

**Regulation respecting
arbitration relating to the surplus assets of
supplemental pension plans
(R-15.1, r.0.01)
and related provisions**

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Régie des rentes du Québec

**Regulation respecting arbitration
relating to the surplus assets of supplemental pension plans**

Regulation respecting arbitration relating to the surplus assets of supplemental pension plans [R-15.1, r. 0.01]

O. C. 1894-93, 15 December 1993, G. O. 2 (1993), 7147
(came into force on 13 January 1994)

O. C. 944-2002, 21 August 2002, G. O. 2 (2002), 4633
(came into force on 19 September 2002)

Regulation respecting arbitration relating to the surplus assets of supplemental pension plans
[R-15.1, r. 0.01]

Supplemental Pension Plans Act

(R.S.Q., c. R-15.1, ss. 243.4 to 243.8, 243.18 and 243.19; 1992, c. 60, s. 37)

1. An application for arbitration shall be made in writing and shall give the reasons on which it is based.

O. C. 1894-93, s. 1.

1.1. Unless it concerns a plan referred to in section 1.3, the pension committee shall, within 30 days following the selection of the arbitration body in accordance with section 243.7 of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1), send it a notice giving

- (1) the object of the application for arbitration ;
- (2) the names and addresses of the designated arbitrator or arbitrators or, where applicable, the absence of agreement on the selection of the arbitrator or arbitrators;
- (3) the surplus assets determined on termination of the plan as well as, in the case of a plan referred to in section 230.0.1 of the Act, the surplus assets determined in respect of each employer ; and

- (4) the amount in dispute.

The pension committee shall attach to that notice

- (1) a true copy of the pension plan ;
- (2) a true copy of any document ancillary to the plan ;
- (3) a true copy of the report on the latest valuation of the plan and, if any, more recent reports made under section 130 of the Act ;
- (4) a true copy of the termination report referred to in section 207.2 of the Act ;
- (5) if the application is asking for a ruling on a problem arising from the interpretation or application of an agreement or declaration referred to in section 230.1 of the Act, a copy of the agreement or declaration involved ; and
- (6) a provision for costs, established in accordance with Schedule 1.

As soon as it has been informed of the selection of the arbitrator or arbitrators or as soon as it has designated them, the arbitration body shall publish in a daily newspaper circulated in the region of Québec in which the greatest number of members who were active on the date of termination of the pension plan reside, a notice containing the names of the arbitrator or arbitrators selected to rule on the arbitration application for the allocation of the surplus assets of the terminated plan.

The arbitration body is relieved from that publication requirement if it personally notified each member, beneficiary and employer likely to claim rights under the plan or the Act after having obtained their names and addresses from the pension committee and the certification from the committee that the list is complete.

O. C. 944-2002, s. 1.

1.2. The amount in dispute is the part of surplus assets, determined on termination of the plan, which is the object of the application for arbitration. In the case of an application asking for a ruling on a problem arising from the interpretation or application of an agreement or declaration referred to in section 230.1 of the Act, the amount in dispute is the part of that surplus dealt with in the agreement or declaration.

O. C. 944-2002, s. 1.

1.3. In the case of a plan to which, according to section 311.5 of the Act, the provisions of sections 243.3, 243.6 and 243.7 of the Supplemental Pension Plan Act as they read before 1 January 2001, continue to apply, sections 2 to 5 shall apply for the selection of representatives and of the arbitration body.

O. C. 944-2002, s. 1.

2. The convening of a meeting of members and beneficiaries to select a representative, provided for in the first paragraph of section 243.6 of the Act, as it read before 1 January 2001, shall be carried out by sending a notice indicating the date, time and place of the meeting. The notice shall state the existence of an application for arbitration relating to the apportionment of the surplus assets determined at the time of the total termination of the plan. The notice shall also state that the purpose of the meeting is to select a natural person to represent the members and beneficiaries in the organization of the arbitration process provided for in section 243.7 of the Act, as it read before 1 January 2001. The notice shall be sent, between the fifty-first and the thirtieth day preceding the meeting, to every person known to have rights under the plan or the Act.

The convening of a meeting of employers to select the employer representative, provided for in the second paragraph of section 243.6 of the Act, as it read before 1 January 2001 shall be carried out in the same manner.

No later than the dates on which the notices provided for in the first paragraph are sent, a notice containing the same text as those notices shall be published in a newspaper distributed in the region of Québec in which the greatest number of members who were active on the date of termination of the pension plan reside. The notice shall invite every person who has not personally received the notice of meeting and who believes that he has rights under the plan or the Act to state his claim before the pension committee prior to the twentieth day preceding the meeting. The pension committee shall, prior to the tenth day preceding the meeting, inform any person who claims to have such rights whether he may validly appear at the meeting.

O. C. 1894-93, s. 2; O. C. 944-2002, s. 2.

3. The quorum for the meeting referred to in section 2 shall consist of the number of persons present who are authorized to attend. Deliberations at the meeting remain valid

if there is a reduction in attendance, unless the persons present request an adjournment.

A person may be represented at a meeting if he gives a written mandate to that effect.

The pension committee shall ensure that the meeting was convened in the prescribed manner and shall check that the persons present or represented at the meeting appear to have rights under the plan or the Act.

Decisions at the meeting shall be made by majority vote of the persons in attendance.

Voting shall be held by secret ballot.

O. C. 1894-93, s. 3; O. C. 944-2002, s. 3.

4. Within 30 days following the date of publication of the notice provided for in the third paragraph of section 2, an employer who is the only employer that is a party to the pension plan shall inform the pension committee of the name of the natural person who has agreed to represent him.

O. C. 1894-93, s. 4.

5. Within 10 days following the designation of the last representative appointed pursuant to section 243.6 of the Act, as it read before 1 January 2001 the representatives shall select the arbitration body to be responsible for organizing the arbitration. Should there be disagreement over the selection of the arbitration body, the pension committee shall immediately inform the Minister thereof.

Upon the expiry of that period or, where the representatives failed to reach an agreement, within 10 days after being informed by the Minister of the identity of the arbitration body designated by latter, the pension committee shall send the arbitration body a notice indicating, in addition to the particulars required under subparagraphs 1, 3 and 4 of the first paragraph of section 1.1, the names and addresses of the representatives.

The pension committee shall attach to that notice the documents and a provision for costs referred to in second paragraph of section 1.1.

Where the arbitration body receives that notice, it shall, within 10 days, request that the representatives submit to it, within 15 days, the name(s) of the arbitrator or arbitrators that they have selected.

As soon as it has been informed of the selection of the arbitrator or arbitrators or as soon as it has designated them, the arbitration body shall give the notice provided for in the third paragraph of section 1.1.

O. C. 1894-93, s. 5; O. C. 944-2002, s. 4.

6. The arbitrator shall meet the following conditions relating to experience and professional training :

- (1) have at least 10 years' experience in the field of pension plans;
- (2) have at least 5 years' experience in the field of pension plans and either hold an undergraduate university degree in a relevant field, such as actuarial science, business administration, insurance, law or industrial relations or be an actuary within the meaning of section 3 of the Act; or
- (3) be accredited as an arbitrator specializing in pension plans with an arbitration body accredited by the Government under section 243.7 of the Act.

Where 3 arbitrators are appointed, at least one of them shall hold an undergraduate degree in law.

O. C. 1894-93, s. 6.

7. The arbitration costs that are subject to a tariff and the rate applicable to those costs and to the arbitrators' fees are set out in Schedule I.

O. C. 1894-93, s. 7.

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

O. C. 1894-93, s. 8.

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

SCHEDULE I

(ss. 5 and 7)

ARBITRATION COSTS - ARBITRATORS' FEES - PROVISIONS FOR COSTS**DIVISION I****ARBITRATION COSTS**

Services	Rate
(1) for opening a file	\$2 000
(2) for the pre-trial conference	0.3% of the amount in dispute, up to \$8 000
(3) for hearings	0.3% of the amount in dispute, up to \$10 000
(4) for services related to an application for correction or interpretation or an additional application referred to in section 243.15 of the Act	\$1 000

The services related to the opening of a file extend to related services, in particular to the study, assessment and material organization of the file, including preliminary discussions with the parties for the efficient operation of the file, the preparation of timetables and information to the parties. The costs related to those services are owing upon receipt of the application for arbitration by the arbitration body.

The services related to the pre-trial conference extend to related services, in particular to the appointment of arbitrators, the verification of their independence and the confirmation of their appointment, as well as to the setting up of the file, its management and its transmission to the arbitrators. The costs related to those services are owing upon the determination of the date of the pre-trial conference.

The services related to hearings extend to all other services to the closing of a file. The costs related to those services are owing upon the fixing of the date of the first hearing.

The services related to an application for correction or interpretation or an additional application referred to in section 243.15 of the Act mean all related services, from the reopening of a file to the preparation of the fees account; the costs related to those services are owing upon receipt of the application by the arbitration body.

DIVISION II**ARBITRATORS' FEES**

\$ 150 an hour per arbitrator

DIVISION III**PROVISION FOR COSTS**

The provision for costs consists in

- (1) a provision of \$1000 for the costs incurred by the arbitration body;
- (2) a provision of \$2000 for the remuneration of services of the arbitration body related to the opening of the file;
- (3) a provision equal to 55% of the amount of the remuneration of the arbitration body established in accordance with this rate for the services related to the pre-trial conference and hearings; and
- (4) a provision for the arbitrators' fees that is established as follows:

Amount in Dispute	Provision
1° \$ 50 000 or less	\$ 1 500 per arbitrator;
2° \$ 50 001 to \$ 200 000	\$ 3 000 per arbitrator;
3° \$ 200 001 to \$ 1 000 000	\$ 4 500 per arbitrator;
4° \$ 1 000 001 to \$ 10 000 000	\$ 6 000 per arbitrator;
5° \$ 10 000 001 or more	\$ 7 500 per arbitrator.

O. C. 1894-93; O. C. 944-2002, s. 6.

Other regulatory provisions (application and measure and date of coming into force)

Regulation to amend the Regulation respecting arbitration relating to the surplus assets of supplemental pension plans

Reference: O. C. 944-2002, 21 August 2002, (2002) G.O. 2, 4633

7. The rate of arbitration costs established in Division I of Schedule I, as it read before the date of coming into force of this Regulation, shall continue to apply to arbitration applications forwarded to the arbitration body before that date. Notwithstanding the foregoing, the costs payable from that date may not, considering the costs whose due date is prior to the date of coming into force of this Regulation, exceed \$20 000.

8. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*. (19 September 2002)