

**Regulation respecting the exemption of certain
categories of pension plans from the application of the
Supplemental Pension Plans Act
(R-15.1, r. 2)
and related provisions**

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Régie des rentes du Québec

**Regulation respecting the exemption of certain categories
of pension plans from the application of the
Supplemental Pension Plans Act
and their amendments.**

Regulation respecting the exemption of certain categories of pension plans from the application of the Supplemental Pension Plans Act [R-15.1, r. 2]

O. C. 1160-90, 8 August 1990, G. O. 2 (1990), 2333
(came into force on 30 August 1990)

O. C. 1893-93, 15 December 1993, G. O. 2 (1993), 7146
(came into force on 13 January 1994)

O. C. 657-94, 4 May 1994, G. O. 2 (1994), 1871
(came into force on 2 June 1994)

O. C. 1466-95, 8 November 1995, G. O. 2 (1995), 3160
(came into force on 31 December 1995)

O. C. 280-99, 24 March 1999, G. O. 2 (1999), 431
(came into force on 22 April 1999)

O. C. 1290-99, 24 November 1999, G. O. 2 (1999), 4398
(came into force on 16 December 1999)

O. C. 1151-2002, 25 September 2002, G. O. 2 (2002), 5369
(came into force on 24 October 2002)

O. C. 436-2004, 6 May 2004, G. O. 2 (2004), 1615
(came into force on 3 June 2004, except for section 7, to the extent that it introduces section 16.1, which comes into force on 31 December 2004)

O. C. 798-2006, 22 August 2006, G. O. 2 (2006), 3019
(came into force on 21 September 2006)

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Regulation respecting the exemption of certain categories of pension plans from the application of the Supplemental Pension Plans Act [R-15.1, r. 2]

O. C. 436-2004, s. 1.

Supplemental Pension Plans Act
(R. S. Q., c. R-15.1, s. 2, 2nd par.)

DIVISION I

ADMINISTRATION OF THE PLAN

1. Any pension plan having not more than 25 members and beneficiaries may, if it so provides and notwithstanding sections 147, 147.1 and 166 of the Supplemental Pension Plans Act (1989, c. 38), be administered by the employer who is a party to the plan or by a pension committee composed of at least the following members :

(1) one plan member or one beneficiary designated on the conditions and within the time limits set out in the plan or one member designated by the majority of the members and beneficiaries at the meeting held each year in application of section 166 of the Act;

(2) a member who, designated under the conditions and within the time periods provided in the plan, is neither a party to the plan nor a third party to whom section 176 of the Act prohibits the granting of a loan.

The text of any plan administered by such committee shall state the number of members that the committee must have. It shall also provide for the conditions and time periods applicable to the designation and replacement of committee members. It may likewise provide that the members and beneficiaries may, during the meeting referred to in paragraph 1 of the first paragraph, designate by majority vote a member in addition to those referred to in the first paragraph. The second paragraph of section 147.1 of the Act applies to that additional member.

The text of any plan administered by the employer shall provide for the conditions and time periods applicable to the designation and replacement of the employer.

O. C. 1160-90, s. 1; O. C. 1151-2002, s. 1.

2. The second paragraph of section 149 of the Act applies to the employer who administers a pension plan in conformity with section 1.

O. C. 1160-90, s. 2; O. C. 1151-2002, s. 2.

3. Every person or body that, in application of section 1, is designated to administer the pension plan in replacement of the person or body that continued to administer that plan in accordance with section 318 of the Act or in replacement of a pension committee established as prescribed by section 147 of the Act shall take office :

(1) in the case of the replacement of an administrator referred to in section 318 of the Act, not later than the day following the date on which the plan may no longer be administered in accordance with that section;

(2) in the case of the replacement of a pension committee established as prescribed by section 147 of the Act, not later than the date of the beginning of the first fiscal year following the designation of the new administrator.

O. C. 1160-90, s. 3.

4. If the majority of the members and beneficiaries decide at a meeting held pursuant to section 166 of the Act decide that the plan shall be administered by a pension committee, the employer may not continue to administer the plan at the expiry of the third month following that meeting.

If, at a meeting held pursuant to section 166 of the Act, the majority of the members and beneficiaries consent to the administration of the plan by the employer who is a party to the plan, no member of a pension committee in office on the date of such meeting may continue to administer the plan on expiry of the third month following that meeting.

O. C. 1160-90, s. 4; O. C. 1151-2002, s. 3.

5. Any plan whose number of members and beneficiaries increases to more than 25 shall, no later than 180 days following such increase, be administered by a pension committee formed as provided for in chapter XI of the Act.

O. C. 1160-90, s. 5; O. C. 1151-2002, s. 4.

DIVISION II

(repealed)

O. C. 1160-90, s. 6; O. C. 1151-2002, s. 5.

DIVISION III

ARBITRATION WITH RESPECT TO THE ALLOCATION OF THE SURPLUS ASSETS OF A TERMINATED PLAN

7. A terminated pension plan is exempted from the application of the provisions of chapter XIV.1 of the Act where the following conditions are met :

(1) the employer party to the plan is deemed, pursuant to the second paragraph of section 230.7 of the Act, to have renounced any entitlement in the plan's surplus assets ;

(2) the plan's members and beneficiaries have agreed in writing on the method to be used to allocate among themselves the plan's entire surplus assets and to adjust the share of each of them in the event that there is any variation in such surplus or in the total value of their benefits between the date of termination and the date of payment.

In such case :

- (1) the agreement reached by the members and beneficiaries has the same value and effect as an agreement reached in accordance with section 230.6 of the Act ;
- (2) the pension committee shall send to the Régie, no more than 30 days after receipt of the agreement referred to in paragraph 1 :
 - (a) a copy of the agreement ;
 - (b) a certificate confirming that all the members and beneficiaries of the plan, including those who conserve that status pursuant to sections 240.2, 308.3 and 310.1 of the Act, have consented to the agreement and that it can submit their consent to the Régie on demand ;
 - (c) a supplement to the termination report in conformity with the provisions of section 207.5 of the Act.

O. C. 1893-93, s. 1; O. C. 1151-2002, s. 6.

7.1 In the case of a multi-employer plan, section 7 applies, with the necessary adaptations, with respect to the surplus assets determined in respect of each employer party to the plan and of the members and beneficiaries whose benefits are included in the group of benefits related to such employer.

O. C. 1151-2002, s. 6.

DIVISION IV

SIMPLIFIED PENSION PLAN

8. A defined contribution pension plan that fulfills the conditions prescribed in this section and in sections 9 to 19 is called a "simplified pension plan". It is exempted from the application of the Act except with respect to the following provisions :

- Application and interpretation — sections 1 to 5;
- Nature of a pension plan — section 6, the first paragraph of section 7 and sections 11 and 12;
- Establishment and effective date — section 13, the first paragraph and subparagraphs 11, 13 and 15 of the second paragraph of section 14 and sections 16 and 18;
- Amendment — section 19, the first paragraph of section 22 and section 23;
- Registration — the first paragraph and subparagraphs 1, 6 and 7 of the second paragraph of section 24 and sections 25 to 32, it being understood that section 26 does not apply with respect to an employer who joins the plan and that it applies only to members who are affected by an amendment, to members who cease to be members of the plan in the event of a division and to members of a plan that is absorbed in the event of a merger;

- Membership — section 33, except the third paragraph, and sections 34 to 36;
- Contributions —sections 37, 38, 41 and 43, section 44, except subparagraphs 1 to 3 of the first paragraph and the third paragraph, sections 45.1 to 47 and sections 49 to 53;
- Refunds and pension benefits — sections 54, 55, 57, 63.1, 64 and 68, the first paragraph of section 73, section 85, restricting the application of the second paragraph to the spouse who has spousal status on the day preceding the death of the member, and section 92;
- Transfers of benefits and assets — the third paragraph of section 98, the fourth paragraph of section 99 and section 103;
- Transfer of benefits between spouses — sections 107 to 110.1;
- Information to members — section 111, section 112, with the exception of paragraph 2 of the first paragraph and the second paragraph, it being understood that the first sentence of the first paragraph applies only to members in the service of the employer affected by the amended provisions, the first and third paragraphs of section 113 and section 115;
- Administration — sections 150 to 154, the second paragraph of section 155, section 156.1, the first paragraph of section 158, section 159 with respect to the delegatee of the financial institution that administers the plan, sections 161, 161.1 and 163 to 165, section 171, sections 174 to 176, paragraphs 2 and 3 of section 177 and sections 178 to 193 ;
- Division and merger — section 197;
- Review — sections 241 to 243;
- Regulations, functions and powers of the Régie — section 244, except subparagraphs 3 to 3.2, 5, 8, 8.5, 12.0.1 and 12.1 of the first paragraph, as well as sections 245 to 263;
- Miscellaneous and transitional provisions — section 264, with the understanding that the second paragraph thereof applies only with respect to the contributions and other sums credited to the locked-in account of the member, as well as sections 282, 285, 312, 319 and 321.

O. C. 657-94, s. 1; O. C. 1151-2002, s. 7; O.C. 436-2004, s. 2.

9. The administrator of the plan shall be an insurer referred to in section 10 of the Act, a bank, a savings and credit union or a trust company, and must be authorized to carry on its activities in Québec or elsewhere in Canada where an agreement referred to in section 249 or section 285 of the Act applies.

O. C. 657-94, s. 1.

10. In addition to the requirements prescribed in subparagraphs 11, 13 and 15 of the second paragraph of section 14 of the Act, such plan shall provide :

(1) that it is incumbent upon the employer to inform employees of their eligibility for the plan and that the employer may decide to which class of employees covered by the plan an employee belongs;

(2) that the employer may stipulate the member contribution;

(3) that the member may determine annually, or if the plan so provides, more frequently, the additional voluntary contribution that he undertakes to make, by giving written notice thereof to the employer, who shall collect such additional voluntary contribution;

(3.1) that the sum of the contributions that may be paid on behalf of a member may not be subject to limits lower than those allowed under the taxation rules (Income Tax Act, Revised Statutes of Canada (1985) ch. 1, 5th suppl., subparagraphs 147.1 (8) and (9));

(4) that, within 60 days after any unpaid contribution becomes due, the financial institution that administers the plan shall, in addition to notifying the Régie as prescribed by section 51 of the Act, notify the retirement information committee referred to in paragraph 18 or, in the absence of such information committee, the member concerned and, where an agreement referred to in paragraph 27 has been entered into, the accredited association that is a party to that agreement;

(5) that, if contributions due are paid after the transfer refund or payment of the balance of the member's accounts, the administrator of the plan shall transfer or pay those contributions as it did for the accounts in which they were to be entered; that contributions due shall bear interest, from the date on which they become due until they are paid to the pension fund; that, for any year or part of a year in which contributions due have not been paid, the applicable interest rate corresponds to the average of the rates of return on personal 5-year term deposits with chartered banks for the 12 months ending in November of the preceding year; those rates are compiled monthly by Statistics Canada and published in the *Bank of Canada Review* under reference number B-14045 in the CANSIM system;

(5.1) that the member is entitled, at any time and upon application, to a refund of all or part of his not locked-in account or to the transfer of all or part of that account to a pension plan of his choice, provided such plan is a plan within the meaning of the third paragraph of section 98 of the Act or to a registered retirement income fund as defined in section 1 of the Taxation Act (R.S.Q., c. I-3) and such refund or transfer shall be made within 60 days following the member's application;

(6) that within 90 days following the sending of the statement required in the event of cessation of active membership, an account of a member who is no longer an active member shall:

(a) where such account is locked-in, be transferred to a pension plan within the meaning of the third paragraph of section 98 of the Act, selected by the member or, failing such selection, by the financial institution;

(b) where such account is not locked-in, either be transferred to a pension plan within the meaning of the third paragraph of section 98 of the Act or to a registered retirement income fund as defined in section 1 of the Taxation Act, selected by the member, or be refunded to the member. Where the

member omits to give instructions as to the payment of his account before the expiry of the 60-day period mentioned above, the financial institution may make such payment in the manner that it deems appropriate;

(7) that the normal retirement age shall be set as the first day of the month that follows the month during which a member reaches 65 years of age or the day of his 65th birthday if that day falls on the first day of the month;

(8) *(strike out)*

(9) that the balance of the member's accounts, with accrued interest to the date of payment, shall, upon the member's death, be paid to his spouse or, failing that, to his successors;

(10) that the member's spouse may, by written notice to the financial institution, waive the right to receive the payment provided for in paragraph 9 and may revoke such waiver by written notice to the financial institution before the death of the member ;

(11) that the member may demand a lump-sum payment of his locked-in account if a physician certifies that his physical or mental disability reduces his life expectancy and that such payment be made within 60 days following the member's application therefor;

(12) that, in the 10 years preceding the normal retirement age, an active member is entitled to transfer all or part of his locked-in account and that the transfer shall be made to a pension plan within the meaning of the third paragraph of section 98 of the Act selected by the member; that such right may be exercised only once in 12-month period;

(13) that the member whose active membership has ceased may demand the refund of his locked-in account where that account is less than 20% of the Maximum Pensionable Earnings under the Québec Pension Plan (R.S.Q., c. R-9) for the year in which he became entitled to such refund and that the refund be made within 90 days following the application of the member therefor;

(14) that a transfer referred to in subparagraphs 5.1, 6 our 12 may, at the discretion of the financial institution and in the absence of contrary stipulations, be made by remitting the investment securities related to the account;

(15) *(strike out)*

(16) *(strike out)*

(17) the name of the financial institution that administers the plan;

(18) that the financial institution that administers the plan shall provide, free of charge, the following documents or information to the employer or to any retirement information committee set up following a decision by a majority of the 50 members or more who work for an employer that is a party to the plan, provided that the information committee has notified the financial institution and the employer that is has been set up :

- (a) a copy of the portion of the plan that sets out the provisions applying to all the employers and a copy of the portion that sets out the dispositions specific to the employer concerned;
 - (a.1) the annual statement and the financial report referred to in section 161 of the Act;
 - (b) upon request, any document relating to the administration of the plan, in particular, the acts of delegation of powers granted by the financial institution that administers the plan, the correspondence conducted between the Régie and that financial institution during the last 60 months, the agreements referred to in paragraph 27 and the written acknowledgements referred to in subparagraph 2 of the third paragraph of section 1.1 of the Regulation respecting supplemental pension plans, except personal information on members or on the other employers that are parties to the plan;
- (19) that the retirement information committee referred to in paragraph 18, or the employer in the absence of such information committee for members bound to that employer, shall make available to members, upon request and free of charge, any document or information exigible from the financial institution that administers the plan;
- (20) that the fiscal year of the plan shall end on 31 December of each year;
- (21) that the operating expenditures of the retirement information committee referred to in subparagraph 18 are not payable by the pension fund;
- (22) that, among the investments offered by the financial institution that administers the plan and subject to the conditions related to those investments at the time at which they may be made, each member shall decide which investments are to be made with his accounts and that those investments shall be made in accordance with the tax rules governing investments of registered retirement savings plans (Income Tax Act, R.S., c. 1 (5th Supp.), section 146, subsection (1), definition of "qualified investment", and with the regulations made under paragraph *d* of that definition;
- (23) that a member's accounts may be invested only as follows :
- (a) with an insurer, according to the terms of a contract guaranteed in whole or in part by the Canadian Life and Health Insurance Compensation Corporation;
 - (b) in deposits insured in whole or in part by the Régie de l'assurance-dépôts du Québec or by a similar body;
 - (c) in units of unincorporated mutual funds or segregated funds;
 - (d) in securities issued or guaranteed by the Gouvernement du Québec, the Government of Canada or the government of a Canadian province;
- (24) that the financial institution that administers the plan shall keep in its books, for each member, a "locked-in" account and a "not locked-in" account;

(25) that, in each member's locked-in account, shall be entered:

- (a) his member contributions, unless the employer stipulates that they be entered in the not locked-in account;
- (b) the contributions made to his benefit by the employer;
- (c) the dividends, refunds and other advantages granted with respect to the account;
- (d) where the financial institution allows their transfer to the plan:
 - (i) the sums transferred from a retirement savings instrument that provides that such sums be converted into a life pension;
 - (ii) the sums transferred from a deferred profit sharing plan as defined in section 1 of the Taxation Act (R.S.Q., c. I-3), into which they were paid by an employer and in respect of which the employer stipulates that they be entered in such account;

(25.1) that, in each member's not locked-in account, shall be entered:

- (a) his member contributions, provided the employer so stipulates;
- (b) his additional voluntary contributions;
- (c) the dividends, refunds and other advantages granted with respect to the account;
- (d) the sums, other than those referred to in subparagraph *d* of paragraph 25, that are transferred with the financial institution's consent;

(25.2) that no sum may be transferred between the locked-in account and not locked-in account of the member;

(26) that the financial institution that administers the plan or the employer may divide or merge the plan;

(27) that any agreement between an employer and an accredited association representing the members of the plan with respect to sharing the powers granted to the employer under subparagraphs 26 and 28, the first paragraph of section 11 and section 11.0.1 of this section shall be an integral part of the plan; the stipulations of such agreement shall be described in the part of the plan that contains the provisions specific to each employer concerned;

(28) that an employer may withdraw from the plan and that the financial institution may withdraw an employer from the plan or terminate the plan ;

(29) that, subject to the third paragraph of section 11.1, no amendment to the plan that cancels refunds or pension benefits, limits eligibility therefor or reduces the amount or value of the members' benefits may become effective before the 30th day following, in the case of an amendment established by a collective agreement or an arbitration award in lieu thereof or rendered compulsory by an order or decree, the

effective date of the agreement, award, order or decree and in all other cases, the date of sending of the notice provided for in section 26 of the Act;

(29.1) that an amendment referred to in subparagraph 29 applies only to service rendered after the date on which it takes effect;

(29.2) that the restrictions provided for in subparagraphs 29 and 29.1 do not apply in the cases referred to in subparagraphs 1 and 2 of the second paragraph of section 20 of the Act;

(30) that the plan becomes effective on either of the dates prescribed by section 13 of the Act or on the date fixed by the financial institution that administers the plan, whichever comes first.

Notwithstanding the second paragraph of section 5 of the Act, the plan may not provide for the payment or refund of a member's locked-in account except in conformity with subparagraphs 9,11 and 13 of the first paragraph.

The financial institution must offer at least investment choices that, in addition to being diversified and having different degrees of risk and different contemplated yields, allow the creation of portfolios generally adapted to the needs of the members.

O. C. 657-94, s. 1; O. C. 1151-2002, s. 8; O.C. 436-2004, s. 3; O. C. 798-2006, s. 2.

11. Each employer shall stipulate in the plan

(1) whether membership in the plan is optional or compulsory;

(2) the conditions for eligibility and membership and the conditions for withdrawal;

(3) the employer contribution that it undertakes to pay or the method used for calculating that contribution;

(3.1) the contributory or non-contributory nature of the plan and, in the case of the former, the member contribution or the method for its calculation;

(3.2) for the members as a whole, the account, either locked-in or not locked-in, in which will be entered, if any, the member contributions, and the account in which will be entered the amounts transferred from a deferred profit sharing plan;

(4) whether the employer or the members will pay for the operating expenditures of the retirement information committee referred to in paragraph 18 of section 10;

(5) whether the employer, the members or the pension fund will pay for the administrative expenses of the plan other than those referred to in paragraph 4.

Unless prevented by an agreement, the employer may also stipulate that he will pay, in addition to the contribution referred to in paragraph 3, an additional contribution for which he shall specify the amount or the calculation method as well as the payment method in a written notice sent to the financial institution and to each of the members on behalf of whom such additional contribution will be paid. Such additional contribution is

deemed to be an employer contribution only for the purposes of the provisions of sections 44 to 53 of the Act that apply to the plan pursuant to section 8 of the Regulation. Moreover, such additional contribution may not be taken into account in determining whether, within the meaning of section 34 of the Act, a plan provides for benefits similar to the benefits of another plan.

O. C. 657-94, s. 1; O. C. 1151-2002, s. 9; O.C. 436-2004, s. 4.

11.0.1 The employer may stipulate that the right of a member, provided for in paragraph 5.1 of section 10, to receive a refund of his not locked-in member contributions or to transfer them is deferred to the end of his active membership. Such stipulation covers service rendered before and after its coming into effect.

The stipulation shall provide that the member may, nevertheless, transfer, in whole or in part, such contributions to a registered retirement savings plan or a lifelong learning plan. The member must declare in writing to the financial institution that he is transferring the contributions for that sole purpose.

Where the employer makes the stipulation after joining the plan, the financial institution that administers the plan shall notify the members 90 days before the coming into force of the stipulation.

The plan shall provide :

(1) that a member may demand a lump-sum payment of the contributions referred to in this section, in accordance with the conditions set out in paragraph 11 of the first paragraph of section 10 ;

(2) that an active member is entitled to transfer such contributions in accordance with the conditions set out in paragraph 12 of the first paragraph of section 10.

O.C. 798-2006, s. 1.

11.1. A simplified pension plan may contain standard provisions and variations thereof that an employer may stipulate with respect to the regular intervals for the collection or the payment of contributions or to one or the other of the matters referred to in section 11.

The employer's stipulations with respect to the matters referred to in the first paragraph, where such stipulations are compatible with the plan's standard provisions or variations thereof that have been registered with the Régie, are exempted from the application of sections 19 and 24 of the Act as well as from the provisions of sections 1.1 and 2.1 of the Regulation respecting supplemental pension plans that relate to the registration of an amendment to a plan.

Stipulations that, pursuant to the second paragraph, are exempted from the application of the provisions of the Act or Regulation referred to in this paragraph take effect on the date indicated in a notice that the financial institution shall send to the members and whose contents and method of sending shall be in conformity with the rules provided for in section 26 of the Act. Except in the case provided for in subparagraph 1 of the second paragraph of section 20 of the Act and where the affected members have given consent, such stipulation, where it has the effect of an amendment

referred to in subparagraph 29 of the first paragraph of section 10 of the Regulation, applies only to service rendered after the effective date indicated in the notice in respect thereof, and such date may not be prior to the 30th day following:

(1) in the case of a stipulation established by a collective agreement or arbitration award in lieu thereof or rendered compulsory by an order or decree, the effective date of the agreement, award, order or decree;

(2) in all other cases, the date of sending of the notice.

O.C. 436-2004, s. 5.

12. An employer that withdraws from a simplified pension plan shall so notify the financial institution in writing and, where applicable, the accredited association bound by the plan to the employer.

O. C. 657-94, s. 1; O. C. 1151-2002, s. 10.

13. The financial institution that administers a simplified pension plan and that terminates it or withdraws an employer who is a party to it shall notify in writing the employers concerned as well as, where relevant, the accredited associations connected with such employers by the plan. It shall likewise, in such cases and in the case where it receives a notice of withdrawal from an employer, so inform the Régie as well as the affected members. The notice sent to each member shall be accompanied with a statement of the member's benefits and indicate that those benefits will be transferred, within 60 days following the sending of the statement, to a pension plan within the meaning of the third paragraph of section 98 of the Act that has been chosen by the member or failing such choice, by the financial institution.

O. C. 657-94, s. 1; O. C. 1151-2002, s. 11; O.C. 436-2004, s. 6.

14. Any amount that must return to a member affected by the termination of the plan shall be remitted to the public curator if the member cannot be found.

O. C. 657-94, s. 1; O. C. 1151-2002, s. 12.

15. After having paid the benefits of the members affected by the withdrawal of an employer or the termination of the plan, the financial institution that administers the plan shall, within 90 days, render an account of that payment to the Régie by filing,

(1) in the case of the withdrawal of an employer, an attestation signed by a person in authority certifying that the wound-up benefits are those that could be claimed by the members affected by that withdrawal and that they have been paid in accordance with the Act; or

(2) in the case of a termination, that attestation and a termination report composed of the annual statement and financial report provided for in section 161 of the Act; that report shall cover the period included between 1 January of the current year on the date of the notice of termination given to members until their benefits are fully paid.

O. C. 657-94, s. 1; O. C. 1151-2002, s. 13.

16. The statement that the financial institution must send to the member in application of section 112 of the Act shall indicate the amount of the additional contribution that the employer paid to the member's benefit during the fiscal year and show the information provided for in paragraphs 10 to 14 of section 57 and in section 59.1 of the Regulation respecting supplemental pension plans so that the member can know the results of the changes during the fiscal year in his locked-in and not locked-in accounts.

O. C. 657-94, s. 1; O. C. 1151-2002, s. 14; O.C. 436-2004, s. 7.

16.1. The financial institution must append to the annual statement that it sends pursuant to section 161 of the Act a list showing the name and date of joining or withdrawal, as the case may be, of each employer who became or ceased to be a party to the plan during the fiscal year covered by the statement.

O.C. 436-2004, s. 7.

16.2. In the event of a plan's merger, the financial institution must provide to each of the members affected by the merger, within 30 days thereof, a statement updating, as at the date of the merger, the information contained in the last annual statement or in any other statement subsequent thereto and covering the same subjects that was sent to the member.

O.C. 436-2004, s. 7.

16.3. The financial institution that administers a simplified pension plan shall keep for each employer party to the plan a register in which shall be entered:

(1) the date on which the employer joined the plan and that on which he withdrew from the plan;

(2) a list of the amendments made to the portion of the plan that contains the provisions specific to the employer;

(3) a copy of the notices sent pursuant to the third paragraph of section 11.1.

O.C. 436-2004, s. 7.

17. For the purposes of the Act and regulations, except paragraph 1 of section 176 of the Act, the obligations of the pension committee or of its members are incumbent upon the financial institution that administers the simplified pension plan. For the purposes of section 16, and subparagraph 1, 6 and 7 of the second paragraph of section 24 of the Act, the employer's obligations are incumbent upon itself.

For the purposes of section 35 of the Act, the pension committee's obligations are incumbent upon the employer.

For the purposes of the second paragraph of section 115 of the Act, the pension committee's obligations are incumbent upon the retirement information committee referred to in paragraph 18 of section 10 or, failing that, upon the employer.

O. C. 657-94, s. 1; O. C. 1151-2002, s. 15.

18. The text of the plan shall be in the form of a single, complete document into which no other external provision may be incorporated. It shall bear the following notation on its cover or title page: "Simplified Pension Plan" and it shall identify separately the provisions applicable to all employers and all the provisions specific to each employer.

O. C. 657-94, s. 1.

19. A pension plan is not validly established where it results from an amendment to a plan already in effect and where the purpose of the amendment is to convert the plan into a simplified pension plan.

O. C. 657-94, s. 1.

DIVISION IV.1

PAYMENT OF THE BENEFITS OF THE ACTIVE MEMBERS UPON CONVERSION OF A PENSION PLAN INTO A SIMPLIFIED PENSION PLAN

O.C. 436-2004, s. 8.

19.1. This division applies only to a pension plan referred to in paragraph 2 or 3 of section 116 of the Act.

O.C. 436-2004, s. 8.

19.2. A pension plan terminated by means of a notice that, in addition to respecting the requirements of section 204 of the Act, stipulates that the plan is terminated in order to be converted into a simplified pension plan established with the financial institution indicated therein is, provided the provisions of section 19.3 of the Regulation are met, exempted from the application of section 236 of the Act with respect to the uninsured benefits of the members who are active members on the date of termination and who join the simplified pension plan.

The sender of the notice provided for in the first paragraph shall, without delay, provide a copy to the Régie.

O.C. 436-2004, s. 8.

19.3. The plan's termination date may not be more than 60 days after the date on which the notice provided for in section 19.2 is sent.

The date on which the employer party to the terminated plan joins the simplified pension plan mentioned in the notice may not be later than the day following the plan's termination date.

O.C. 436-2004, s. 8.

19.4 The uninsured benefits of the members referred to in section 19.2 shall be paid by transferring the value of such benefits to the simplified pension plan established with the financial institution mentioned in the notice provided for in that section.

O.C. 436-2004, s. 8.

DIVISION V**PENSION PLANS DISPENSED FROM
A FINANCIAL REPORT AUDIT**

20. The following pension plans are dispensed from the financial report audit provided for in section 161 of the Act:

- (1) a guaranteed pension plan;
- (2) a simplified pension plan;
- (3) for its first fiscal year, a pension plan having fewer than 50 members and beneficiaries and net assets of a market value of less than \$ 1 000 000.

Also dispensed from such an audit, for any fiscal year subsequent to its first, is a pension plan of the category provided for in subparagraph 3 of the first paragraph unless, at the annual meeting, one third or more of the members and beneficiaries require that such an audit be carried out for the current fiscal year concerned. A pension committee intending to avail itself of such a dispensation shall, in the notice calling the meeting and during the meeting, inform the members and beneficiaries of its intention and of their right to decide otherwise.

O. C. 1466-95, s. 1; O. C. 1151-2002, s. 16.

DIVISION VI**MULTI-EMPLOYER PLANS**

21. A multi-employer pension plan registered before 1 January 1990 which has the characteristics mentioned in section 22 and which is the object of an amendment referred to in the first paragraph of section 23 is exempted, from the registration of said amendment and on the conditions set out in section 24, from the application of the provisions of sections 39 and 127, the second paragraph of section 137, the first and third paragraphs of section 140, section 142, the second paragraph of section 143, sections 144 to 146, section 200, subparagraphs 2 and 3 of section 201, the second and third paragraphs of section 202, subparagraph 1 of section 203, section 204 as to the employer's right to terminate the plan in the absence of an express provision in the plan authorizing such termination, section 216, subparagraph 2 of section 218, sections 220 to 230.8, chapter XIV.1, section 317 and the first paragraph of section 317 of the Act as well as the application of section 52 of the Regulation respecting supplemental pension plans to the extent that the said act makes reference, by the application of section 101 of the Act, to provisions of the Act from which the plan is otherwise already exempted.

O. C. 280-99, s. 1; O. C. 1151-2002, s. 17.

22. The characteristics that a multi-employer plan referred to in section 21 must have are the following:

- (1) the plan is a defined benefit-defined contribution plan;

(2) the plan has, on the date of transmission of the application for registration of the amendment intended to exempt it from the application of the provisions mentioned in the said section, at least seven employers who have 15 or more active members in their service;

(3) according to the provisions of the plan, no employer has the power to amend the plan, directly or indirectly, subject in the latter case, to the consent required under paragraph 3 of section 24 of the Act;

(4) the plan is not governed by any law that is similar to the Supplemental Pension Plans Act and emanates from any legislative authority other than the Parliament of Québec, and only workers referred to in section 1 of the Act may be members of the said plan.

O. C. 280-99, s. 1.

23. A plan amendment intended to exempt the plan from the application of the provisions mentioned in section 21 must meet the following conditions:

(1) the mention “Multi-employer Plan Exempted from the Application of Certain Provisions of the Supplemental Pension Plans Act” appears on the title page or the cover of the plan text;

(2) anyone who has the power to amend the plan and, unless the plan, as it stood on 15 November 1988, has no provision allocating, in whole or in part, surplus assets to one or more of the employers in the event of the plan’s termination, all the employers who are parties to the plan consent in writing to the proposed exemption and a copy of their consent accompanies the application for registration of the amendment;

(3) the members of the plan were notified in writing of the effects of the proposed exemption, notably the effects listed in the following subparagraphs, and a copy of the notice is provided to the Régie and the employers who are parties to the plan:

- (a) that the employer’s obligation to fund the plan is limited to payment of the employer contribution provided for by the plan;
- (b) that the exemption from the application of the provisions of section 39, the first paragraph of section 140 and sections 146 and 228 of the Act involve a higher risk that the members’ benefits may be reduced in the event of insufficient employer contributions, withdrawal of an employer or termination of the plan;
- (c) *(strike out)*
- (d) that, in the event of plan termination, the surplus assets in their entirety will be allocated to the members and beneficiaries;

(4) an actuarial valuation of the plan as at the end of the last fiscal year preceding the transmission of the application for registration of the amendment shows that the degree of solvency of the plan as at that date, calculated in accordance with chapter X of the Act, the following rules and those set by paragraphs 4 to 7 and 10 of

section 24 and, where the said degree is not a whole number, rounded down to the next whole number, is equal to or greater than 120:

- (a) the value of the additional voluntary contributions and the benefits arising from provisions that are similar to those of a defined contribution plan must be subtracted from the assets and liabilities;
 - (b) any provision of the plan, except those arising from the application of section 60 of the Act, that would require that the value of a benefit be at least equal to a given percentage of the member contributions may not be taken into account;
- (5) the pension committee certifies that all the information, notices and documents required under the Act and that are related to the plan in respect of the period prior to the date of registration of the amendment for plan exemption were sent to the Régie and that every amendment to the plan made prior to that date and concerning that period was the object of an application for registration;
- (6) the Régie notified the pension committee that no question related to the plan is pending before it;

Paragraphs 1 and 2 of section 19 and section 30 of the Act do not apply to the amendment referred to in the first paragraph. Moreover, notwithstanding the said paragraphs of section 19, no amendment to the plan for which the application for registration is presented after the date of registration of the amendment referred to in the first paragraph may come into force on a date prior to the said date.

O. C. 280-99, s. 1; O. C. 1151-2002, s. 18.

24. The conditions for the exemption of the plan are the following:

- (1) *(strike out)*
- (2) the plan must be the object of an actuarial valuation in accordance with chapter X of the Act, in addition to the dates referred to in section 118 of the Act, as at the date of the end of any fiscal year following the date of an actuarial valuation that shows a degree of solvency for the plan that is less than 100 % and;
- (3) the pension committee shall send to the Régie, in the three months following the ending date of each fiscal year for which the plan is not the object of an actuarial valuation of the entire plan, an actuary's certificate that the degree of solvency of the plan is equal to or greater than 100 % as at that date; otherwise, the plan must be the object of an actuarial valuation as at the ending date of the fiscal year concerned;
- (4) notwithstanding the third paragraph of section 129 of the Act, the amortization period for any unfunded actuarial liability may not exceed six years;
- (5) the plan may not be partially solvent unless the lack of assets required for solvency is offset by the value determined as at the date of the actuarial valuation, pursuant to the third paragraph of section 137 of the Act:
 - (a) of the amounts provided for amortizing, during the three years following that date, any unfunded actuarial liability;

- (b) of the amounts that remain to be paid to amortize a sum determined by applying subparagraph c in the course of a previous actuarial valuation;
- (c) of the difference between the assets, augmented by the amounts referred to in subparagraphs a and b, and the liabilities;

(6) any amount determined by applying subparagraph c of paragraph 5 shall, in the three years following the date of the actuarial valuation, be paid into the pension fund and be used, proportionally and in accordance with section 133 of the Act, with the exception of paragraph 1 of the first paragraph, to diminish the amortization amounts which, three years after the date of the actuarial valuation, remain to be paid for the unfunded actuarial liabilities; the provisions of the second paragraph of section 140 of the Act applying to any sum thus determined;

(7) for the determination of the solvency of the plan in accordance with section 138 of the Act, the liabilities must, for each member or beneficiary, be at least equal to the liabilities that would result from the use of the following assumptions:

- (a) in the case of a non-indexed pension: an interest rate of 6 %. However, for the first 15 years following the valuation date the interest rate shall be determined on the basis of a rate corresponding to the average, for the months included in the period of 36 months preceding the valuation date, of the nominal, end-of-month interest rates on negotiable bonds issued by the Government of Canada, the term of which is more than 10 years, as compiled by Statistics Canada and published by the Bank of Canada under reference numbers B14013, B113867 or B114022, depending on the frequency of publication, by successively applying to the said interest rate the following adjustments:
 - i. a reduction or increase of 0,25 % depending respectively on whether payment of the pension has or has not begun;
 - ii. conversion of the reduced or increased rate, which is based on interest compounded semi-annually, to an annual effective interest rate;
 - iii. rounding of the effective interest rate to the nearest multiple of 0,25 %;
- (b) in the case of an indexed pension, the interest assumption provided for in subparagraph a, accompanied with an assumption for increasing the indexation factor in order to render coherent these assumptions as a whole, both for the first 15 years following the valuation date and thereafter, subject to measures that the Régie may impose in applying section 248 of the Act;

(8) where the report on an actuarial valuation of the plan shows that the employer contribution provided for in the plan is less than the current service contribution reduced by the member contributions and increased by the amount referred to in paragraph 6 and the amortization amounts determined according to section 131 of the Act, the pension committee shall present to the Régie, during the four months following the expiry of the period provided for in section 119 of the Act or paragraph 2 for sending the said report to the Régie, an application for registration of an amendment to the plan that concerns notably contributions, pension benefits and refunds and of which the effect is to ensure that the employer contribution becomes sufficient;

(9) where the requirements of paragraph 8 are not met, the employers who are parties to the plan shall be deemed to have failed to pay into the pension fund their employer contributions and the Régie may then terminate the plan by applying section 205 of the Act;

(10) in addition to the requirements of Division III of chapter II of section 130 of the Act, an amendment that increases the value of the commitments arising from the plan may not be made to the plan unless, taking into account the said amendment, the plan is solvent and unless either the report on the actuarial valuation of the entire plan so indicates or such fact is certified by an actuary in a report that defines the assumptions used to that end;

(11) the plan may not be the object of division or merger unless it ceases to be exempted from the application of the provisions referred to in section 21;

(12) unless the plan provides otherwise, only the pension committee may terminate the plan;

(13) the plan's total surplus assets are, in the event of termination and notwithstanding any provision to the contrary, allocated by right to the members and beneficiaries, including those who conserve such status pursuant to one or the other of sections 240.2, 308.3 or 310.1 of the Act, in proportion to the value of their benefits.

(14) *(strike out)*

(15) any amount recovered after the date of the plan's termination as contributions due and unpaid on that date shall be used to pay the benefits of the members and beneficiaries including, to the extent that the amount recovered constitutes surplus assets, those, if any, who conserve their status pursuant to one or the other of sections 240.2, 308.3 or 310.1 of the Act, proportionally to the value of the benefits of the said members and beneficiaries.

O. C. 280-99, s. 1; O. C. 1151-2002, s. 19.

25. When a multi-employer plan no longer satisfies one of the characteristics referred to in section 22 or the condition set in paragraph 1 of the first paragraph of section 23, it ceases to be exempt from the application of the provisions referred to in section 21.

O. C. 280-99, s. 1.

DIVISION VII

FLEXIBLE RETIREMENT PLANS

26. A defined benefit or defined benefit-defined contribution pension plan that allows a member to pay, without a corresponding payment by the employer, a sum to be converted later into an ancillary benefit and which meets the requirements set forth in Bulletin 96-3, dated 25 November 1996, entitled "Newsletter" and published by Revenue Canada Taxation, Registered Plans Division, is said to be a "flexible pension plan". The sum thus paid and the benefit arising therefrom are, for the purposes of this division,

respectively, an “optional ancillary contribution” and an “optional ancillary benefit” provided they are within the meaning given to the terms similarly named in the said Bulletin.

O. C. 1290-99, s. 1.

27. For the purposes of this division, the provisions of the Act that concern additional voluntary contribution, adapted as required, apply to optional ancillary contributions.

O. C. 1290-99, s. 1.

28. A flexible pension plan that meets the conditions of this section is, with respect to optional ancillary contributions, exempted from the application of the following provisions of the Act:

(1) section 47, so that, where a member or beneficiary has become entitled to a benefit under the pension plan, the optional ancillary contributions continue, subject to the provisions of section 45.1 of the Act, to bear interest at the rate referred to in section 44 of the Act until the said contributions are converted into optional ancillary benefits;

(2) section 83, provided that the member is entitled, from the date on which a pension begins to be paid to him under the plan, to the formation of optional ancillary benefits, whose value shall be determined in accordance with section 33 of the Regulation, that arise from the said contributions credited to his account;

(3) paragraph 1 of the second paragraph of section 86 and subparagraph 1 of section 98 so that for the application of the other provisions of the said sections, the optional ancillary contributions are deemed to have been converted, to the highest value of the options available under the plan, into optional ancillary benefits on the day preceding, as the case may be, the death of the member, the date on which he ceased to be an active member or the date of the transfer application;

(4) section 264, so that the said contributions are non-transferable and non-seizable to the same extent as member contributions.

O. C. 1290-99, s. 1; O. C. 1151-2002, s. 20.

29. In addition to the requirements prescribed in section 14 of the Act, the text of a flexible pension plan shall provide as follows:

(1) the right of members to pay optional ancillary contributions to the plan as well as the conditions and time periods applicable to such right;

(2) the nature of the optional ancillary benefits that the member may choose, the methods and time periods applicable to such choice as well as the method for calculating such benefits and the conditions applicable to their formation;

(3) the rights of the member arising from the optional ancillary contributions that he has paid are limited to the value of the optional ancillary benefits which, under the provisions of the plan, are recognized for him.

The plan text shall also contain, on its title page or cover or within the introductory provisions of the plan, the following mention: "Flexible pension plan exempted from the application of certain provisions of the Supplemental Pension Plans Act".

O. C. 1290-99, s. 1.

30. For the purposes of this division, section 87 of the Act shall be applied in such a way that the optional ancillary contributions not yet converted into optional ancillary benefits are deemed to have been converted on the day preceding the death of the member. This presumption shall, moreover, have the effect of resulting in the greatest increase in the member's pension based on the options available under the plan. Furthermore, the pension payable to the member's spouse shall be determined by supposing that the member was, before his death, receiving the pension resulting from the said conversion.

O. C. 1290-99, s. 1.

31. Subparagraph 2 of section 19 of the Act may not be applied to an amendment intended to exempt a plan from the application of the provisions of the Act referred to in section 28. Moreover, section 30 of the Act may not be applied to the registration of such amendment nor to the registration of a plan referred to in this division.

O. C. 1290-99, s. 1.

32. Any employer who is a party to a flexible pension plan shall undertake, in writing, to pay, in a lump sum, to each member who is his employee, a sum equal to the excess optional ancillary contributions that may not be refunded directly to the member from the pension fund, insofar as that the provisions of the plan no longer allow the formation of benefits with all or part of the said contributions. The excess optional ancillary contributions are equal to the difference, on the date of the conversion of the optional ancillary contributions into optional ancillary benefits, between the value of the said contributions and the value of the benefits arising from an option of the member or the application of paragraph 3 of section 28 or section 30. The value of the optional ancillary benefits shall be calculated by using the assumptions referred to in section 33.

The employer's undertaking referred to in the first paragraph extends to the member's spouse insofar as, where excess optional ancillary contributions are included in the member's benefits that may be partitioned or where there is a transfer under section 107 or 110 of the Act, the employer shall pay to the spouse, in completion of the sum owing to the spouse following a partition or transfer, a portion of those contributions pro rata to the value of the benefits allocated to the spouse with respect to the total value of the benefits that may be partitioned or transferred. In such case, the sum paid by the employer to the said spouse is determined in the manner provided for in the first paragraph, adapted as required.

The undertaking referred to in the preceding paragraphs shall be sent to the pension committee, which shall attach a copy thereof to the application submitted to the Régie, in accordance with section 24 of the Act, for the registration of a plan referred to in this section or an amendment intended to exempt a plan from the application of the provisions of the Act referred to in section 28. A copy of the undertaking as well as a notice mentioning the time limit provided for in subparagraph 3 of the first paragraph of section 29 and describing the risks related to the payment of optional ancillary

contributions, particularly those resulting from the date on which retirement was taken and the member's characteristics on that date as well as the interest rate used when the conversion or the transfer of the benefits took place, shall also be attached to the documents sent to the members and to the employees eligible for membership in accordance with section 111 of the Act. The said undertaking shall also mention that in the event of the member's death, payment shall be made to his spouse, or in the absence of a spouse, to his successors. For the application of this section, the spouse of a member is the person who meets the conditions provided for in section 85 of the Act.

Subject to section 45.1 of the Act, the excess optional ancillary contributions shall bear interest, between the dates of their determination and their payment, at the rate applicable to additional voluntary contributions in accordance with section 44 of the Act. The member may request payment of the sum corresponding to the excess optional ancillary contributions from the date of their determination. Once the employer has made the payment required under this section, he notifies the pension committee in writing thereof. The balance of the contributions then becomes nil.

O. C. 1290-99, s. 1; O. C. 1151-2002, s. 21; O.C. 436-2004, s. 9.

33. The value of the optional ancillary benefits shall be calculated by using assumptions and methods similar to those adopted by the Council of the Canadian Institute of Actuaries on 13 July 1993, which are described in part D of section 2 and in section 3 of the Institute's standard of practice concerning recommendations for the calculation of transfer values for registered pension plans. With respect to the demographic assumptions, a sex-specific mortality table shall be used.

The plan may however provide, in a case where the conversion is made otherwise than in applying paragraph 3 of section 28, that the value referred to in the first paragraph is calculated by using the same assumptions but replacing, in the standard of practice, the reference to the second calendar month preceding the calculation date by a reference to any average of the rates for the period extending from the second to the twenty-fifth month preceding that date.

O. C. 1290-99, s. 1; O. C. 1151-2002, s. 22.

33.1. The summary of the pension plan provided for in section 111 of the Act shall contain, in addition to the information provided for in that section or required by the Regulation respecting supplemental pension plans, a description of each of the subjects mentioned in the first paragraph of section 29 of the Regulation, with the exception of the calculation method and the conditions applicable to the formation of the benefits that the member may choose.

O. C. 1151-2002, s. 23.

33.2. For the purposes of the statements referred to in sections 35 to 36, the optional ancillary contributions are not considered to be additional voluntary contributions.

O. C. 1151-2002, s. 23.

34. *(repealed)*

O. C. 1290-99, s. 1; O. C. 1151-2002, s. 24.

35. The first part of the annual statement referred to in section 112 of the Act and sent to an active member who has already made optional ancillary contributions shall contain, in addition to the information required by the Regulation respecting supplemental pension plans, the following information:

(1) the optional ancillary contributions recorded separately to the account of the member in the course of the fiscal year as well as the accumulated total, from his joining the plan, of the said contributions with interest at the end of the said fiscal year;

(2) where the member has already exercised options as to optional ancillary benefits, the nature of the benefits chosen;

(3) where the circumstances warrant and at least once every three years, the excess optional ancillary contributions at the ending date of the fiscal year, determined taking into account the options exercised with respect to the pension benefits referred to in paragraph (2) and, where the member did not exercise any option with respect to optional ancillary benefits, by supposing that the member ceased to be an active member, that he exercised his transfer right on that date and that the optional ancillary contributions were converted at the optimum value of the options available under the plan.

O. C. 1290-99, s. 1; O. C. 1151-2002, s. 25; O.C. 436-2004, s. 10.

35.1. The first part of the annual statement provided for in section 112 of the Act, which is sent to a non-active member who has already made optional ancillary contributions, shall contain, in addition to the information required by the Regulation respecting supplemental pension plans with respect to the statement sent to a non-active member, the following information :

(1) where a member has exercised options related to the optional ancillary benefits, the nature of the benefits chosen ;

(2) where a member is entitled to a deferred pension, the total of the optional ancillary benefits entered separately to the member's account, with interest accrued to the end of the fiscal year ;

(3) where the circumstances warrant and at least once every three years, the optional ancillary contributions at the ending date of the fiscal year, determined by taking into account the options exercised with respect to the benefits referred to in paragraph 1 and, where the member did not exercise any option related to the optional ancillary contributions, by supposing that such contributions were converted at the optimal value of the options available under the plan.

O. C. 1151-2002, s. 26.

35.2. The first part of the annual statement provided for in section 112 of the Act, which is sent to a beneficiary whose benefits are derived from those of a member who has made optional ancillary contributions, must contain, in addition to the information required by the Regulation respecting supplemental pension plans with respect to the statement sent to a beneficiary, the information provided for in paragraph 3 of section 35.1.

O. C. 1151-2002, s. 26.

36. The statement provided for in the first paragraph of section 113 of the Act that is sent to a member who has already made optional ancillary contributions shall contain, in addition to the information required under the Regulation respecting supplemental pensions plans, the following information :

(1) the information provided for in paragraph 1 and 2 of section 35 that is related to the period from the end of the fiscal year covered by the last statement sent to the affected member to the date on which he ceased to be an active member;

(2) the excess optional ancillary contributions, if any, at the date on which a member ceases to be an active member, determined by taking into account the options exercised by him with respect to the optional ancillary contributions, by supposing that he exercised his transfer right at the date on which he ceased to be an active member and that such contributions were converted at the optimal value of the options available under the plan, with a mention that a sum equal to the said excess optional ancillary contributions must be paid by the employer pursuant to the written undertaking provided for in section 32.

O. C. 1290-99, s. 1; O. C. 1151-2002, s. 27.

37. For the purposes of section 36 of the Regulation respecting supplemental pension plans, a member's aggregate benefits shall include excess optional ancillary contributions accrued during the period of a member's membership, such benefits to be treated as capital benefits, reduced by any sum paid by the employer pursuant to the second paragraph of section 32 and determined by supposing that the member exercised his transfer right at the end of that period and that the contributions were converted at the optimal value of the available options under the plan are included in the aggregate benefits of a member.

O. C. 1290-99, s. 1; O. C. 1151-2002, s. 28.

38. A flexible pension plan may provide that the member contributions made by a member prior to the date of registration of the amendment referred to in section 31 are deemed to be optional ancillary contributions insofar as such contributions were made for the purpose of constituting optional ancillary contributions and the member consented in writing to his contributions being so deemed. Such an amendment shall also be subject to the Régie's authorization, as required under section 20 of the Act."

O. C. 1290-99, s. 1.

DIVISION VIII**CONNECTED PENSION PLANS**

39. This division applies only to connected pension plans, that is, pension plans to which the same employer is party and which contain the stipulation provided for in section 41.

A defined contribution plan may be considered to be a connected pension plan only where the employer party to it is also party to a defined benefit or defined benefit-defined contribution plan that contains the stipulation provided for in section 41.

O. C. 1151-2002, s. 29.

40. In this division, “period of continuous membership” means the period included between the date on which a member joins a connected pension plan to which the employer is party, unless such membership immediately follows the member’s cessation of active membership in another connected plan to which the same employer is party, provided the member does not immediately join another, similar plan. The member’s period of continuous membership ends, however, when he changes employer, except in the event of a substitution authorized by the Régie.

O. C. 1151-2002, s. 29.

41. A connected pension plan shall clearly state, under an appropriate heading, that a member is entitled, at the date on which his period of continuous membership ends, to the pension benefit to which he would have been entitled if his active membership had ended at that date, determined in accordance with the following rules :

(1) also taken into consideration for the determination of a member’s entitlement to pension benefits and ancillary benefits provided for under the plan is recognized service or the period of active membership determined under the terms of any other connected pension plan that the member joined during his period of continuous membership ;

(2) the member shall benefit from amendments to the plan introduced between the date on which his active membership ended and the date on which his continuous membership ended that increase pension benefits or ancillary benefits offered to active members belonging to the category of workers to which he belonged immediately prior to the first of those dates ;

(3) where a pension plan provides that the normal pension is determined according to the progression of a member’s remuneration up to the end of his active membership, the pension benefit to which the member is entitled at the date on which his period of continuous membership ends is determined according to the progress of his remuneration up to that date.

The plan shall also state under that same heading the name of any pension plan to which it is connected.

O. C. 1151-2002, s. 29.

42. The following provisions of the Act apply to a connected pension plan, subject to the following changes :

(1) section 60, by adding the words “on the date on which his period of continuous membership ends” after the word “benefit”, in the first paragraph and replacing the words “where the member dies before becoming entitled to a pension benefit” with the words “where the member’s death ends his period of continuous membership”, in paragraph 2 of the first paragraph ;

(2) section 60.1, by replacing the words “who ceases to be an active member” with the words “whose period of active membership ends”, in the first paragraph, the words “the date the member ceases to be an active member” with the words “the date the member’s period of continuous membership ends”, in the first sentence of the second paragraph, the words “the month the member ceases to be an active member” with the words “the month the member’s period of continuous membership ends”, in the second sentence of the first paragraph and by replacing the third paragraph with the following paragraph : Where the member’s death ends his period of continuous membership, the value of the additional pension benefit shall be determined by supposing that the said period ended on the day of death for a reason other than death.

(3) section 61, by replacing the word “vesting” with the words “the period of the member’s continuous membership ends” ;

(4) section 66, by replacing the words “who ceases to be an active member” with the words “whose period of continuous membership ends”, and the words “in which the member ceases to be an active member” and “the date on which the member ceased to be an active member” with the words “ the date on which his period of continuous membership ended” ;

(5) section 66.1, by replacing the words “who has ceased to be an active member and whose period of continuous employment has” with the words “whose period of continuous membership and period of continuous employment have” ;

(6) section 67, by replacing the words “who ceases to be an active member” with the words “whose period of continuous membership has ended” ;

(7) the second paragraph of section 71, by adding, after the words “continuous employment ,” the words “provided his period of continuous membership has ended” ;

(8) section 86, by replacing paragraphs 1 and 2 of the first paragraph with the following paragraphs :

“(1) where the members death is subsequent to the date his period of continuous membership ends, to the value of any pension to which he was entitled prior to his death ;

(2) where the member’s death ends his period of continuous membership, to the value of the deferred pension to which he would have been entitled if his period of continuous membership had ended on the day of death for a reason other than death.”.

(9) paragraph 2 of the second paragraph of section 99, by replacing the words “the member ceased to be an active member” by the words “the member’s period of continuous membership has ended” ;

(10) paragraph 3 of the second paragraph of section 99, by replacing the words “who ceased to be an active member,” with the words “whose period of continuous membership has ended” ;

(11) section 102, by replacing the words “who ceases to be an active member” with the words “whose period of continuous membership has ends” ;

(12) section 113, by replacing the words “that a member ceased to be an active member,” with the words “that a member’s period of continuous membership has ended,”.

O. C. 1151-2002, s. 29.

43. A member of a connected pension plan who, before his period of continuous membership ends, is affected by the withdrawal of an employer party to the plan or by termination of the plan is entitled to the pension benefit to which he would have been entitled if his period of continuous membership had ended on the date of that withdrawal or termination.

O. C. 1151-2002, s. 29.

44. With respect to a member of a connected pension plan, sections 15.0.2 and 15.0.3 of the Regulation respecting supplemental pension plans shall be applied by taking into account the date on which the member’s period of continuous employment ends, instead of the date on which he ceases to be an active member.

O. C. 1151-2002, s. 29.

45. In applying sections 36 and 37 of the Regulation respecting supplemental pension plans, the aggregate benefits of a member of a connected pension plan correspond to the benefits accrued to him during his period of continuous membership and are determined, if that period has not ended, as the case may be, at the date of the introduction of proceedings or at the date on which the conjugal relationship ended, by supposing that it ended on such date.

O. C. 1151-2002, s. 29.

46. The annual statement provided for in section 112 of the Act, which is sent to a member whose active membership in a connected pension plan has ceased but whose period of continuous membership has not ended shall contain all the information that the statement sent to an active member must contain, provided, where the statement must indicate the value of the member’s benefits, the value indicated shall be the value that the member could have transferred at the end of the last fiscal year if his period of continuous membership had ended on that date.

From the end of the member’s period of continuous membership, the first part of the annual statement that is sent to him shall be in conformity with section 59 of the Regulation respecting supplemental pension plans.

O. C. 1151-2002, s. 29.

47. The statement referred to in the first paragraph of section 113 of the Act, which the pension committee must provide when it is informed that a member’s period of

continuous membership has ended shall contain the information provided for in section 58 of the Regulation respecting supplemental pension plans and, where the circumstances warrant, in section 36 of this Regulation, it being understood that for the application of the said provisions, the date to be taken into account shall be the date on which the member's period of continuous membership ended, instead of the date on which he ceased to be an active member.

O. C. 1151-2002, s. 29.

OTHER REGULATORY PROVISIONS

Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act (O. C. 1160-90)

Supplemental Pension Plans Act
(R. S. Q., c. R-15.1, s. 2, 2nd par.)

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

This regulation was published in the Gazette officielle du Québec on 15 August 1990 and came into force on 30 August 1990.

Regulation to amend the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act (O. C. 1893-93)

Supplemental Pension Plans Act
(R. S. Q., c. R-15.1, s. 2, 2nd par.)

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

This regulation was published in the Gazette officielle du Québec on 29 December 1993 and came into force on 13 January 1994.

Regulation to amend the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act (O. C. 657-94)

Supplemental Pension Plans Act
(R. S. Q., c. R-15.1, s. 2, 2nd par.)

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

This regulation was published in the Gazette officielle du Québec on 18 May 1994 and came into force on 2 June 1994.

Regulation to amend the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act (O. C. 1466-95)

Supplemental Pension Plans Act
(R. S. Q., c. R-15.1, s. 2, 2nd par.)

2. The financial report audit provided for in section 161 of the Act does not apply, for any fiscal year ended before 31 December 1996, to a pension plan having fewer than 50 members and net assets of a market value of less than \$ 1 000 000.
3. This Regulation comes into force on 31 December 1995.

Regulation to amend the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act (O. C. 280-99)

Supplemental Pension Plans Act
(R. S. Q., c. R-15.1, s. 2, 2nd para.; 1993, c. 45, s. 1)

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

This regulation was published in the Gazette officielle du Québec on 7 April 1999 and came into force on 22 April 1999.

Regulation to amend the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act (O. C. 1290-99)

Supplemental Pension Plans Act
(R. S. Q., c. R-15.1, s. 2, 2^d para.)

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

This regulation was published in the Gazette officielle du Québec on 1 December 1999 and came into force on 16 December 1999.

Regulation to amend the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act (O. C. 1151-2002)

Supplemental Pension Plans Act
(R. S. Q., c. R-15.1, s. 2)

30. Whoever, on the day preceding the day on which this Regulation comes into force, administers a pension plan pursuant to section 1 of the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act as it read prior to the coming into force of this Regulation, may, even where

such plan has more than 25 members and beneficiaries, continue to administer the plan for a period ending, at the latest, 180 days after the date of the coming into force of this Regulation.

31. This Regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*, except for sections 25 to 27, for the second paragraph of section 46 and for the words “and, where the circumstances warrant, in section 36 of this Regulation” in section 47 introduced by section 29, which come into force on 31 December 2002.

This regulation was published in the Gazette officielle du Québec on 9 October 2002 and came into force on 24 October 2002.

Regulation to amend the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act (O. C. 436-2004)

Supplemental Pension Plans Act
(R. S. Q., c. R-15.1, s. 2)

11. The amendments required in order for a simplified pension plan in force on the date of the coming into force of this Regulation to be brought into conformity with the provisions amended by this Regulation shall be filed with the Régie for registration or, where such filing is not required, made the object of the notice provided for in the third paragraph of section 11.1 of the Regulation as introduced by section 5 of this Regulation, within 12 months following the date mentioned above. Such amendments must take effect no later than the date of expiry of the time herein allotted.

Nevertheless, where a plan covers workers 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 the date of the coming into force of this Regulation, the amendments concerning the specific stipulations of an employer bound by such agreement, award, order or decree shall be filed with the Régie for registration or, where such filing is not required, made the object of the notice provided for in the third paragraph of section 11 of the Regulation as introduced by section 5 of this Regulation, 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 a replacement order or decree. The amendments must take effect no later than the date of expiry of the agreement or the award, or the date of expiry, extension or renewal of the order or decree.

12. Any contrary provision notwithstanding, the following shall be entered in the member's not locked-in account:

1° the total assets accumulated in the member's account prior to the creation of his not locked-in account;

2° the sums and benefits paid or transferred in order to be entered in the member's account before the financial institution that administers the plan was informed of the effective date of the plan provisions requiring such sums and benefits to be entered in the member's not locked-in account.

13. This regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec* except for section 7, to the extent that it introduces section 16.1, which comes into force on 31 December 2004.

This regulation was published in the Gazette officielle du Québec on 19 May 2004 and came into force on 3 June 2004.

Regulation to amend the Regulation respecting the exemption of certain categories of pension plans from the application of provisions of the Supplemental Pension Plans Act (O. C. 798-2006)

Supplemental Pension Plans Act
(R. S. Q., c. R-15.1, s. 2, 2^d par.)

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

This regulation was published in the Gazette officielle du Québec on 6 September 2006 and came into force on 21 September 2006.