefit provided for in the second paragraph.

For the purposes of this section, a member's spouse is the person who meets the requirements set out in section 85.

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1989, c. 38, s. 299; 1992, c. 60, s. 53; 1999, c. 40, s. 254; 2000, c. 41, s. 184.

**299.1.** A lump sum benefit payable under section 86 in respect of a death having occurred before 1 January 2001 shall bear interest, from that date until the date of payment, at the rate used to determine the amount of the benefit.

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2000, c. 41, s. 185.

**300.** Section 87 does not apply to the spouse of a member where the member began to receive, before 1 January 1990, a pension the amount of which is adjusted to take into account an amount equal to the benefits determined under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9), the Act respecting the Québec Pension Plan or a similar plan within the meaning of paragraph u of section 1 of the latter Act or a pension under Division III of Chapter VI or subparagraph 2 or 3 of the first paragraph of section 93.

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1989, c. 38, s. 300; 1997, c. 19, s. 21.

**300.1.** If a member dies during the period in which all or part of his pension is postponed, the second paragraph of section 299 does not apply; however, the value of the benefit provided for in that paragraph shall, in determining the spouse's benefits, be added to the value established under subparagraph 2 of the first paragraph of section 88 or, where there is no spouse, to the value of the benefit referred to in the third paragraph of that section.

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1994, c. 24, s. 27.

**300.2.** Section 89, as it read before 1 January 2001, continues to apply to the exceptions provided for therein where the court judgment became effective or, as the case may be, the conjugal relationship ended after 31 August 1990 but before 1 January 2001.

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2000, c. 41, s. 186.

**300.3.** The last paragraph of section 85 applies to a person separated from bed and board from a member who dies or whose pension begins to be paid, as the case may be, after 31 December 2000 regardless of the date on which the judgment granting separation from bed and board was rendered or became effective.

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2000, c. 41, s. 186.

**300.4.** Section 89.1 only applies to divorces, marriage annulments, separations from bed and board, dissolutions or annulments of a civil union and cessations of conjugal relationship having become effective after 31 December 2000. However, whether or not benefits have been partitioned, an application under that section may be submitted by a member whose divorce, marriage annulment, separation from bed and board or cessation of conjugal relationship became effective before that date ; the member's pension is established as of the date of the application and not as of the effective date of the judgment or cessation of conjugal relationship.

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2000, c. 41, s. 186; 2002, c. 6, s. 201.

**301.** Notwithstanding section 94, an amount equal to the benefits determined under the Old Age Security Act may serve, in determining the normal pension, to reduce the benefits accumulated by a member in respect of service credited under the plan before 1 January 1990 to the extent provided for in the plan before that date.

In no case may the reduction exceed 1/35 of that amount in respect of any year of service credited to the member.

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1989, c. 38, s. 301.

**302.** The amount referred to in the first paragraph of section 95 shall be determined as of 1 January 1990 if, before that date, the member becomes entitled to a pension the amount of which is not determined before that date.

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1989, c. 38, s. 302.

**303.** Notwithstanding subparagraph 2 of the first paragraph of section 98, a member is entitled to transfer the amount representing the value of a pension benefit to which he has become entitled before 1 January 1990 only if the plan so provides.

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1989, c. 38, s. 303; 2000, c. 41, s. 187.

**304.** (*Repealed*).

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2000, c. 41, s. 188.

**305.** Where an insurer has guaranteed, before 2 June 1989, refunds or pension benefits accrued to a member in respect of service credited to him under a pension plan before that date, the transfer of such benefits pursuant to section 98 may, if the member was an active member at that date, be made by subrogating the member in the rights of the pension fund as regards the contract entered into with the insurer.

The value of the guaranteed benefits so transferred shall not exceed the value of the refunds or pension benefits that would result therefrom if the latter value were determined on the basis of actuarial assumptions and methods identical to those which, on the date of the subrogation made in favour of the member, are used to determine the value of unguaranteed pension benefits to which section 60 applies and that are vested on that date.

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1989, c. 38, s. 305; 2000, c. 41, s. 189.

**305.1.** For the purposes of its application before 1 January 2010, section 113.1 reads as if “the second paragraph of section 146.3.1,” were struck from subparagraph 2 of the first paragraph.

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2008, c. 21, s. 26.

**305.2.** The date of the actuarial valuation referred to in section 121 must be later than 14 December 2009.

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2008, c. 21, s. 26 (1 January 2010).

**306.** *(Repealed).*

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1989, c. 38, s. 306; 2006; c. 42, s. 46 (1 January 2010).

**306.1.** *(Repealed).*

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1998, c. 2, s. 41; 2006; c. 42, s. 46 (1 January 2010).

**306.1.1.** *(Repealed).*

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2004, c. 20, s. 197; 2006; c. 42, s. 46 (1 January 2010).

**306.2.** *(Repealed).*

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1998, c. 2, s. 41; 2006; c. 42, s. 46 (1 January 2010).

**306.3.** *(Repealed).*

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1998, c. 2, s. 41; 2006; c. 42, s. 46 (1 January 2010).

**306.4.** *(Repealed).*

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1998, c. 2, s. 41; 2006; c. 42, s. 46 (1 January 2010).

**306.5.** *(Repealed).*

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1998, c. 2, s. 41; 2006; c. 42, s. 46 (1 January 2010).

**306.6.** *(Repealed).*

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1998, c. 2, s. 41; 2006; c. 42, s. 46 (1 January 2010).

**306.7.** Sections 119, 130, 133, 134 and 138, as they read before 1 January 2001, continue to apply to actuarial valuations dated prior to 15 December 2000.

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2000, c. 41, s. 190.

**306.7.1.** In the case of members or beneficiaries of a pension plan who have given the required consent to the application of the procedures set out in section 8 of the Act respecting the funding of certain pension plans, as long as amortization amounts remain to be paid with respect to the amount or balance for which the amortization procedures are set out in that section, no amendment concerning the benefits of the members or beneficiaries whose consent was required may be made to the plan unless a special

amortization payment equal to the value of the additional obligations arising from the amendment and determined on a solvency basis, is paid into the pension fund.

The special amortization payment must be paid as soon as the report on the first actuarial valuation to take the amendment into consideration is sent to the Régie. Any interest accrued since the valuation date is added, calculated at the rate referred to in section 48 of this Act.

The amortization amounts referred to in the first paragraph include those considered to be amortization payments under section 49 of the Act to amend the Supplemental Pension Plans Act, particularly with respect to the funding and administration of pension plans (2006, chapter 42).

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2008, c. 21, s. 27 (1 January 2010).

**306.8.** Where an agreement or an arbitration award pursuant to the Act respecting the negotiation of agreements concerning the reduction of labour costs in the municipal sector (1998, chapter 2) provides for the appropriation of the surplus assets of a pension plan to the payment of employer contributions, Chapter X.1 can only apply in respect of the pension plan before the expiry of the agreement or award if the municipal body concerned and all certified associations representing members so agree.

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2000, c. 41, s. 190.

**306.9.** Except in the case of a pension plan resulting from the division of a pension plan that was not amended pursuant to section 146.5, the provisions of a pension plan that comes into force after 31 December 2009 pertaining to 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 and those of a pension plan that comes into force after 31 December 2000 pertaining to the employer's right to appropriate all or part of the surplus assets to the payment of employer contributions prevail over any other provision of the plan or of an agreement and are binding on every party having rights or obligations under the plan.

No amendment to a pension plan resulting from the division of a pension plan that was amended under section 146.5 in relation to 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 may pertain to the subject of that amendment unless all the requirements set out in the first paragraph of section 146.5 and in section 146.6 are satisfied.

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2000, c. 41, s. 190; 2006; c. 42, s. 47 (1 January 2010).

**306.10.** Only refunds and pension benefits that become payable after 31 December 2000 are subject to offsetting pursuant to section 163.1.

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2000, c. 41, s. 190.

**306.11.** Sections 18, 32, 56, 165, 190, Chapter XIII except section 240.2 and paragraphs 1 and 3 of section 240.3, paragraph 12 of section 244, paragraph 6 of section 246 and sections 309 to 311.1, as they read on 31 December 2000, continue to apply

- (1) to matters pending before the Régie on 31 December 2000 ;
- (2) to total terminations having occurred before 1 January 2001 and partial terminations affecting members whose active membership ended before that date, whether or not the termination results from the withdrawal of an employer from a multi-employer pension plan, provided that
- (a) if the employer decided to terminate the plan, the members were duly advised in writing, as provided by law ; and
  - (b) if the Régie decided to terminate the plan by reason of the employer's failure to collect member contributions or to pay employer contributions or the member contributions collected into the pension fund or to the insurer, or by reason of a decrease in the number of active members, the event that warranted the Régie's decision occurred between 31 December 1999 and 1 January 2001.

Notwithstanding any provision to the contrary, a partial termination can only affect members whose active membership ended before 1 January 2001.

Section 32.1 does not apply to terminations to which this section applies.

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2000, c. 41, s. 190.

**306.12.** Section 230.1.1 applies to any pension plan whose assets are not entirely liquidated on 1 January 2001 insofar as the employer did not transmit a draft agreement before that date to the pension committee concerning the allocation of surplus assets in accordance with section 230.2 as it read before that date.

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2000, c. 41, s. 190.

**306.13.** Section 240.2 only applies to members whose active membership ended after 31 December 2000.

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2000, c. 41, s. 190.

**306.14.** Section 240.3 applies even to terminations having occurred before 1 January 2001 and to terminations pending before the Régie on that date, except partial terminations referred to in section 306.12, in whose respect paragraph 2 of section 240.3, as it read before 1 January 2001, continues to apply.

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2000, c. 41, s. 190.

**307.** Every person or body administering a pension plan shall, within five years from the date the plan becomes subject to this Act or within any extension of that period that may be granted by the Régie, regularize any investment of the assets of the plan made before that date which is not in conformity with this Act.

Moreover, a period of 12 months from that date shall be granted for the adoption of an investment policy which is in conformity with sections 169 and 170.

However, any investment made before 1 January 1990 in the name of the plan may, notwithstanding section 171, remain in the name of the plan.

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1989, c. 38, s. 307, 1994, c. 24, s. 28.

**307.1.** Every person or body administering a pension plan shall, within five years from 1 January 2001 or before the expiry of such extension as may be granted by the Régie, regularize any investment of the assets of the plan made before 1 January 2001 that was in conformity with this Act as it read before that date but is not in conformity with this Act as it reads from that date.

Where a pension plan in force on 31 December 2000 authorizes members to distribute all or part of the amounts credited to them among various investments, the investment options offered must, if need be, be brought into conformity with the provisions of section 168 as it reads from 1 January 2001 within one year from that date.

The right to a transfer provided for and the applicable conditions set out respectively in subparagraph *b* of subparagraph 3 of the first paragraph and the second paragraph of section 173 as it read before 1 January 2001 shall continue to apply until 31 December 2001 to deposits to which those provisions are applicable.

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1994, c. 24, s. 29; 2000, c. 41, s. 191.

**308.** Where a pension plan is under trusteeship on 1 January 1990, the curator appointed under section 56 of the Act respecting supplemental pension plans (chapter R-17) shall continue to act as the provisional administrator as if he had been appointed under this Act.

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1989, c. 38, s. 308.

**308.1.** Any pension plan to which the second paragraph of section 288.1 applies and of which division of the assets and liabilities must be authorized by the Régie is deemed, for the purposes of the second paragraph of section 195, to include a provision which, in case of termination, allocates the surplus assets to the members and beneficiaries only.

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1992, c. 60, s. 54; 1999, c. 40, s. 254; 2000, c. 41, s. 203.

**308.2.** Members affected by the partial termination of a pension plan whose settlement is pending before the Régie on 1 January 1993, shall, notwithstanding the repeal of section 213 as it read before that date, retain the rights in the surplus assets that the draft termination report proposes to allocate to them, provided that

(1) where the date of the termination occurs before 14 May 1992, the pension committee has, before that date, sent the statement provided for in section 203 to the affected members or, if it did not do so, provided that the prescribed period for so doing expired before that date;

(2) where the date of the termination occurs before 1 January 1993, the employer has, before that date, agreed in writing to grant such rights to the affected members, even where the statement provided for in section 203 has not been sent to them before that date.

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1992, c. 60, s. 54.

**308.3.** In cases where, before 1 January 1993, the Régie has only approved in part the draft termination report relating to the partial termination of a plan occurring on a date before 1 January 1993, thus postponing its decision regarding the allocation of all or part of the surplus assets, and in cases where the Régie rendered a decision relating to a notice of termination or a decision partially terminating a pension plan, provided its decision approving the draft termination report or the termination report itself was rendered after 31 December 1992, those members affected by the termination whose benefits were paid shall remain members, notwithstanding the second paragraph of section 33, for the sole purpose of the apportionment of any surplus of assets which may be determined in the event of termination of the plan.

However, if the date of the partial termination precedes the date of the total termination of the plan by seven years or more, members whose rights were thus satisfied shall only retain their status as members for the said purpose if they present their claim to the pension committee within the prescribed time.

Whenever the provisions of the second paragraph are to be applied, the notice required to be published under the second paragraph of section 230.4 must set out the rules established by this section. However, where a case has been referred to arbitration under section 230.7 without publication of the notice, the pension committee shall, upon being informed of the referral to arbitration, cause to be published in a daily newspaper circulated in the region in Québec where the greatest number of members who were active at the date of termination reside, a notice of the application for arbitration setting out the rules established by this section, and informing interested parties that, until the matter is taken under advisement, they may present their claim to the pension committee. A copy of the public notice must be sent without delay to the Régie.

The pension committee is exempted from the obligation to publish the notice if all members and beneficiaries who may have rights under the pension plan or under this Act have been personally advised.

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1992, c. 60, s. 54; 2000, c. 41, s. 192.

**309.** *(Repealed).*

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2000, c. 41, s. 193.

**310.** *(Repealed).*

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2000, c. 41, s. 193.

**310.1.** For the purposes of the provisions of subdivision 4.1 of Division II of Chapter XIII, persons whose benefits under a pension plan have been paid before 1 January 1990 by means of an annuity contract entered into with an insurer, and persons designated as beneficiaries under the terms of such a contract who are still entitled to benefits thereunder, are deemed to be members or beneficiaries, as the case may be, provided that, in all cases, the interested parties have acted within the prescribed time limits.

In addition, each time the provisions of the said sections are to be applied following the termination of a pension plan which was in force on 1 January 1990, the notice of which publication is required under section 230.4 shall also state the rule established by the first paragraph of this section. However, if the matter was submitted to arbitration under section 230.7 without publication of the notice, the pension

committee shall, as soon as it is informed that the matter will be submitted to arbitration, cause to be published in a daily newspaper circulated in the region of Québec in which the greatest number of members who were active at the date of termination reside, a notice mentioning the application for arbitration and the rule established by the first paragraph of this section, and informing the interested parties that they may, until the matter is taken under advisement, assert their rights with the committee. A copy of the notice shall be sent forthwith to the Régie.

The pension committee is exempted from the obligation to publish the notice if all the members and beneficiaries who may be entitled to assert rights under the plan or under this Act have been notified personally.

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1992, c. 60, s. 55; 1999, c. 40, s. 254; 2000, c. 41, s. 194.

**310.2.** An employer that is required to send to the members the notice provided for in the first paragraph of section 230.4 or to publish the notice provided for in the second paragraph of that section must, except where exercising powers delegated by the pension committee, indicate therein that any opposition to the draft agreement on the part of the members and beneficiaries concerned must be filed in writing with the Régie.

Section 230.6 shall apply in such cases having regard to any opposition communicated to the Régie under this section.

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1992, c. 60, s. 55; 2000, c. 41, s. 195.

**311.** (*Repealed*).

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2000, c. 41, s. 196.

**311.1.** The provisions of subdivision 4.1 of Division II of Chapter XIII also apply to the apportionment of the surplus assets of any pension plan in force on 1 January 1993, except where that surplus is the subject of

- (1) legal proceedings pending on 14 May 1992;
- (2) an apportionment proposed in a draft termination report which grants all the surplus to the members and beneficiaries, if one of the following conditions is met :
  - the Régie has, before 14 May 1992, considered the draft report to be in conformity with this Act, and the pension committee has, before that date, sent a statement of benefits to the members and beneficiaries or, where it has neglected to do so, provided that the time limit for doing so expires before that date;
  - the draft termination report has been sent to the Régie before 1 January 1993, and the employer has consented in writing to such an apportionment; the apportionment must also be in conformity with the law applicable before the above date;
- (3) an apportionment provided for in an agreement made before 1 January 1993, pursuant to subparagraph 2 of the first paragraph of section 43 of the Act respecting supplemental pension plans (chapter R-17), provided, however,

- that the Régie has been informed of the agreement before that date and that it has subsequently judged that the apportionment is fair for all the members affected by the termination and the information pertaining thereto to be given to them is adequate;
- that the members have been informed of the agreement before the expiry of the sixth month following the decision of the Régie on the apportionment provided for therein;
- that less than 30 % of the members have, within 60 days after the date on which they were informed of the agreement, informed the Régie, in writing, of their opposition thereto.

Where the conditions prescribed by this paragraph are satisfied, the agreement is binding on the parties and on every member who has rights under the plan. The same has always applied to any such agreement when the conditions prescribed in subparagraphs *a* and *b* of paragraph 2 of section 43 of the Act respecting supplemental pension plans have been satisfied;

(4) an order made by the Government under section 43.1 of the Act respecting supplemental pension plans has authorized payment to the employer of all or part of the surplus assets.

Where the surplus assets to be apportioned in accordance with the provisions of subdivision 4.1 of Division II of Chapter XIII result from a terminated pension plan which continues to be governed by the Act respecting supplemental pension plans pursuant to section 286, the Régie may require, as a condition for approval of the report relating to the termination, that it be provided, in the conditions and within the period it fixes, with any information or document in addition to the said report and relating to the apportionment of such surplus assets.

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1992, c. 60, s. 56; 2000, c. 41, s. 197.

### **311.2** (*Repealed*).

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2000, c. 41, s. 198.

### **311.3** (*Repealed*).

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2000, c. 41, s. 198.

### **311.4** (*Repealed*).

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2000, c. 41, s. 198.

**311.5.** Except in cases to which section 266 applies, sections 243.3, 243.6 and 243.7, as they read before 1 January 2001, continue to apply to pension plans whose administrator is not a pension committee whose composition is in accordance with section 147.

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2000, c. 41, s. 199.

**311.6.** The first paragraph of section 23, sections 56, 66, 69 and 71, paragraph 3 of section 86, paragraph 1 of section 98, the first paragraph of section 197 and sections 293 to 296 and 303, as they read before 1 January 2001, continue to apply to the rights and benefits of members whose active membership ended before that date.

Section 66, as it reads subsequent to 31 December 2000, also applies to the rights and benefits referred to in the first paragraph.

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2000, c. 41, s. 199.

**311.7.** The list of possible arbitrators drawn up in accordance with section 243.17 as it read before 1 January 2001 is deemed to have been drawn up by the Minister in accordance with that section as it reads from that date.

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2000, c. 41, s. 199.

**312.** In addition to the transitional provisions contained in this chapter, the Régie may, by regulation, make any other transitional provision to facilitate the administration of this Act; the regulations may, in particular, determine on what conditions and to what extent this Act applies to a pension plan that is also governed by an Act of a legislative body other than the Parliament of Québec and prescribe any other rule applicable to such plan.

The regulations shall be submitted to the Government for approval; they may have retroactive effect to any date prior to the date on which they come into force, but not prior to 15 November 1988.

The Régie may, by regulation and before 1 January 2003, adopt any transitional provision for the carrying out of this Act as it stands on 1 January 2001. Regulations made under this section shall be submitted to the Government for approval. They may have retroactive effect from a date not prior to 1 January 2001.

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1989, c. 38, s. 312; 1992, c. 60, s. 57; 2000, c. 41, s. 200.

**313.** Every amendment required to bring the provisions of any pension plan that is effective on 1 January 1990 into conformity with this Act shall be filed with the Régie for registration, within 12 months after 1 January 1990 or within any extension of that period which may be granted by the Régie.

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1989, c. 38, s. 313.

**314.** Notwithstanding section 313, the amendments required to bring the provisions of a pension plan of which all or part of the members are governed by a collective agreement, an arbitration award in lieu thereof or an order or decree imposing a collective agreement which are in force on 1 January 1990 into conformity with this Act shall be submitted to the Régie for registration within three months after the date of the signing of a new collective agreement, of the rendering of the arbitration award in lieu thereof, of the extension or renewal of the order or decree or of the coming into force of an order or decree replacing an order or decree which has expired.

The Régie may grant an extension of time.

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1989, c. 38, s. 314.

**315.** From such time as the amendments referred to in sections 313 and 314 are registered in accordance with this Act, they have effect

- (1) in the case of section 313, from 1 January 1990;
- (2) in the case of section 314,
  - (a) with respect to employees governed by a collective agreement, an arbitration award in lieu thereof or an order or decree in force on 1 January 1990, from the date of expiry of the agreement or award or from the date of expiry, extension or renewal of the order or decree;
  - (b) with respect to employees not governed by a collective agreement, an arbitration award or an order or decree referred to in subparagraph a, from 1 January 1990.

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1989, c. 38, s. 315.

**316.** The provisions of a collective agreement, of an arbitration award in lieu thereof or of an order or decree imposing a collective agreement and the terms of a pension plan applicable to employees governed by the agreement, award, order or decree, in force on 1 January 1990, which are incompatible with the provisions of this Act shall prevail over the provisions of this Act until the date of expiry of the agreement or award or until the date of expiry, extension or renewal of the order or decree.

The Act respecting supplemental pension plans shall continue, for the same period, to apply to the plan, to the extent that the employees concerned are governed by the said collective agreement, award, order or decree.

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1989, c. 38, s. 316.

**317.** Any unfunded actuarial liability resulting

(1) from an amendment to the plan that is an amendment referred to in section 313 or 314 made for the purpose of bringing the plan into conformity with Chapter IV, V or VI, or

(2) from an amendment to the plan made for the purposes of the application of section 44, 45, 60, 69 or 86 to benefits accumulated in respect of service credited under the plan before 1 January 1990,

constitutes an improvement unfunded actuarial liability.

Such an improvement unfunded actuarial liability may be considered to be an initial unfunded actuarial liability.

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1989, c. 38, s. 317.

**317.1.** Any unfunded actuarial liability resulting from an amendment to a pension plan for the purpose of bringing the pension plan into conformity with this Act as it stands on 1 January 2001 may be considered to be an initial unfunded actuarial liability.

The Régie may require that a pension committee submit to it, within a specified time, a report prepared by an actuary and containing the information and attestations the Régie considers necessary to ascertain that the determination of employer and member contributions is in conformity with the pension plan and with this Act as it stands on 1 January 2001.

For the purposes of this Act, the report provided for in the second paragraph is considered to be an actuarial valuation report of a pension plan prepared under section 119.

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2000, c. 41, s. 201.

**318.** Every person or body who or which, on 31 December 1989, administers a pension plan, may, despite the fact that he or it is not a pension committee established as prescribed by section 147, continue to administer the plan either until the expiry of the time prescribed in section 313 or 314 for the filing of amendments or until such later date that may be set by the Régie, or, if the plan cannot be amended within that time by reason of its termination, until it ceases to be in force. In such a case, the person or body shall, during his or its administration, be regarded as a pension committee.

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1989, c. 38, s. 318; 1992, c. 60, s. 58; 2000, c. 41, s. 203.

**318.1.** The amendments needed to bring the provisions of a pension plan that is in force on 31 December 2000 into conformity with this Act as it stands on 1 January 2001 must be presented to the Régie for registration within 12 months after 31 December 2000 or within such additional time as the Régie may grant.

Amendments registered under this section have effect from 1 January 2001.

However, as concerns employees governed by a collective agreement, an arbitration award in lieu thereof or an order or decree making a collective agreement compulsory in force on 1 January 2001, the adjustment of pensions under section 60.1 has effect only as of the date of expiry of the collective agreement or arbitration award or as of the date of expiry, extension or renewal of the order or decree.

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2000, c. 41, s. 202.

**319.** In any other Act and in any regulation, decree, order, agreement, contract or other document, unless otherwise required by the context, and taking into account any necessary changes,

(1) a reference to a provision of the Act respecting supplemental pension plans is a reference to the corresponding provision of this Act;

(2) the expression "Act respecting supplemental pension plans" is replaced by "Supplemental Pension Plans Act" and the expression "régime supplémentaire de rentes" is replaced by the expression "régime complémentaire de retraite".

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1989, c. 38, s. 319.

**319.1.** Sections 14.1 and 228.1 are declaratory.

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2008, c. 21, s. 28.

**320.** The appropriations allocated to the administration of the Act respecting supplemental pension plans shall be transferred to permit the administration of this Act.

Supplementary appropriations allocated to the administration of this Act for the fiscal year during which this Act comes into force shall be taken out of the consolidated revenue fund to the extent determined by the Government.

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1989, c. 38, s. 320.

**321.** The Minister of Employment and Solidarity is responsible for the administration of this Act.

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1989, c. 38, s. 321; 1994, c. 12, s. 67; 1997, c. 63, s.128.

**322.** This Act comes into force on 1 January 1990; however,

(1) sections 34 and 35 come into force on 1 June 1990;

(2) section 89, Chapter VIII, subparagraph 7 of the first paragraph of section 244 and subparagraph 3 of the first paragraph of section 264 come into force on the date or dates fixed by the Government;

(3) sections 20 to 23 and Chapter XII have effect from 23 March 1989;

(4) sections 304 and 305 have effect from 2 June 1989.

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1989, c. 38, s. 322.

*The provisions referred to in paragraph (2) of section 322 came into force on 1 September 1990 (O.C. 1157-90, 8 August 1990, G.O.2 (1990) 2280)*

## RELATED PROVISIONS

### ***Act to amend the Supplemental Pension Plans Act (1992, chapter 60)***

59. The provisions of this Act will come into force on 1 January 1993; however,

(1) The provisions of section 243.2, enacted by section 37, have effect from 14 May 1992;

(2) the provisions of paragraph 3 of section 230.1 and section 230.7, enacted by section 34, will come into force on 1 July 1994.

### ***An Act to amend the supplemental Pension Plans Act (1993, chapter 45)***

4. From 1 January 1990 to the date of coming into force of an order made in respect of the Supplemental Pension Plan for Employees of the Quebec Construction Industry under the third paragraph of section 2 of the Supplemental Pension Plan Act (R.S.Q., chapter R-15.1), enacted by section 1 of this Act, the pension plan shall be exempt from the application of the provisions of the said Act, except those of section 1 and 2 and subparagraph 14 of the first paragraph of section 244.

The Act respecting supplemental pension plans (R.S.Q., chapter R-17), in its version prior to 1 January 1990, applies to the plan during the said period.

5. The provisions of this Act will come into force on the date or dates to be fixed by the Government, except section 4 which comes into force on 18 June 1993.

*The coming into force of section 1, which amends section 2 of the Act, was fixed to 25 February 1998, by Order in Council 214-98.*

*The order made in respect of the Supplemental Pension Plan for Employees of the Quebec Construction Industry (O.C. 215-98) come into force on 26 April 1998.*

### ***An Act to amend the supplemental Pension Plans Act (1994, chapter 24)***

31. For the purpose of computing, in respect of a member laid off before 17 June 1994, the 24-month period provided for in the first paragraph of section 54 of the said Act, the time elapsed on that date shall be taken into account.

32. This Act comes into force on 17 June 1994, except sections 7, 13 and 14 which will come into force on the date or dates fixed by the Government.

*Section 7 comes into force on 17 August 1995 (O.C.1012-95, 19 July 1995, G.O. 2 (1995) 3297).*

*Sections 13 and 14 come into force on 31 December 1995 (O.C.1012-95, 19 July 1995, G.O. 2 (1995) 3297).*

***An Act to amend various legislative provisions respecting the pension plans in the public and parapublic sectors***  
(1995, chapter 46)

43. Section 30 has effect from 1 January 1990.

*(This Act was assented to on 22 June 1995.)*

***An act to amend the Act respecting the Québec Pension Plan and the Supplemental Pension Plans Act in order to facilitate phased retirement and early retirement***  
(1997, chapter 19)

22. Regulations made before 5 June 1998 under subparagraphs 3.1, 3.2 and 4 of the first paragraph of section 244 of the Supplemental Pension Plans Act, enacted by section 16 of this Act, may provide that they apply from any date not prior to 5 June 1997 as regards regulations made under subparagraphs 3.1 and 3.2 and, as regards the other regulations, from any date not prior to 1 January 1998.

23. This Act comes into force on 5 June 1997, except sections 1 to 4 and 11 which come into force on 1 January 1998.

***An Act respecting the implementation of the Act respecting administrative justice***  
(1997, chapter 43)

665. Section 14 and 15 of the Act respecting supplemental pension plans (R.S.Q., chapter R-17) are repealed.

666. The said Act is amended by inserting, after section 22, the following division:

“Division III.1

“REVIEW AND PROCEEDING BEFORE THE ADMINISTRATIVE TRIBUNAL OF QUÉBEC

“22.1. The Board may, on the application of any interested person, review any decision it has rendered.

An application must be made in writing, within 60 days of notification of the contested decision, and must state briefly the grounds on which it is based.

The Board may extend the 60-day time limit or relieve a person of the consequences of failing to comply with it if it is shown that the application for review cannot or could not, for a valid reason, be made within the prescribed time.

The application for review suspends execution of the contested decision, unless the Board orders provisional execution where so justify by circumstances.

“22.2. The Board shall dispose of the application for review without delay and after giving all interested persons an opportunity to present observations.

The decision of the Board must state the grounds on which it is based and be notified in writing to the interested persons.

“**22.3.** A review decision rendered by the Board may, within 30 days of notification of the decision, be contested before the Administrative Tribunal of Québec.”

**667.** Section 29 of the said Act is amended by replacing the second and third paragraphs by the following paragraph:

“The Board shall ensure compliance with this section.

Any person who believes that an amendment infringes this section may, within six months of the amendment, file a complaint with the Board to instigate an inquiry.”

**877.** The Act respecting administrative justice and this Act come into force on 1 December 1997.

However, the Government may, by order made before that date, provide that the provisions it indicates do not come into force on that date; such provisions come into force on the date or dates to be fixed in the order or in a subsequent order.

*The coming into force of sections 649 to 667 has been postponed to 1 April 1998, by Order in Council 1524-97, adopted on 26 November 1997 and published in the Gazette officielle du Québec on 3 December 1997.*

***An Act to amend the Public Curator Act and other legislative provisions relating to property under the provisional administration of the Public Curator (1997, chapter 80)***

**82.** This Act comes into force on the date or dates to be fixed by the Government, except sections 28, 32, 38, 44, 79 and 80 which come into force on 18 December 1997.

*Section 76 come into force on 1 July 1999 (O.C.593-99, 26 May 1999, G.O. 2, 9 June 1999).*

***An Act respecting the negotiation of agreements concerning the reduction of labour costs in the municipal sector (1998, chapter 2)***

**5.** The resolution shall fix for each of the groups of employees concerned a labour cost reduction objective that the municipal body intends to pursue from the fiscal year 1998.

The objective shall be expressed as a percentage of the total annual expenditures relating to remuneration and employment benefits of the nature of the expenditures listed in the schedule and provided for in the budget of the municipal body for the fiscal year 1997. The percentage may not exceed 6%. In the case of Ville de Québec, the percentage may not exceed 4.5% in respect of the members of the Régime de retraite de la Ville de Québec registered with the Régie des rentes du Québec under number 24450, having regard to the reduction in expenditures pursuant to section 306.1 of the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1) and to section 42 of this Act.

**7.** A municipal body that adopts a resolution under section 4 shall, at the same sitting, establish by resolution a final proposal, to be made to each of the certified associations of employees concerned, setting out the cutback measures to be taken to achieve the reduction objective fixed.

**8.** The proposal shall first indicate the amount of any savings anticipated by the municipal body in the course of the fiscal year 1998 as a result of the staff reduction that the municipal body may achieve unilaterally through attrition.

Any staff reduction already projected for that fiscal year, under an agreement entered into with the association of employees, shall not be taken into account in the calculation of the staff reduction under the first paragraph.

**9.** The proposal shall also set out the other cutback measures enabling, together with the cutback measures referred to in the first paragraph of section 8, a reduction in expenditures, equivalent to the reduction set out in the resolution, to be achieved.

Such cutback measures must have a recurrent effect and may relate only to the following matters :

(1) changes to the conditions of employment provided for in the collective agreement in force or applicable to the employees under section 59 of the Labour Code or under an expired collective agreement, other than the wage rates and salary scales applicable to the employees who are in the employ of the municipal body at that time ;

(2) in respect of a pension plan, the allocation of the surplus assets of the pension plan to the payment of contributions or the amendment of provisions relating to contributions or the method for calculating contributions.

**12.** A proposal may provide for the allocation of surplus assets of a pension plan to the payment of employer contributions only if no amount is payable in relation to an unfunded actuarial liability or to an amount referred to in subparagraph 4 of the second paragraph of section 137 of the Supplemental Pension Plans Act and only if the latest actuarial valuation of the entire pension plan, the report of which was transmitted to the Régie des rentes du Québec, enabled a surplus of assets to be determined according to both the funding method and the solvency method, in accordance with Chapter X of that Act.

In addition, the maximum amount of surplus assets that, pursuant to a resolution, may be allocated to the payment of employer contributions is the lesser of the surplus determined according to the funding method and the surplus determined according to the solvency method at the time the actuarial valuation under the first paragraph was made, reduced by the value of additional obligations arising from an amendment to the pension plan that was made after the date of that actuarial valuation and did not give rise to the determination of an improvement unfunded actuarial liability referred to in Chapter X of the said Act.

**14.** Within seven days after receipt of the proposal of the municipal body, a certified association may transmit to the municipal body a final proposal, a copy of which is sent to the Minister of Labour, setting out cutback measures enabling the reduction objective fixed under section 5 to be achieved.

The proposal of the certified association may relate only to matters that may be the subject of a proposal of the municipal body. The proposal must include the particulars mentioned in section 10.

The cutback measures proposed may not operate to reduce the level of service provided to the population by the municipal body below the previous level of service or below the level that would result from the application of the proposal of the municipal body.

**24.** The arbitration award must be in writing and be signed by the mediator-arbitrator. It need not contain reasons before it becomes effective.

If, however, a party so requests upon receipt of the award, the mediator-arbitrator must give reasons in writing for the decision.

If the arbitration award contains a provision relating to a pension plan, the mediator-arbitrator must transmit a copy of the award to the administrator of the plan and to the Régie des rentes du Québec. The Régie shall register the award and notify the administrator of the plan.

**26.** The provisions of an agreement reached after the adoption of a resolution under section 4 or the provisions of an arbitration award under section 25 that relate to a pension plan operate to amend the pension plan, and bind, without any condition, time limit or formality, every person or body having rights or obligations under the pension plan.

The allocation of surplus assets of a pension plan to the payment of contributions pursuant to such an agreement or arbitration award shall cease on the date of any actuarial valuation of the pension plan establishing that the conditions provided in the first paragraph of section 12 are no longer satisfied or that the balance of the surplus amount referred to in the second paragraph of that section has become inadequate.

#### Division IV

#### PROVISIONS RELATING TO THE UTILIZATION OF THE ACTUARIAL GAINS OF PENSION PLANS OF THE EMPLOYEES OF VILLE DE MONTRÉAL

**29.** The purpose of this division is to reduce the labour costs of Ville de Montréal through the utilization of the actuarial gains of the following pension plans:

(1) the Régime de retraite des contremaîtres de la Ville de Montréal, registered under number 27693;

(2) the Régime de retraite des employés manuels de la Ville de Montréal, registered under number 27494;

(3) the Régime de retraite des fonctionnaires de la Ville de Montréal, registered under number 27543;

(4) the Régime de retraite des pompiers de la Ville de Montréal, registered under number 22503;

(5) the Régime de retraite des professionnels de la Ville de Montréal, registered under number 28739.

This division also applies to the Régime de retraite des cadres de la Ville de Montréal, registered with the Régie des rentes du Québec under number 27542.

Each such pension plan shall include the agreement referred to in section 3 or 4 of the Act respecting the city of Montréal (1984, chapter 75) that relates to that pension plan.

**30.** Notwithstanding any contrary provision, any pension plan referred to in section 29 shall be the subject of an actuarial valuation of the entire pension plan as at 31 December 1997. The actuary shall, not later than 31 August 1998, or within any additional period granted by the Régie, transmit to the Régie, to the administrator of the pension plan, to the city and to the association of employees concerned the report relating to that valuation.

Until a report under the first paragraph is transmitted to the Régie, the city must pay a monthly contribution equal to the contribution determined in the report of the latest actuarial valuation of the entire pension plan transmitted to the Régie, reduced by the following amounts:

(1) an amount corresponding to the amount otherwise required to be paid to amortize any technical unfunded actuarial liability or improvement unfunded actuarial liability referred to in Chapter X of the Supplemental Pension Plans Act ;

(2) an amount corresponding to not more than 50% of the amount otherwise required to be paid to amortize any initial unfunded actuarial liability within the meaning of that Act.

**31.** Upon receipt of the report provided for in section 30, the city must, where required, pay into the pension fund any additional amount that it should have paid from 1 January 1998 pursuant to the Supplemental Pension Plans Act ; interest, computed according to the rate of return of the pension fund during the period concerned, shall be paid into the fund by the city in respect of any insufficient contribution.

Where the contributions paid by the city from 1 January 1998 are greater than the contributions required under the Supplemental Pension Plans Act, the city may reduce the contributions that it is required to pay thereafter until it is compensated for the overpayments it has made.

**32.** An amount of \$1,166,667,000 determined as at 31 December 1997 and corresponding to the value of the actuarial gains to be determined in the actuarial valuation prepared for that date, or up to that amount in future valuations, must be used to reduce the amortization amounts relating to certain unfunded liabilities or to improve the benefits of the members or beneficiaries of the pension plan in the manner provided in sections 306.2 to 306.5 of the Supplemental Pension Plans Act. The amount shall be apportioned between the pensions plans referred to in section 29 in the following proportions:

(1) the pension plan referred to in subparagraph 1 of the first paragraph: 2.5774% ;

(2) the pension plan referred to in subparagraph 2 of that paragraph: 31.1318% ;

(3) the pension plan referred to in subparagraph 3 of that paragraph: 31.5081% ;

(4) the pension plan referred to in subparagraph 4 of that paragraph: 17.7105% ;

(5) the pension plan referred to in subparagraph 5 of that paragraph: 7.6546% ;

(6) the pension plan referred to in the second paragraph : 9.4176%.

For the purposes of this section, the actuarial gain is the positive difference between, on the one hand, the value of the assets of the plan, increased by the value of the amortization amounts remaining to be paid in relation to one or more unfunded actuarial liabilities, and, on the other hand, the value of the obligations arising out of the pension plan, having regard to the service credited to the members. The gain shall be measured according to the funding method provided for in Chapter X of the Supplemental Pension Plans Act.

**36.** For the purposes of sections 9 and 14, a proposal that relates to a pension plan whose members are represented by more than one certified association must

(1) in the case of a proposal of a municipal body, be made to all certified associations concerned ;

(2) in the case of a union proposal, be made by all certified associations concerned.

**42.** Article 172 of the Charter of the city of Montréal (1959-60, chapter 102) is amended by inserting, after the second paragraph, the following :

“However, the recommendation provided for in the second paragraph may be made, in respect of a by-law effecting the amendment referred to in subparagraph 2 of the first paragraph of section 306.4 of the Supplemental Pension Plans Act, only by the majority of the members designated among the plan members.”

**43.** Section 162b of the Charter of the city of Québec (1929, chapter 95) is replaced by the following :

“162b. A by-law adopted under section 162a is subject to the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1).

The amount of all the contributions that the city must pay into the fund of its pension plan pursuant to that Act shall not, for each year occurring between 1 January 1998 and 31 December 2010, be less than 13% of the total payroll of the members.”

**44.** Notwithstanding section 3, Division IV and sections 40 to 43 bind, without any condition, time limit or formality, every person or body having rights or obligations under a pension plan to which they apply.

46. Section 43 has effect from 1 January 1998.

47. This Act comes into force on 12 March 1998.

***An Act to amend various legislative provisions concerning de facto spouses  
(1999, chapter 14)***

40. This Act comes into force on 16 June 1999, except sections 18 and 19, which come into force on the date of coming into force of sections 35 and 65 of chapter 73 of the statutes of 1997, and sections 32, 33, 34 and 35, which come into force on the date of coming into force of the provisions they amend.

***An Act to harmonize public statutes with the Civil Code  
(1999, chapter 40)***

356. This Act comes into force on 22 October 1999.

***An Act to amend the Supplemental Pension Plans Act and other legislative provisions  
(2000, chapter 41)***

206. This Act comes into force on 1 January 2001, except sections 1, 2, 15, 16, 22, 104, 158 and 159, paragraph 5 of section 164 and sections 165, 166, 168 and 174, the second, third, fourth and fifth paragraphs of section 290.1 of the Supplemental Pension Plans Act, enacted by section 179, and sections 204 and 205, which come into force on 5 December 2000, and section 96, which comes into force on 1 January 2002.

***An Act instituting civil unions and establishing new rules of filiation  
(2002, chapter 6)***

245. This Act comes into force on 24 June 2002, except sections 228 and 229, which come into force on the date of coming into force of the provisions they amend.

***An Act to amend the Act respecting the Québec Pension Plan and other legislative provisions  
(2002, chapter 52)***

10. This Act comes into force on 17 December 2002.

***An Act to amend various legislative provisions concerning municipal affairs  
(2004, chapter 20)***

260. This Act comes into force on 1 November 2004 except sections 199 to 202, 204 to 207 and 246 to 250, which come into force on 1 January 2005.

***An Act to amend the Supplemental Pension Plans Act  
(2005, chapter 5)***

4. This Act comes into force on 28 April 2005.

***An Act respecting the funding of certain pension plans  
(2005, chapter. 25)***

21. This Act comes into force on 17 June 2005.

***An Act to abolish certain public bodies and transfer administrative responsibilities  
respecting the funding of certain pension plans  
(2005, chapter. 44)***

59. This Act comes into force on 16 December 2005, except sections 18 to 27 and 35, which come into force on 1 January 2006, sections 36 to 57, which come into force on 1 April 2006, and sections 28 to 34, which come into force on the date or dates to be set by the Government.

***An Act to amend the Supplemental Pension Plans Act, particularly with respect to  
the funding and administration of pension plans  
(2006, chapter 42)***

48. Sections 118 to 142 of the Supplemental Pension Plans Act, enacted by section 11 of this Act, apply to actuarial valuations dated after 14 December 2009.

49. This section applies only for the purposes of the first actuarial valuation of a pension plan dated after 14 December 2009.

The amortization amounts, among the following, that remain to be paid at the date of the valuation are considered to be amortization payments relating to a technical actuarial deficiency referred to in paragraph 1 of section 130 of the Supplemental Pension Plans Act, enacted by section 11 of this Act:

(1) the amortization amounts referred to in subparagraphs 2 and 3 of the second paragraph of section 137 of the Supplemental Pension Plans Act as they read before 1 January 2010, excluding those relating to an improvement unfunded actuarial liability, that were taken into account in the last complete actuarial valuation dated prior to 15 December 2009;

(2) the amortization amounts determined in the valuation referred to in subparagraph 1 for the purposes of section 140 of that Act as it read before 1 January 2010.

The amortization amounts, among the following, that remain to be paid at the date of the valuation are considered to be amortization payments relating to an improvement unfunded actuarial liability within the meaning of paragraph 2 of section 130 of the Supplemental Pension Plans Act, enacted by section 11 of this Act:

(1) the amortization amounts referred to in subparagraphs 1 and 2 of the second paragraph of section 137 of the Supplemental Pension Plans Act as they read before 1 January 2010, excluding those relating to a technical actuarial deficiency, that were taken into account in the last complete actuarial valuation dated prior to 15 December 2009;

(2) the amortization amounts related to an unfunded liability referred to in the third paragraph of section 130 of the Supplemental Pension Plans Act as it read before

1 January 2010, and determined, if applicable, in an actuarial valuation of the plan carried out in accordance with that section at a date subsequent to the valuation referred to in subparagraph 1; the amounts referred to in this subparagraph need not be taken into account if an actuary certifies in the report on the actuarial valuation referred to in the first paragraph that none of those amounts were required to ensure the solvency of the plan at the date they were determined.

If, at the date of the actuarial valuation referred to in the first paragraph, the value of the amortization payments relating to the technical actuarial deficiency and to the improvement unfunded actuarial liability referred to in the second and third paragraphs exceeds the amount to be funded to ensure the solvency of the plan at that date, the excess thus determined may serve to reduce the amortization payments remaining to be paid in connection with the technical actuarial deficiency and, if that deficiency is eliminated, with the improvement unfunded actuarial liability. If the excess is insufficient to eliminate the deficiency or the liability, the reduction is applied proportionately to each amortization payment remaining to be paid. In addition, if there is more than one deficiency or liability of the same nature, the reduction is applied beginning with the earliest and ending with the most recent.

**51.** Section 27 applies even to matters pending before a court or an arbitrator on 14 June 2006.

**52.** Sections 37 to 39 apply to the decisions and orders rendered by the Régie from 13 December 2006.

**53.** In addition to the transitional provisions provided for by this Act, the Government may, by regulation made before 1 July 2010, make any other transitional provision concerning the administration of the Supplemental Pension Plans Act as amended by this Act or the administration of the Act respecting the funding of certain pension plans (2005, chapter 25).

Such a regulation is not subject to the publication requirement set out in section 8 of the Regulations Act (R.S.Q., chapter R-18.1). Despite section 17 of that Act, it comes into force on the date of its publication in the *Gazette officielle du Québec*, or on any later date specified in the regulation. However, once it is published and if it so provides, it may apply from any date not prior to 13 December 2006.

**54.** This Act comes into force on 1 January 2010; however,

(1) sections 27 and 51 have effect from 14 June 2006;

(2) section 20, except to the extent that it enacts section 151.2 of the Supplemental Pension Plans Act, sections 21 to 26, section 30, sections 33 to 39, paragraphs 3 and 4 of section 40 and sections 42, 43, 50, 52 and 53 come into force on 13 December 2006;

(3) section 20, insofar as it enacts section 151.2 of the Supplemental Pension Plans Act, and section 28 come into force on 13 December 2007.

***An Act to amend the Supplemental Pension Plans Act, the Act respecting the Québec Pension Plan and other legislative provisions (2008, chapter 21)***

**61.** The pension committee must add a brief description of the rights and obligations that arise from sections 67.2 to 67.5, 113.1 and 113.2 of the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1) enacted by this Act to the documents it sends out under section 112 of the Supplemental Pension Plans Act after the end of the first fiscal year of the pension plan that ends after this Act comes into force.

**64.** In addition to the transitional provisions in this Act, the Government may, by regulation made before 1 July 2010, make any other transitional provision concerning the application of this Act.

Such a regulation, to the extent that it concerns the application of sections 1 to 35 and 61, is not subject to the publication requirement set out in section 8 of the Regulations Act (R.S.Q., chapter R-18.1).

Despite section 17 of that Act, such a regulation comes into force on the date of its publication in the *Gazette officielle du Québec*, or on any later date set in the regulation. However, once it is published and if it so provides, it may apply from any date not prior to 20 June 2008.

**65.** This Act comes into force on 20 June 2008; however,

(1) sections 36, 44, 49, 51 to 60 and 63 come into force on 1 July 2008;

(2) sections 38, 39, 41 to 43 and 62 come into force on 1 January 2009;

(3) sections 2 and 24, section 26, insofar as it enacts section 305.2 of the Supplemental Pension Plans Act, and sections 27 and 29 to 35 come into force on 1 January 2010.

***An Act to amend the Supplemental Pension Plans Act the Act and other legislative provisions in order to reduce the effects of the financial crisis on plans covered by the Act (2009, chapter 1)***

**6.** Section 67.4 of the regulation, enacted by section 5 of this Act, may, even before 1 April 2009, be applied for the purposes of the valuation of the obligations arising from the plan in the course of an actuarial valuation of the plan undertaken after 30 December 2008, if the employer — or, in the case of a multi-employer pension plan, even where it is not considered as such under section 11 of the Supplemental Pension Plans Act, the participating employers jointly, — sends the pension committee a writing instructing it to that effect.

**7.** The first regulation made by the Government under section 230.0.0.11 of the Supplemental Pension Plans Act enacted by section 2 of this Act is not subject to the publication requirement set out in section 8 of the Regulations Act (R.S.Q., chapter R-18.1).

Despite section 17 of that Act, such a regulation comes into force on the date of its publication in the *Gazette officielle du Québec*, or on any later date set in the regulation. However, once it is published and if it so provides, it may apply from any date not prior to 31 December 2008.

**8.** This Act comes into force on 15 January 2009, except section 4, which comes into force on 1 January 2010 and section 5, which comes into force on 1 April 2009. However, sections 2 and 6 have effect from 31 December 2008.