

# Newsletter

On supplemental pension plans 



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## Partial abbreviated termination procedure

Under section 240.3 of the *Supplemental Pension Plans Act* (the *Act*), the Régie des rentes du Québec has the power to simplify the partial termination procedure of a pension plan. Since January 1993, the Régie has adopted a set of rules for this purpose.

Through this bulletin, the Régie wishes to inform its clientele of the conditions for applying the abbreviated partial termination procedure. Note that the abbreviated procedure is an option that the Régie offers in most cases to administrators when they decide to partially terminate a plan. Therefore, no specific request is required.

Although this bulletin reflects the Régie's current position regarding the abbreviated partial termination procedure, the Régie can change the requirements without notice.

### General

In general, nearly all partial terminations can be carried out under the abbreviated procedure, which allows a plan to be partially terminated three to four times faster than the regular procedure and for members' benefits to be paid right away.

However, when the Régie is informed that a plan is being totally terminated, it will generally not abbreviate the partial termination procedure. Rather, it will require that the benefits of members affected by the partial termination be included in the total termination report. Furthermore, in the case of a plan which must be subject to periodic actuarial valuations, the Régie must have in its possession a complete file, which means that the file must contain the assumptions required under section 61 of the *Act* and all the actuarial valuation reports required through the date of the decision concerning the plan's partial termination.

The purpose of the conditions set by the Régie for applying the abbreviated termination procedure is to

ensure that the specific effects of the partial termination have been correctly taken into consideration and not to verify those elements that are found when ordinary active membership ceases. The main effects of a partial termination are as follows:

- Every member is entitled to the value of the normal pension under the plan (full vesting) including benefits ancillary to any pension to which he or she would have been entitled if he or she had retired on the day preceding the date of the end of his or her active plan membership. (Section 211 of the *Act*.)
- For defined benefit plans, members are entitled to transfer the value of their benefits even if they are within 10 years of the normal retirement age. Many plans do not provide for entitlement during this period. (Section 236 of the *Act*.)
- The member retains his or her status as a member for the purpose of distributing the surplus assets upon total plan termination even if he or she chooses to transfer the value of his or her benefits to another pension plan or to receive a cash settlement where that is possible. (Section 240.2 of the *Act*.)

The **regular** procedure prescribed by the *Act* provides that following a decision of the Régie concerning partial plan termination, the administrator must have a draft partial termination report prepared and submit it to the Régie. If the draft report is found to be in conformity with the *Act*, the administrator must send the members a statement of their benefits showing the methods of payment offered. After that step, the Régie approves the report. Generally, the transfer of benefits can only be made after a period of 60 days following the approval.

The **abbreviated** partial termination procedure consists of only the three following steps:

- As in the regular procedure, the Régie first renders an official decision concerning the partial termination of the plan. In the decision, the conditions under which the termination procedure can be simplified are described. It is strongly recommended to wait until a decision has been rendered before sending any reports to the Régie.
- The administrator pays the benefits of the members who wish to exercise their right to a transfer as soon as it receives the Régie's decision, and within 60 days following the decision, it must send the Régie a report with the required certificates.
- The Régie approves the report if the conditions set have been met. The procedure is then complete.

### Requirements

The requirements set by the Régie to simplify the partial termination procedure vary according to the plan's type. The first type includes plans having defined benefit provisions (even where only some of the benefits or members are affected). The second type includes plans having only defined contribution provisions (i.e., no members are entitled to defined benefits).

The abbreviated requirements are listed below for these two categories of plans followed by explanatory notes in italics. It is important that you also read the conditions that the Régie sets for some special cases (retired members, multi-employer plans or members affected by the legislation of another province), which are explained at the end of this newsletter.

### Plans containing provisions for defined benefits

Within 60 days from the date on which the Régie renders a decision concerning partial plan termination, the Régie must receive two documents: a report prepared by an actuary and a letter containing certificates from the plan administrator. The documents must be provided by the plan administrator, usually the pension committee, or by one of the committee's delegates. In the latter case, the person must indicate to the Régie that he or she has been delegated by the administrator to provide the documents and certificates required. Although the normal time limit allotted for submitting the report is 60 days, the Régie reserves the right to extend the time limit if it deems it appropriate.

If the degree of solvency of the plan was less than 100% at the time of the last complete actuarial valuation preceding or coinciding with the date of the partial termination, the Régie imposes two additional requirements. These requirements, which are shown below in the shaded areas, concern the identification and payment of the additional contribution that will be required from the employer. These two requirements can also be imposed even in cases where the plan was solvent at the time of the last actuarial

valuation, if the Régie is of the opinion that this is necessary to ensure that the abbreviated procedure is in the best interest of the members, which is an essential condition for the application of the abbreviated procedure.

The documents that must be sent to the Régie, that is, the actuary's report and the letter from the plan administrator, must contain the elements listed below.

### Contents of the actuary's report

- The names of the members affected by the Régie's decision and the value of their benefits on the date that their active plan membership ceased.
- A certificate that the value of the affected members' benefits was established by taking into account all the rights granted in section 211 of the *Act*.

*When a pension plan is partially terminated, section 211 of the Act grants, in certain cases, benefits which are higher than those provided for under the plan in the event of cessation of regular active membership. The main requirement of this section is that a member affected by partial termination is entitled, in respect of the service credited to him or her under the plan up to the date of termination, to the value of the normal pension, including benefits ancillary to any pension to which he or she would have been entitled if he or she had retired on the day preceding the date of termination. For further information, consult pages 211-1 to 211-4 of the Loi sur les régimes complémentaires de retraite : annotations et commentaires.*

- A certificate attesting that the assumptions used to determine the value of the members' benefits are those which, for the purposes of section 61 of the *Act*, were previously submitted to the Régie and which applied on the dates on which each active membership ceased for each member.

*The assumptions that must be used are the same as those for cessation of regular active membership. Section 61 of the Act requires the plan administrator to submit the assumptions to the Régie no later than 30 days before they are applied. For a partial termination, the administrator must ensure that this has already been done. Otherwise, he must send the information without delay. The Régie will not simplify the termination procedure unless it has received these assumptions.*

- The product of the multiplication of the liabilities by X, where X is a factor which corresponds to the difference between one (1) and the plan's degree of solvency at its last valuation or any other factor that the Régie determines, if it is of the opinion that the circumstances so warrant. This product will be considered to be the amount to be paid by the employer and it will thereafter be classified as an amount to be determined in application of subparagraph 4 of the second paragraph of section 137 of the *Act*, that is, a solvency deficiency.

Where a plan was only partially solvent at the time of its last complete actuarial valuation, the actuary must determine the liabilities for all the members affected by the partial termination and then multiply that liability by a factor. In most cases, the factor corresponds to the difference between one (1) and the degree of solvency of the plan set by the valuation. However, in certain cases, the Régie will increase the factor even if the plan was solvent at the time of the last valuation. Such situations generally occur when the number of affected members or the liabilities related to the benefits accrued to them is deemed to be high and that:

- one or more amendments were made since the last complete plan valuation without a reevaluation of the degree of solvency or,
- the interest rate that would be used to calculate the lack of assets under the regular procedure, that is, by doing a complete valuation as at the date of the partial termination, is significantly lower than the one used in the last plan valuation on a solvency basis.

Note that the plan administrator can always decide not to use the abbreviated procedure. For example, this may occur if it is of the opinion that the plan's degree of solvency has improved since the last actuarial valuation or if the requirements set by the Régie would lead to a lack of assets deemed to be too great. If it so decides, the plan will be subject to a complete actuarial valuation of solvency as at the date of partial termination. The termination will then be carried out under the regular procedure.

### Certificates required in the administrator's letter

- Every affected member had the choice, regardless of age, of leaving his or her benefits in the plan or transferring 100% of their value to a locked-in retirement account, another pension plan or an annuity contract issued by an insurer and for members whose benefits are not locked-in, in whole or in part, of receiving a lump-sum payment or transferring the amounts not locked-in to a registered retirement savings plan.

Note that in the event of partial termination, the benefits of affected members are not necessarily paid. Under section 236 of the Act, the benefits of affected members are transferred in whole or in part only if the members apply therefor. The methods of payment are the same as those set out in section 98 of the Act and section 28 of the Regulation.

Furthermore, for plans containing provisions for defined benefits, the administrator must confirm that all the affected members were entitled to transfer the value of their benefits regardless of their age. Even though a defined benefit plan normally only grants transfers to members who are more than 10 years from the normal retirement age, this restriction does not apply for partial terminations. For further

information, consult pages 236-1 to 236-5 of the Loi sur les régimes complémentaires de retraite : annotations et commentaires.

It is also important to note that where a plan is not solvent on the date of its last actuarial valuation, even though in certain cases the amount transferred to the member could normally be initially less than 100% due to the application of sections 142 to 146 of the Act, this is not allowed in the case of a partial termination under the abbreviated procedure.

- A new statement was sent to members in cases where the partial termination resulted in a change in their rights under the plan.

When active plan membership ceases, the member must receive a statement. The statement may have already been sent at the time of partial termination. A new statement must be sent only if the partial termination resulted in a change in his or her rights or the value of his or her benefits. For example, the amount of benefits will change if the member had not met the requirements under the plan to be entitled to the employer portion and this portion is granted to him or her as a result of the partial termination.

- The amount indicated in the actuarial valuation as the amount to be paid by the employer as well as the interest on that amount at the rate of Y% since the date of the end of the period affected by the partial termination was paid to the pension fund in addition to any required contributions based on the last actuarial valuation report and there are no unpaid employer contributions.

Note that the amount that the employer must pay to the pension fund following partial termination is added to the employer contributions that the employer must normally pay to the pension fund. Furthermore, that amount must be paid to the pension fund even if some members do not ask for payment of their benefits. The interest that must be added to that amount, for the period from the date of partial termination to the payment date, will generally be the interest rate used to determine the actuarial provision on a solvency basis in the previous complete actuarial valuation.

### Plans containing provisions only for defined contributions

The Régie must receive a report within 60 days following the date on which it renders its decision concerning partial plan termination. The report must be submitted by the plan administrator — normally the pension committee — or by a committee delegatee. In the latter case, the person must indicate to the Régie that he or she has been delegated by the administrator to provide the report required by the Régie. Although the normal time limit allotted for submitting the report is 60 days, the Régie reserves the right to extend the time limit if it deems it appropriate. The report must contain the following information:

- The names of the members affected by the Régie's decision and the value of their benefits on the date on which their active plan membership ceased. (It is not necessary to accumulate as at the same date the value of the benefits for all the members affected by the partial termination.)
- A certificate attesting that the value of the benefits attributed to the affected members was calculated on the basis of full vesting of the amounts credited to their accounts as provided for under section 211 of the *Act*.

*Under section 211 of the Act, upon partial plan termination, the affected member is entitled to the value of the employer contributions paid in his or her name in the pension fund even if in certain cases, the member had not met the requirements of the plan to be entitled to it.*

- A certificate attesting that the affected members had the choice of leaving their benefits in the plan or transferring the value to a locked-in retirement account, another pension plan or an annuity contract issued by an insurer and for members whose benefits are not locked-in, in whole or in part, of receiving a lump-sum payment or transferring the amounts not locked-in to a registered retirement savings plan.

*Note that in the event of partial termination, the benefits of affected members are not necessarily paid. Under section 236 of the Act, the benefits of affected members are transferred in whole or in part only if the members apply therefor. The methods of payment are the same as those set out in section 98 of the Act and section 28 of the Regulation.*

- A certificate attesting that new statements were sent to members in cases where the partial termination resulted in a change in their rights under the plan.

*When active plan membership ceases, the member must receive a statement. The statement may have already been sent at the time of partial termination. A new statement must be sent only if the partial termination resulted in a change in his or her rights or the value of his or her benefits. For example, the amount of benefits will change if the member had not met the requirements under the plan to be entitled to the employer portion and this portion is granted to him or her as a result of the partial termination.*

### Special cases

In some cases, the Régie will change its general requirements or add other conditions so that the abbreviated procedure is well adapted to the particular

circumstances of the partial termination. The most frequent adjustments are as follows:

- Where the partial termination affects retired members, which generally occurs in terminations resulting from the withdrawal of an employer from a multi-employer plan, the Régie requires that the administrator provide an option for an insurer to henceforth assume the payment of the members' pensions. This requirement is similar to the one set out in section 235 of the *Act*. For further information, consult pages 235-1 to 235-3 of the *Loi sur les régimes complémentaires de retraite : annotations et commentaires*.
- Where the partial termination is the result of an employer withdrawing from a multi-employer plan, the Régie also requires that the administrator confirm that all the employee and employer contributions related to the employer affected by the withdrawal were paid to the pension fund.
- If the partial termination affects members who are not covered by section 1 of the *Act*, the requirements regarding section 211 of the *Act* are replaced by a request for a certificate declaring that the value of the benefits of the affected members was set taking into account all the rights conferred by the legislation of the province in question.

For more information, contact our

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