

# Newsletter

# **xpress**

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Information bulletin for supplemental pension plans

6 April 2000

## **Bill 102 Introduced as *Act to amend the Supplemental Pension Plans Act***

On 16 March 2000, Mr. André Boisclair, the Québec Minister of Social Solidarity, presented the Government's proposal on the right of employers to take contribution holidays under supplemental pension plans. Mr. Boisclair introduced in the Québec National Assembly a bill entitled *Act to amend the Supplemental Pension Plans Act*. In addition to laying down conditions for taking contribution holidays, the bill grants immediate vesting of a deferred pension when a worker joins a plan. The bill also is intended to increase the minimum pension benefits granted when active plan membership ceases. Moreover, the bill introduces various measures aimed at simplifying the *Act* and eliminates certain shortcomings.

The *Supplemental Pension Plan Act* was passed almost 11 years ago and has not undergone any major revision since then. The bill, which has 199 sections, is a major update to the *Act*. In addition to 60 new sections, the bill amends, replaces or repeals 195 of the existing sections. Considering the extent of Bill 102, this **Newsletter Express** will be limited to information on the bill's main aspects.

### **Contribution holidays**

An employer who wishes to confirm his right to take contribution holidays could do so under 1 of 2 options in the bill. If either option is followed, the plan provisions for contribution holidays will take precedence over any other plan provision or collective agreement and will be binding on anyone having rights or obligations under the plan. In all cases, the bill provides that the plan members would have to receive prior notice.

Each option has conditions that are spelled out in the bill. They may vary depending on whether, for example, the plan members are represented by an employees' association (union) or the plan is or is not contributory. The bill would not require employers to use either option, but an employer who opts for the status quo would not have the protections contained in the bill. Moreover, according to the bill, whenever a plan has excess surplus assets (generally where the excess surplus exceeds twice the current service contribution), the employer would be able in some cases to take a contribution holiday up to the amount needed to eliminate the surplus.

## Increased pension benefits

The bill provides for 3 important increases in pension benefits.

- A plan member whose active membership ends would be entitled to a deferred pension from the date he or she joined the plan. In other words, the two-year rule and the 45/10 rule would be eliminated and replaced by what we could call “immediate vesting”. That measure would apply as of 1 January 2001 for all members who are still active on that date and for all their years of service, including credited service for years prior to 2001.
- A member whose active membership ends would be entitled to benefits whose value would be at least equal to the value of a deferred pension partially indexed until the member’s age is 10 years under the normal retirement age. That measure would apply, in general, to credited service after 31 December 2000.
- For the purpose of calculating interest on member contributions, the pension fund’s rate of return would have to be used in all cases and the use of any other index would be prohibited. That measure would apply on interest credited as of 1 January 2001 on the accrued value of contributions as at 31 December 2000 and on all future contributions.

## Other measures

- Plans in which membership is limited exclusively to persons connected with the employer would no longer be subject to the *Supplemental Pension Plans Act*. That measure would be compulsory for new plans. For existing plans, it could be applied with the consent of all the members and beneficiaries.
- The *Act* would be amended so that a plan could have optional membership for part-time employees and compulsory membership for full-time employees.
- The waiting periods for exercising transfer rights would be changed so as to harmonize the *Act* with other legislation in Canada and to recognize the consensus on this question within the Canadian Association of Pension Plan Supervisory Authorities.
- A member whose benefits have a value less than 10% of the maximum pensionable earnings would be entitled to a refund of that value. In fact, the pension committee could make the refund even in the absence of a request from the member.
- Members would have to be informed about the effects of any integration of a pension with a pension paid under the Québec Pension Plan or the Canada Pension Plan.
- The obligation to hold an annual members’ meeting would be abolished on certain conditions. Instead, the plan members would receive the pertinent information in writing.

- The bill proposes to change the makeup of pension committees so that the active members would have the right to designate 2 committee members at the annual meeting (or by some appropriate manner where there is no meeting). Currently, the members may designate only 1 committee member.
- Pension committees would be able to inform plan members and beneficiaries about amendments made to plans during the fiscal year at the time the annual statements are sent out. Moreover, the obligation to inform active members before registration of an amendment would be extended to non-active members.
- An annual statement would also have to be sent to beneficiaries and they would be invited to attend the annual meeting (if any).
- The possibility of granting de facto (common-law) spouses the right to partition of their pension plans following cessation of a conjugal relationship would be extended to locked-in retirement accounts and life income funds.
- Rules applying to payment of a death benefit before retirement would be made uniform so that the benefit would be paid on a priority basis to the surviving spouse, without regard to whether the benefit was related to service credited before or after 1 January 1990. The *Act* would also be amended to allow a spouse to renounce a death benefit.
- Several points would be added concerning entitlement to a death benefit and would effectively end such entitlement for spouses separated from bed and board.
- The bill proposes to amend the *Act* to allow members and their spouses to obtain a statement of benefits in the course of mediation prior to the institution of procedures in family matters.
- In the event of marital breakdown after payment of a pension begins, the member would be entitled to a post-retirement pension adjustment.
- The measure providing for immediate vesting would, through concordance, remove from the *Act* all provisions related to partial termination of a pension plan. A similar procedure would be maintained only in the case where an employer withdraws from a multi-employer plan, particularly where the plan is insolvent.
- To offset the elimination of partial termination and the loss of certain related advantages by members, the members whose active membership ceases within 5 years of the plan's total termination and whose benefits have been paid in full could be entitled to participate in the distribution of surplus assets, regardless of the reason for cessation of membership and with the same standing as all the other plan members and beneficiaries who could be entitled to surplus assets on the termination date.

- The chapter on terminations would be entirely revised to take into account the elimination of partial terminations. Rules are proposed to govern the withdrawal of employers who are parties to a multi-employer plan. The procedure would be shorter, the order in which benefits are reduced on account of insolvency of the plan or the employer would be greatly simplified, the Régie's intervention in the future would be concentrated to the most important aspects and several legislative shortcomings would be corrected.
- The arbitration procedure for surplus assets ownership after termination would be revised to eliminate the obligation for the parties to designate a representative. The duties now assigned to the representatives (i.e., designation of the arbitration body and the arbitrator) would be transferred to the pension committee, whose decision would have to be unanimous.
- An amendment would be made to provide that all or part of a surplus allocated following a plan's termination would be transferable and seizable.
- Investment rules would be revised and restrictions related to plan mergers would be eased.
- The actuarial assumptions to be used to calculate the value of the benefits of members and beneficiaries would be governed by the *Act* and its regulations. Moreover, funding rules would be revised to make more specific the rules for partial actuarial valuations, solvency valuations and calculating the maximum amount of surplus assets that can be used to take a contribution holiday.
- Several transitional provisions adopted when the *Act* was passed in 1990 would be repealed.
- The powers granted to the Régie would be revised to make them better suited to current supervisory needs. A new power would be granted to the Régie that would allow it, for example, to make an agreement with the Canada Customs and Revenue Agency (CCRA) that would allow a plan administrator to file a single annual information return containing the information required both by the Régie and CCRA.

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This **Newsletter Express** covers only some of the changes proposed in Bill 102. For more information about them and for information about the other proposed changes, you should consult the bill itself. It is available on the Internet at the following address:

<http://www.assnat.qc.ca/eng/publications/projets-loi/publics/index.htm>

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