NATIONAL ASSEMBLY

FIFTH SESSION THIRTY-SECOND LEGISLATURE

Bill 58

Supplemental Pension Plans Act

Introduction

Introduced by
Madam Pauline Marois
Minister of Manpower and Income Security

Québec Official Publisher
1985

EXPLANATORY NOTES

This bill replaces the Act respecting supplemental pension plans, which was passed in 1965. The proposed legislation constitutes an overall revision of the legislative requirements applicable to private pension plans.

The object of this bill is to provide better protection for the benefits to which are entitled workers who are members of a private pension plan. To that end, the bill establishes rules governing the setting up, operation and administration of pension plans, prescribes a series of basic rights granted to plan members and provides for measures of control and supervision of the pension plans.

Chapters I to VII of the bill deal, in particular, with the nature, setting up and coming into force of pension plans and their registration with the Régie des rentes du Québec. More particularly, those chapters deal with the benefits to which plan members are entitled and for that purpose, new vesting rules for deferred pensions after a short period of membership (two years) and new eligibility rules for early retirement pension are established. They also include provisions under which the spouse of a member will be entitled to a pension in the event of the death of the member. Standards governing the integration of private plans and public plans are prescribed and the right of every plan member to obtain the transfer of the value of his benefits to another plan is acknowledged. Finally, provisions are made to set the minimum contribution that every employer who is party to a plan will be required to pay, and to ensure a minimum return on the contributions paid into the plan.

Chapter VIII sets out the rights of every member to obtain information concerning the benefits to which he is entitled under his pension plan.

Chapter IX specifies the funding and solvency requirements applicable to uninsured plans.

Chapter X establishes the rules governing the administration of a plan, determines who may act as an administrator and defines the rights, obligations and liabilities of the administrator of a plan. Division II of that chapter establishes the rules that will govern the investment of a plan's assets. Finally, Division III deals with the placing of a pension plan under trusteeship.

Chapter XI sets out the conditions governing the total or partial termination or the winding-up of a plan and the settlement of the benefits of members or beneficiaries involved in a plan termination.

Finally, the bill provides that a decision or order made by the Régie may be subject to an application for review or appeal. It confers regulatory powers on the Régie in addition to the other powers necessary for the carrying out of its functions. The bill also defines what constitutes an offence and prescribes the applicable penalties. In conclusion, the bill enacts the required transitional and miscellaneous provisions, which provide, in particular, that section 25 and Divison V of Chapter VI take effect on the date of introduction of this bill in the National Assembly, and that section 386 has effect from 1 January 1984.

ACTS AMENDED BY THIS BILL

— the Act respecting the Caisse de dépôt et placement du Québec (R.S.Q., chapter C-2);

— the Code of Civil Procedure (R.S.Q., chapter C-25);

— the Professional Syndicates Act (R.S.Q., chapter S-40).

Bill 58

Supplemental Pension Plans Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

APPLICATION

1. This Act shall apply to pension plans set up for workers

(1) who perform work in Québec, except in the cases where, for such work, the workers are accountable to an establishment situated outside Québec in a place where the plan of which they are members by reason of such work is governed by similar legislation, or where the workers derive their remuneration from such establishment and are not accountable to any establishment situated in Québec;

(2) who perform work outside Québec and who, for such work, are accountable to an establishment situated in Québec or derive their remuneration from such establishment and are not accountable to an establishment situated outside Québec as referred to in paragraph 1;

(3) who, while residing in Québec and working for an employer who owns an establishment situated in Québec, perform work outside Québec and are neither accountable to nor receive their remuneration from such establishment, in a place where the plan of which they are members by reason of such work is not governed in their respect by similar legislation or by legislation prescribing minimum rules for the vesting of a deferred pension.

2. This Act does not apply to

(1) a pension plan to which the employer is not required to contribute, unless membership in the plan is a condition of membership in another plan to which that employer is required to contribute or, on the contrary, where membership in the latter plan is conditional upon membership in the former plan;

(2) a profit sharing or deferred profit sharing plan as referred to under Titles I and II of Book VII of Part I of the Taxation Act (R.S.Q., chapter I-3);

(3) a pension plan set up under other legislation, unless that legislation renders the plan subject to this Act.

3. Any person who benefits by the services of a non-salaried worker and contributes to a plan on behalf of such worker is considered, for the application of this Act, to be the worker's employer.

4. The Government may declare another jurisdiction's legislation that is comparable to this Act to be similar legislation.

The Government may also declare that legislation of another jurisdiction is no longer similar legislation.

5. Any plan provision that is inconsistent with this Act is void; however, a plan may set down more advantageous provisions than those prescribed by this Act for members or beneficiaries.

CHAPTER II

PENSION PLAN

DIVISION I

NATURE

§ 1.—*General provisions*

6. A pension plan is a series of guarantees assuring a member the benefit of a retirement pension under given conditions and at a given age, the financing of which is ensured by contributions payable either by the employer only, or by both the employer and the member.

7. Every plan, with the exception of insured plans, shall have a pension fund into which contributions and the income derived therefrom are paid.

The pension fund shall constitute a trust patrimony, the purpose of which is to pay the refunds and benefits owing to the members and beneficiaries.

8. In case of doubt, a plan not set up under a labour agreement or an arbitration award in lieu thereof shall be interpreted in favour of the members or beneficiaries.

§ 2.—*Types*

9. A plan under which the refunds and benefits are at all times guaranteed by an insurer is an insured plan.

10. Only an insurer who is authorized to practise life insurance in Québec may guarantee the refunds or benefits provided for under a plan.

11. A money purchase plan is a plan under which worker and employer contributions, or the contribution formula, are set in advance and the pension payable at normal retirement age is based on the amounts credited to the member.

12. A partially-defined benefit plan is a plan under which the pension payable at normal retirement age is equal to a percentage of the member's remuneration.

13. A defined benefit plan is a plan under which the pension payable at normal retirement age is a set amount, irrespective of the member's remuneration.

14. A fixed benefit — fixed contribution plan is a plan under which worker and employer contributions, or the contribution formula, and the pension payable at normal retirement age or the pension formula, are set in advance.

15. A plan to which the members are required to pay contributions is a contributory plan.

16. A multi-employer plan is a plan in which the members are workers accountable to separate employers.

DIVISION II

SETTING-UP AND COMING INTO FORCE

17. A plan comes into force on the first of the following dates:

(1) the date from which, for the purposes of determining the pension payable at normal retirement age, the workers' service is counted as it is completed;

(2) the date on which worker contributions start to be collected.

However, a multi-employer plan becomes effective with respect to an employer who is a party to the plan only on the date on which subparagraph 1 or 2 of the first paragraph applies to the workers in his service.

18. Any person who sets up a plan shall do so in writing not later than 90 days after the day the plan becomes effective.

The document shall indicate

(1) the plan name, which shall not be likely to be confused with the name of another plan;

(2) the name and address of the employer who is a party to the plan;

(3) the person or agency referred to in section 189 who or which administers the plan;

(4) the requirements to be met for membership and those to be met for remaining an active member;

(5) the contributory or non-contributory nature of the plan;

(6) in the case of a contributory plan, whether membership is compulsory or optional;

(7) in the case of a contributory plan in which membership is optional, the membership and withdrawal requirements to be met by the worker;

(8) in the case of a multi-employer plan, the participation or withdrawal requirements to be met by an employer;

(9) the normal retirement age;

(10) where refunds or benefits are guaranteed, the name of the insurer;

(11) the worker or employer contributions, or the contribution formula;

(12) in the case of a defined or partially-defined benefit plan, the amount of the pension to which an active member is entitled when he reaches normal retirement age, or the pension formula;

(13) the nature of the refunds and benefits, the conditions to be met to be eligible for them and the benefit formula;

(14) where applicable, the powers under which the administrator is authorized to transfer to another plan any benefit vested in a member under the plan or any plan assets, and the rules applicable to such transfer;

(15) the effective date of the plan;

(16) the fiscal year of the plan;

(17) the person to whom any surplus assets are allocated upon total termination of the plan.

19. Any insurance contract under which the insurer guarantees refunds and benefits under a plan shall be part of the plan.

20. Where a plan becomes effective before it is registered, the administrator shall, within 30 days, notify the Régie des rentes du Québec of the effective date of the plan and, where applicable, of the fact that the employer is collecting worker contributions.

Such notice shall also indicate in a concise manner

(1) the type of plan that has been set up;

(2) the pension to which the active member is entitled at normal retirement age or the pension formula;

(3) the worker or employer contributions, or the contribution formula;

(4) the name and address of the plan administrator.

The notice shall be accompanied with a declaration of the administrator designated, attesting to his acceptance of the responsibility.

21. The administrator of a plan that becomes effective before it is registered shall, upon receipt of contributions, deposit them in or

with a bank, a société d'entraide économique, a savings and credit union, a trust company, an insurer or another institution holding a licence issued in accordance with the Deposit Insurance Act (R.S.Q., chapter A-26), and keep such contributions in deposit until the plan is registered.

Such deposit shall be refundable on sight or upon notice of not more than 30 days.

22. A plan ceases to be effective only if the Régie cancels its registration, in the cases referred to in section 39.

However, if the plan is not registered in accordance with this Act, it ceases to be effective only on the date set by the Régie.

DIVISION III

AMENDMENT

23. Unless otherwise stipulated, the employer may, unilaterally, amend the plan.

However, in the case of a multi-employer plan, an amendment applies only to the employer agreeing to it.

24. No plan amendment may become effective until it is registered by the Régie.

Subject to section 26, an amendment that has been registered may, however, have effect from a date prior to its registration.

25. No plan amendment whereby the surplus assets determined upon the total termination of a plan revert to the employer may take effect before the expiry of the thirty-sixth month after the month in which the amendment is registered by the Régie.

26. No amendment whereby the coverage provided to members or beneficiaries is reduced may take effect, if made under a labour agreement or an arbitration award in lieu thereof, before the date on which the said labour agreement or award becomes effective or, in other cases, before the date the notice provided for in section 31 is sent or published.

27. Amendments whereby the coverage provided to members is reduced shall bear only on service completed after the date on which the amendments become effective.

CHAPTER III

REGISTRATION OF A PLAN OR AN AMENDMENT

28. Every plan, and every amendment to a plan, shall be registered with the Régie.

29. The administrator of the plan shall file the application for registration with the Régie.

Such application shall be accompanied with

(1) a copy of the plan or amendment, certified by the administrator and, where refunds or benefits are guaranteed, a copy of the insurance contract, certified by the insurer;

(2) where applicable, the names and addresses of the members of the pension committee or employers' committee;

(3) the employer's written consent to the obligations incumbent upon him under the plan or the amendment, unless, in the case of a multi-employer plan, the administrator certifies that he has obtained such consent from each employer and that he can, upon request, submit it to the Régie;

(4) the report referred to in section 142;

(5) in the case of a plan to which Chapter IX does not apply, a report prepared by the person determined by regulation and containing the information prescribed by such regulation;

(6) the fees prescribed by regulation;

(7) the other documents or information prescribed by regulation.

30. An application for the registration of a plan shall be filed with the Régie not later than 90 days after the date on which it became effective or within any additional time period that may be granted by the Régie.

31. An administrator who intends to apply for the registration of a plan or amendment not made under a labour agreement or an arbitration award in lieu thereof, shall so inform each member and, in the case of a plan registration, each eligible worker:

(1) by providing him with a notice indicating that registration will be applied for to the Régie and that the text of the proposed plan or

amendment may be examined at the administrator's office or at the employer's establishment nearest to the member's or worker's residence; or

(2) by sending such notice to the employer who, upon receipt thereof, shall display it in a prominent place in the establishment where the greatest number of eligible workers or members work in Québec; or

(3) by having such notice published in a daily newspaper circulated in the locality where the establishment referred to in subparagraph 2 is situated.

A copy of the notice shall also be filed with the Régie.

32. Where an application for the registration of a plan or amendment meets the requirements of this Act, the Régie shall immediately send to the administrator who filed the application an acknowledgment showing the date of receipt of the application.

The Régie shall notify without delay any administrator who has filed an incomplete application for registration, and shall specify the nature of the missing information that must be filed by the administrator.

33. For purposes of registering a plan or amendment, the Régie is not required to verify the conformity of the plan or amendment with this Act.

34. The Régie, having given any interested party the opportunity to be heard, shall refuse to register a plan or amendment if it considers that the plan, the amendment or the actuarial valuation related to it is not in conformity with this Act.

35. The Régie shall, whenever it refuses to proceed with a registration, so inform the administrator by means of a written notice, specifying the reasons for its refusal.

36. After registering a plan, the Régie shall issue a certificate to the administrator.

37. When receipt of an application for the registration of a plan or amendment has been acknowledged, such plan or amendment shall be deemed to be registered if, within 60 days after the date shown on the acknowledgment of receipt, the administrator who submitted it has not received any request for additional information, notice of refusal or certificate of registration from the Régie.

38. The registration of a plan or amendment shall not be taken as proof of its conformity with this Act.

39. The Régie may cancel the registration of a plan in either of the following cases:

(1) if, by reason of a transfer referred to in section 125 or 255 or a total plan termination carried out in accordance with Chapter XI, no member or beneficiary has any right under the plan, and if the plan no longer holds any assets;

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

Where it cancels the registration of a plan, the Régie shall so notify the administrator.

CHAPTER IV

MEMBERSHIP

40. A worker becomes a member on joining a plan.

He remains a member until the benefits he has accrued under the plan are transferred or paid to him in accordance with the plan and this Act.

41. A worker joins a plan upon either of the following events:

(1) a contribution is paid into the plan by the worker or on his behalf;

(2) the worker meets the membership requirements prescribed under the plan.

42. Any worker in the service of an employer who is a party to a plan is entitled to join the plan if he performs work which is similar or identical to that of the members of the plan and if, during two consecutive calendar years preceding his application for membership, he received from the employer, for each of such years, a remuneration at least equal to 35% of the maximum pensionable earnings determined in accordance with the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) for those years.

In the case of a multi-employer plan, where the worker referred to in the first paragraph has been in the service of more than one of the employers who are parties to the plan, the minimum remuneration required under that paragraph is determined on the basis of the overall remuneration received from each of the employers.

43. A worker who joins a plan remains an active member until one of the following events occurs:

(1) the worker withdraws from the plan, and does so in accordance with the requirements prescribed by the plan;

(2) the continuous employment of the worker is terminated, except in the case of a multi-employer plan under which a member continues to be a member in spite of such separation;

(3) the worker's death;

(4) the worker's non-compliance with the membership requirements prescribed by the plan.

CHAPTER V

CONTRIBUTIONS

44. A worker contribution is the share that every active member is required to pay into a plan, and an employer contribution is the share that the employer is required to pay into a plan.

45. An additional voluntary contribution is the amount that a member elects to pay into a plan, without the employer having to pay any amount in turn.

46. A regular contribution is the amount that an active member or employer is required to pay into a plan, to ensure payment of the refunds and benefits that are provided for under the plan in respect of service completed during the plan fiscal year and credited under the plan.

47. Every employer shall, in the course of each fiscal year of the plan to which he is a party, pay into the pension fund or to the insurer, as the case may be, an employer contribution which, when added to the worker contributions, is equal to at least

(1) in the case of an uninsured plan, the sum of the regular contribution determined in accordance with sections 149 and 150 and the amortization amounts determined pursuant to section 168;

(2) in the case of an insured plan, the regular contribution determined in accordance with sections 149 and 150.

In the case of a multi-employer plan, the employer contribution is paid by all employers who are parties to the plan.

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

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

49. The employer contribution shall be paid in as many instalments as there are months in the plan fiscal year, and not later than the last day of each month.

The monthly instalments shall be paid in equal amounts. However, if they bear on the regular contribution, such instalments may represent a uniform proportion of the total payroll for the active members.

50. Where the amortization period for an actuarial deficiency begins or ends in the course of the plan fiscal year, the amortization amount for that year, determined under section 159 shall be paid in as many instalments as there are months in that part of the plan fiscal year included in the amortization period.

51. Every person who collects worker contributions or additional voluntary contributions shall, as soon as they are collected, pay them on behalf of the members into the pension fund or, in the case of an insured plan, to the insurer.

52. The administrator of an uninsured plan shall remit to the insurer, upon receipt, any contribution giving entitlement to the refunds or benefits guaranteed by such insurer.

53. All worker contributions and additional voluntary contributions, and, in the case of a money purchase plan, all employer contributions shall bear interest, from the time they are paid into the pension fund or to the insurer,

(1) in the case of an uninsured plan other than a money purchase plan, at the annual rate of return derived from the investment of the plan assets, less investment expenses or, if the plan so provides, at the rate determined by regulation;

(2) in the case of a money purchase plan, at the annual rate of return derived from the investment of the plan assets, less investment expenses and administration costs;

(3) in the case of an insured plan, at the rate determined by regulation.

54. Where a member or any of his assignees is entitled to a benefit under a plan, only the worker contributions above the ceiling fixed under section 68 and the additional voluntary contributions shall continue to bear interest at the rate prescribed in section 53, until such contributions are transferred in accordance with section 117 or 118 or refunded, or until an additional pension, as referred to in section 105 or 106, is purchased with such contributions.

55. Unless a plan or, in the case of an insured plan, an insurance contract sets a higher rate of interest, any contribution that has not been paid into the pension fund or to the insurer in accordance with this Act, shall bear interest, from the date of default, at the rate referred to in section 53.

56. Until it is paid into the pension fund or to the insurer, any contribution shall be part of the member's remuneration and is deemed to be held in trust by the employer.

57. The administrator shall, within 60 days after the date they become due, notify the Régie of any unpaid contributions; otherwise the administrator, together with the employer at fault, may be held jointly and severally liable for such contributions.

58. Where the employers' committee or the pension committee that administers a plan fails to notify the Régie in accordance with section 57, the liability provided for thereunder shall be incumbent upon its members.

59. The members of the board of directors of a legal person that is a party to a plan as an employer shall be jointly and severally liable with the legal person for any contributions that have become due and that are not paid during their term of office, for up to six months of contributions.

However, if the employer is also the administrator, the six-month limit provided for in the first paragraph does not apply.

A member of the board of directors shall be held liable pursuant to this section only in either of the following cases:

(1) the legal person has been prosecuted within two years after the date the unpaid contributions became due and if it was impossible to obtain full satisfaction of the amount awarded by judgment;

(2) the legal person is, during the period provided for in subparagraph 1 of this paragraph, the subject of a winding-up order or becomes bankrupt within the meaning of the Bankruptcy Act (R.S.C., 1970, chapter B-3) and a claim has been filed.

60. The liability provided for under sections 57 to 59 is limited to the contributions that are owing and not paid before the termination date of the plan.

In addition, such liability includes the interest owing under the plan or section 55.

61. The insurer of an insured plan shall, within 60 days after the date they became due, notify the Régie of any unpaid contributions.

Any insurer who fails to notify the Régie in accordance with the first paragraph is deemed, with respect to the coverage he is required to provide pursuant to section 72, to have received such contributions.

CHAPTER VI

REFUNDS AND BENEFITS

DIVISION I

GENERAL PROVISIONS

62. The continuous employment of a worker is the uninterrupted period during which the worker performs work for an employer, regardless of periods of temporary absence.

A change of employer does not interrupt the period of continuous employment of a worker for the purposes of a plan, provided the Régie authorized the transfer of obligations in accordance with section 125 or 126.

63. The service credited to a member is the service counted under a plan for vesting purposes or calculation of benefits.

64. Where a multi-employer plan is partially terminated in accordance with Chapter XI, any service credited under the plan before the termination date to any member involved in the termination who

remains an active member after such date shall be counted for vesting purposes.

65. Unless approved by the Régie, the normal pension formula referred to in section 86 shall not vary in respect of members of the same group and for the same period of credited service, particularly with respect to age, number of years of employment or number of years of credited service.

66. Subject to section 108, every pension under a plan shall be payable for life and shall not be paid in any other form during the lifetime of the member or, in the case of a spouse's pension, during the lifetime of the spouse.

67. The periodical amounts payable as a pension shall be equal unless each amount payable is uniformly adjusted owing to a variation in an index used to determine the pension or owing to an arrangement provided for in section 108.

68. Under a defined benefit, partially-defined benefit or fixed benefit—fixed contribution contributory plan, no worker contributions paid by a member, with accrued interest, may be used to pay more than 50% of the value of any benefit, other than a benefit referred to in section 92, to which such member or any of his assignees becomes entitled.

The value of the benefit shall be determined at the date the benefit is vested.

69. The actuarial assumptions and methods used to determine the value referred to in section 68 shall be transmitted to the Régie by the administrator not later than 30 days before the day they become applicable.

Such actuarial assumptions and methods may be examined at all times by any person entitled to a benefit under the plan, or his legal representative, at the administrator's office or at the employer's establishment nearest to the member's residence.

70. The assignee of a member who died before receiving any refund or benefit is entitled

(1) to the refund of the worker contributions or additional voluntary contributions paid by the member, with accrued interest, where the member was not entitled to a pension under paragraph 2;

(2) to the value of any pension to which the member was entitled before his death or to which he would have been entitled if he had ceased to be an active member on the day of his death, for any reason other than death and, where such is the case, to the refund of any additional voluntary contribution or worker contribution which exceeds the ceiling fixed under section 68, with accrued interest.

71. Any benefit determined on the basis of the normal pension referred to in section 86 shall, where the pension is established with reference to the progression of the member's remuneration in the course of his period of employment, be established in taking into account the progression until the end of the member's continuous employment.

However, the plan may provide that the benefits will cease to be established in taking into account of the progression before the end of the member's continuous employment, provided the cessation does not apply before the date on which the member ceases to be an active member.

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

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

73. A member may, in a writing transmitted to the administrator or the insurer, or by will, revoke the designation of a person as a beneficiary made in accordance with the plan.

74. With the exception of sections 70, 72, 73, 78 and 106 to 109 this chapter does not apply to additional voluntary contributions.

DIVISION II

REFUNDS

75. Every member is entitled to the refund of the worker contributions paid by him into the plan, with accrued interest.

76. No refund under section 75 may be made

(1) if the member has not ceased his continuous employment or, in the case of a multi-employer plan, if he has not ceased to be an active member;

(2) if the member is entitled to a pension, unless the plan provides that he may elect to receive a refund even if he became entitled to a deferred pension before meeting the requirements prescribed by this Act to be eligible for such pension.

No refund resulting from an election under subparagraph 2 of the first paragraph may be made after the member has met the requirements prescribed by this Act to be entitled to a deferred pension.

77. No employer contributions paid into a plan on behalf of a member, including accrued interest, may be refunded to the member if the refund of his worker contributions is prohibited.

78. Every member is entitled to withdraw at any time the value of additional voluntary contributions credited to his account, with accrued interest, except if they result from the conversion of worker or employer contributions transferred pursuant to section 117 or 118.

DIVISION III

BENEFITS

§ 1.—*Deferred pension*

79. A deferred pension is the retirement pension the payment of which is deferred until normal retirement age.

80. A deferred pension shall include the same characteristics as the normal pension referred to in section 86, except

(1) those referred to in sections 90 to 95;

(2) a pension supplement provided for by the plan for the payment of a minimum normal pension, which may, with the approval of the Régie, not be counted for the purposes of determining the deferred pension.

81. Every member is entitled to a deferred pension if he has been an active member for at least two years and if he ceases his continuous employment, or, in the case provided in paragraph 2 of section 43, if he ceases to be an active member.

82. A deferred pension granted under section 81 shall be at least equal to the normal pension referred to in section 86, as determined under the plan.

§ 2.—*Early retirement pension*

83. An early retirement pension is the retirement pension the payment of which begins before normal retirement age.

84. Every member who stops working at any time during the five years preceding the date on which he will reach normal retirement age is entitled to an early retirement pension.

Notwithstanding the first paragraph, a member who, although he has not stopped working, is entitled to a deferred pension in respect of service completed with a former employer may receive early payment of such pension if he applies therefor within the time period prescribed in the first paragraph.

85. The value of the early retirement pension shall be at least equal to the value of the normal pension referred to in section 86, discounted on the date on which payment of the early retirement pension begins.

§ 3.—*Normal pension*

86. A normal pension is the retirement pension the payment of which begins at normal retirement age.

87. Unless the normal pension is postponed in accordance with section 90, every active member is entitled to the normal pension on reaching normal retirement age.

88. Normal retirement age shall not be later than the member's sixty-fifth birthday.

§ 4.—*Postponed pension*

89. A postponed pension is the retirement pension the payment of which begins after normal retirement age.

90. The normal pension of a member shall be postponed if, after normal retirement age, he remains in the service of the employer in whose service he was at normal retirement age.

91. A member is entitled to the payment of all or part of his normal pension during the postponement period but only to the extent necessary to offset any reduction in remuneration, determined in the manner prescribed by regulation, that occurred during such period.

Following an agreement with his employer and if the plan so provides, the member may receive all or part of his pension, regardless of the limit set under the first paragraph.

No member may make an application under the first paragraph more than once per twelve-month period, except under an agreement with the administrator.

92. If contributions are paid during the postponement period, the resulting additional pension shall be at least equal in value to the pension that would be purchased, at the end of the postponement period, by the worker contributions paid during such period, including accrued interest.

93. If a member whose normal pension has been postponed in whole or in part dies during the postponement period, payment of the unpaid amount of pension is deemed to have begun on the day preceding the member's death.

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

The plan shall prescribe the revalorization formula.

95. Postponement of the normal pension ends

(1) when the member ceases to work for the employer in whose service he was at normal retirement age;

(2) when, owing to the postponement, the plan no longer qualifies as a registered retirement plan as defined in section 1 of the Taxation Act.

96. Where a plan allows all or part of a pension that has become payable to a member to be replaced, and if the member decides to postpone it until after normal retirement age, by a revalorized pension, the revalorization shall be made in accordance with section 97.

97. The revalorization of a postponed pension shall be made so as to ensure that the pension payable at the end of the postponement

period is actuarially equivalent to the pension the payment of which would have begun at normal retirement age had it not been postponed.

No revalorization under the first paragraph may result in creating only surplus assets or only liabilities in the pension fund.

§ 5.—*Disability pension*

98. The value of the pension granted under the plan to a member who has become disabled and who, for that reason, has ceased his continuous employment or ceased to be an active member shall be at least equal to the value of the benefits that would be vested in the member had he not become disabled, and discounted on the later of the following occurrences:

(1) the date on which he ceased his continuous employment;

(2) the date on which he ceased to be an active member.

§ 6.—*Spouse's pension*

99. The spouse of a member is entitled to a pension from the death of the member if, before his death, the member was receiving a pension under this division.

The spouse may, however, waive such right with the consent of the member; the waiver shall take place before payment of the member's pension begins and is irrevocable.

100. The amount of the spouse's pension shall be at least equal to 60% of the amount of the pension paid to the member.

101. The sum of the value of the spouse's pension and the value of the member's pension, as reduced by reason of the benefit granted to the spouse, shall be at least equal to the value of the pension that the member would have received had no benefit been granted to the spouse.

102. For the purposes of this subdivision, the spouse is the person who, on the date on which payment of the member's pension begins or, in the case referred to in section 103, on the date of the notice provided for in the said section,

(1) is married to the member; or

(2) if neither the person nor the member is married on such date to another person, cohabits with the member and has been publicly represented as his spouse for one year if a child has been born or is to be born of their union or, otherwise, for not less than three years.

103. No person who becomes the spouse of a member after the member has begun to receive a pension provided for under this division may be entitled to the spouse's pension unless the member notifies in writing the administrator of the existence of such spouse and requests that the pension he is receiving be re-determined accordingly.

104. A marriage annulment or a divorce does not extinguish the right granted to the spouse under this subdivision unless the member files a written application therefor with the administrator.

The same applies where the unmarried person ceases to cohabit with the unmarried member and to be publicly represented as his spouse.

Where the right to a spouse's pension is extinguished, the member's pension shall be re-determined so as to ensure that its value, from the date of the application, is not less than the balance of the value of the pension to which the member and the spouse were entitled before such date.

§ 7.—*Additional pension*

105. Every member whose worker contributions, including accrued interest, exceed the ceiling set by section 68 is entitled, from the date on which a pension begins to be paid to him under the plan, to purchase an additional pension with such excess amount and the accrued interest.

106. Except if the contributions are withdrawn from the plan under section 78, every member having additional voluntary contributions to his account is entitled, from the date on which a pension begins to be paid to him under a plan, to purchase an additional pension with such contributions and the accrued interest.

107. The additional pension shall be determined according to actuarial assumptions and methods identical to those which, on the date on which payment of such pension begins, are used to determine the value referred to in section 68.

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

DIVISION IV

ARRANGEMENTS

108. The plan may permit a member or his spouse, as the case may be, who is entitled to a pension to elect, before payment of such pension begins, to replace all or part of the pension

(1) by a pension the amount of which is adjusted to take into account the benefits payable under the Old Age Security Act (R.S.C., 1970, chapter O-6), the Act respecting the Québec Pension Plan or a similar plan within the meaning of paragraph *u* of section 1 of the latter Act;

(2) by a pension the amount of which is adjusted by reason of provisions relating to the payment of benefits payable after the death of the member or his spouse, or by reason of amendments to such provisions;

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

(4) if the monthly payment of a life pension is less than the amount fixed by regulation, by a lump sum payment.

No option other than those referred to in the first paragraph may be included in a plan.

109. The value of the sums payable pursuant to section 108 shall be at least equal to the value of the replaced pension, discounted at the time of replacement.

DIVISION V

INTEGRATION

110. If the determination of the normal pension entails, under the plan, a reduction in the member's benefits based on the retirement pension payable under a public plan referred to in section 111, the reduction shall not be greater than the amount *m* of the following formula:

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

where

"*r*" represents the amount of the retirement pension payable under the public plan;

"*a*" represents the number of years of service credited under the plan, during which the member contributed to the public plan;

"*n*" represents a number not under 35, determined under the plan.

The fraction $\frac{a}{n}$ shall not be greater than one.

111. Only the retirement pension payable under the Act respecting the Québec Pension Plan or the Canada Pension Plan (R.S.C., 1970, chapter C-5) may be taken into account, upon determination of the normal pension, in reducing the member's benefits.

112. If, at the time the normal pension is determined, payment of the retirement pension payable under a public plan has not begun, the reduction referred to in section 110 shall be made on the basis of an estimated pension amount, which shall not be greater than the amount *e* of the following formula:

$$m \times g = e$$

where

"*m*" represents the maximum retirement pension amount payable under the public plan to any member who is 65 years of age on the date the reduction is made, determined in accordance with section 114;

"*g*" represents the fraction obtained by carrying out the following operations in turn:

(1) establishing for each full calendar year included in the period covered by the service credited to the member and during which he contributed to the public plan, a fraction consisting

(*a*) at the numerator, of the amount corresponding to the wages or pensionable earnings within the meaning of the public plan paid in that year to the member by the employer;

(*b*) at the denominator, of the amount corresponding to the maximum pensionable earnings determined for that year under the public plan;

(2) dividing the sum of the fractions obtained under subparagraph 1 by their number.

None of the fractions used to establish amount *g* may be greater than one.

113. The estimated amount referred to in section 112 shall be actuarially adjusted if normal retirement age is under 65 years and if the reduction is made before that age.

The adjustment shall be made on the basis of the period included between the date on which the normal pension is determined and the date of the member's sixty-fifth birthday.

114. The amount of a retirement pension payable under a public plan that is required to be deducted under a plan shall be established from the time the member becomes entitled to a pension under the plan.

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

115. Unless requested by the member, the retirement pension to which he has become entitled under a plan shall not be reduced nor shall its payment be refused before the member reaches 65 years of age on the ground that he is receiving, before that age, a retirement pension payable under a public plan referred to in section 111 or is eligible for it.

116. No benefit which, for the purposes of a plan, has been reduced to take into account the benefit payable under a public plan referred to in section 111 or any other public plan may be reduced again to take into account an amendment to the public plan or a change in such last mentioned benefit.

CHAPTER VII

TRANSFERS OF BENEFITS, OBLIGATIONS OR ASSETS

117. From the date a member ceases to be an active member, he shall be entitled to transfer to a pension plan all or part of

(1) the worker contributions paid by him into the plan, if he is not entitled to benefits under the plan, and the additional voluntary contributions credited to his account, with accrued interest;

(2) the amount corresponding to the value of any benefit to which he is entitled under a plan and payment of which has not begun on that date;

(3) the worker contributions above the ceiling set under section 68, with interest accrued up to the date of transfer.

For the purposes of this section, the expression "pension plan" includes any pension plan or annuity contract not governed by this Act and determined by regulation.

118. Every amount that a member is entitled to transfer pursuant to section 117 may, if the member ceases his continuous employment for the employer party to the plan and if the amount is less than the amount fixed by regulation, be transferred by the administrator to a pension plan referred to in the said section, and selected by the member or failing him, by the administrator.

No amount may however be transferred by the administrator if it has been used to purchase a pension the payment of which has begun.

119. Any plan that is joined by a worker who is a member of another plan is required to accept any amount that the member or administrator requests to transfer to it under section 117 or 118.

120. Sections 184 to 186 apply to a transfer referred to in section 117 or 118.

121. Subject to section 108, any amount referred to in subparagraph 2 or 3 of the first paragraph of section 117 which is transferred pursuant to that section or section 118 shall be paid to the member only in the form of a pension, payment of which shall begin on the member's retirement date.

122. Unless the plan sets a higher rate of interest, any amount transferred pursuant to section 117 or 118 shall bear interest, from the date of the transfer, at the rate set under section 53 if the amount is transferred to a plan governed by this Act, or at the rate set by regulation if it is transferred to a retirement plan not governed by this Act.

123. Every member is entitled, from his retirement date, to purchase a pension with any amount referred to in paragraph 1 of section 117 which has been transferred as provided for in that section or section 118.

124. Section 107 applies to a pension referred to in section 121 or 123 if such pension is paid under a plan governed by this Act.

125. Except if a transfer is referred to in section 117 or 118 or governed by a plan, in no case may the transfer to another plan of an obligation incumbent upon the employer under the plan, of benefits accrued to a member in respect of service credited under the plan or of any plan assets be made unless authorized by the Régie and unless it is made in accordance with the conditions determined by regulation.

126. No substitution of a new employer for the employer who is a party to a plan may take place within the scope of the said plan, unless authorized by the Régie.

127. No transfer referred to in this chapter or governed by a plan may result in a reduction in the benefits of the members involved in such transfer.

128. A copy of every agreement entered into by the administrators of several plans and providing for the transfer of benefits or assets from one plan to another shall be transmitted to the Régie within 30 days after the agreement is entered into.

CHAPTER VIII

INFORMATION TO MEMBERS

129. Within the time periods set in section 130, the administrator shall provide each member with a written summary of the plan, along with a brief description of the member's rights and obligations under the plan and this Act.

In the case of a plan amendment, such documents may consist only of the amended provisions, along with a brief description of the rights and obligations arising from the amendment.

130. The documents referred to in section 129 shall be provided within 90 days after, as the case may be,

(1) the date on which the worker became a member;

(2) the date of registration of the plan;

(3) the date of registration of a plan amendment.

131. Within six months after the end of each fiscal year of a plan, the administrator shall provide each active member with an annual statement containing the information determined by regulation, particularly concerning

(1) the benefits he has accrued during the year and from the date on which he joined the plan up to the end of such year;

(2) the financial position of the plan.

132. Within 60 days of the date on which the administrator is informed that a member has ceased to be an active member, he shall provide the member, or any other person entitled to a refund or a benefit, with a statement containing the information determined by regulation and including, as at the date of the event giving entitlement, the amount of the refund or the nature and value of the benefit, and the eligibility requirements for the other benefits provided for under the plan.

133. Within 60 days of a written request therefor and without charge, the administrator shall provide a person who has received a statement pursuant to section 132 with a copy of the most recent statement transmitted to the person under that section, updated to the date of the request.

134. Within 30 days of a written request therefor and without charge, the administrator shall provide a member or beneficiary with the data used to calculate his benefits as referred to in the statements and the information provided pursuant to section 132 or 133.

135. Within 30 days of a written request therefor and without charge, the administrator shall permit any member, beneficiary or eligible worker and his legal representative or assignee to consult, during regular working hours, the plan text or any other document determined by regulation.

Similarly, the administrator shall permit the member or beneficiary and his legal representative or assignee to consult a plan provision in force on any date included in the period during which the worker concerned was an active member.

136. The consultation referred to in section 135 shall take place at the place where the plan is administered, unless the applicant requires that it take place at the employer's establishment nearest to the applicant's residence, or unless the administrator provides the applicant, without charge, with copies of the documents.

137. The administrator is not obliged to comply, without charge, more than once in every twelve-month period with a request referred to in section 133 or 135.

CHAPTER IX

FINANCING AND SOLVENCY

DIVISION I

GENERAL PROVISIONS

138. This chapter does not apply

(1) to insured plans;

(2) to money purchase plans in which the employer's financial obligations are limited to the share of the regular contribution he is required to pay as the plan is crediting the members' service.

139. For the purposes of this chapter, a fixed benefit — fixed contribution plan shall be considered to be a defined benefit plan or a partially-defined benefit plan, depending on the method stipulated in the plan for determining the normal pension.

140. Every plan shall be the object of an actuarial valuation

(1) as of the date on which it comes into force;

(2) as of the date on which any plan amendment having an impact on funding or solvency becomes effective;

(3) at the latest, as of the date of the most recent fiscal year-end of the plan within three years after the date of the last actuarial valuation of the entire plan;

(4) whenever so required by the Régie, as of the date set by the Régie.

The actuarial valuation is intended, in particular, to verify the plan's funding and solvency.

141. An actuarial valuation may involve only the verification of a plan's funding, if the actuary who prepares the valuation certifies that, for the reasons he has indicated in the report referred to in section 142, the plan is solvent within the meaning of section 175.

142. The administrator shall have a report prepared by an actuary with respect to any actuarial valuation of a plan.

The report shall contain a declaration by the actuary attesting in particular that the plan is in conformity with the funding and solvency standards prescribed under this chapter, and the information required by regulation.

143. The administrator shall send the report to the Régie within 180 days of the end of the plan fiscal year, or within the time period set by the Régie, depending on whether the report pertains to an actuarial valuation required under paragraph 3 or paragraph 4 of section 140.

DIVISION II

FINANCING

§ 1.—*Funding*

144. Subject to section 146, a plan must be funded at the date of each actuarial valuation of which it is the object.

145. A plan is funded if, as at the date of the actuarial valuation, its assets are at least equal to the value on that date of the obligations provided for under the plan, taking into account the service credited to the members.

146. A plan may, at the date of each actuarial valuation of which it is the object, be partially funded, provided the lack of assets which are required to ensure that it is funded constitutes an actuarial deficiency within the meaning of this Act or an amount referred to in section 182.

147. The funding method used for an actuarial valuation shall be consistent with generally accepted actuarial principles.

The method shall assume perpetual existence of the plan.

The actuarial assumptions and methods used in verifying the funding of a plan shall be suitable, in particular, to the type of plan in question, its obligations and the position of the pension fund.

148. An actuarial valuation shall determine

(1) the regular contribution, expressed in currency or percentage of the payroll estimated in the valuation, for each fiscal year of the plan between the date of that valuation and the date of the next actuarial valuation required under paragraph 3 of section 140;

(2) the value of the obligations provided for under the plan in respect of service credited to the members up to the date of the valuation.

149. The regular contribution shall be at least equal to the value of the obligations provided for under the plan in respect of credited service completed during the years referred to in paragraph 1 of section 148.

Such contribution may, however, be a lesser amount if it arises from the application of a funding method whereby a funding level equal to or higher than the level referred to in section 145 or 146 is maintained at all times.

150. The value of the obligations referred to in section 148 or 149, the increase of which is provided for under the plan according, in particular, to the progression of members' remuneration, shall include the estimated amount of the obligations when they become payable, assuming that the probabilities determined by means of actuarial assumptions concerning, *inter alia*, survival, morbidity, mortality, employee turnover, and eligibility for benefits are realized.

Such value shall also be determined taking into account any benefit increase provided for under the plan after the benefits begin to be paid.

151. Any surplus assets determined in the course of the actuarial valuation of a funded plan shall be used only to reduce contributions.

§ 2.—*Actuarial deficiencies*

152. Within the meaning of this Act, an actuarial deficiency is any deficiency referred to in sections 153 to 157.

153. An initial actuarial deficiency is the amount of any lack of assets which would be required to ensure that the plan is funded at the date it comes into force.

154. An improvement actuarial deficiency is the amount of any lack of assets resulting from a plan amendment which, when added to the other actuarial deficiencies and to the amount referred to in section 182, would be required to ensure that the plan is funded at the date on which the amendment becomes effective.

155. A technical actuarial deficiency is the amount of any lack of assets resulting from a change in the method used for valuating the assets or liabilities or in the assumptions used in the actuarial valuation

which, when added to the other actuarial deficiencies and to the amount referred to in section 182, would be required to ensure that the plan is funded at the date of such change.

156. An experience actuarial deficiency is the amount of any lack of assets required to ensure that the plan is funded, and which is not an initial, improvement or technical actuarial deficiency, a contribution to be paid, an amount referred to in section 182 or an experience actuarial deficiency determined following a previous actuarial valuation.

157. An improvement actuarial deficiency may be considered to be an initial actuarial deficiency

(1) if it is identified as such by the plan;

(2) if the plan amendment from which it arises provides only for the crediting of service pertaining to a period prior to the coming into force of the plan.

In no case may the application of the method used for calculating the benefits deriving from service credited under the amendment result in benefits that are greater than those deriving from the method applied on the effective date of the amendment, for service of equal duration completed after that date.

158. Except in cases provided for by regulation, an actuarial valuation shall identify each actuarial deficiency and indicate the method of amortization of such deficiency.

159. An actuarial deficiency shall be amortized by dividing it into as many amounts as there are plan fiscal years or parts thereof included in the amortization period.

The amortization amounts shall, for each actuarial deficiency to which they apply, be clearly identified in the actuarial valuation.

160. The amortization period for any initial actuarial deficiency is 15 years.

161. The amortization period for an improvement actuarial deficiency is, depending on the degree of solvency of the plan immediately after the deficiency is determined,

(1) five years, if the degree of solvency is at least 70% but less than 100%;

(2) 15 years, if the degree of solvency is at least 100% but less than 130%;

(3) 25 years, if the degree of solvency is 130% or more.

162. For the purposes of this Act, the degree of solvency of a plan is the percentage represented by the ratio of the value of the plan's assets to the value of its liabilities.

The assets and liabilities referred to in the first paragraph shall be determined in accordance with sections 178 to 180.

163. Within 12 months after the date of the actuarial valuation, the following amounts shall be paid into the pension fund:

(1) any amount required to increase the degree of solvency of a plan to 70% where, by reason of an improvement actuarial deficiency, the degree of solvency is below that percentage;

(2) if an improvement actuarial deficiency is determined while the degree of solvency of the plan is below 70%, any sum required to increase the degree of solvency to 70%; that sum, however, shall not exceed the amount of such deficiency.

The last paragraph of section 47 and section 49 apply, with the required adaptations, to the payment of such amounts.

The amortization period for the balance of the actuarial deficiency referred to in paragraph 1 of the first paragraph is five years.

164. Unless the plan sets a higher interest rate, any amount not paid in accordance with section 163 shall bear interest, from the date of default, at the rate prescribed in section 53.

165. An improvement actuarial deficiency may be determined without the entire plan undergoing an actuarial valuation, provided an actuary certifies that the degree of solvency of the plan as amended is at least 70%.

In that case, the deficiency shall be equal to the value of the additional obligations arising from the plan amendment; such value is determined on the basis of the same assumptions and methods as those used for the purposes of the previous actuarial valuation.

The amortization period for this deficiency is five years.

166. The amortization period for a technical or experience actuarial deficiency is five years.

Such deficiency may also be amortized over the period and according to the rules set down in section 161 for the amortization of an improvement actuarial deficiency. The decision to amortize a deficiency in this manner shall be taken when the deficiency is determined, and the decision is irrevocable.

167. The amortization period for any actuarial deficiency commences with the date on which the deficiency is determined.

168. The amortization amounts shall, for each plan fiscal year or part thereof included in the amortization period, be determined according to

(1) either a flat percentage of the estimated total payroll;

(2) or a flat sum.

A decision to determine the amortization amounts according to either of the methods prescribed in the first paragraph is irrevocable.

169. The total payroll referred to in paragraph 1 of section 168 shall be estimated on the basis of the total remuneration paid to members over the twelve-month period preceding the date on which the actuarial deficiency is determined.

The annual rate of increase of the total payroll shall not exceed

(1) the rate of increase of the remuneration used for the purposes of the actuarial valuation, where the valuation requires the use of such rate because of the type of plan in question;

(2) a rate consistent with the interest and inflation rates used for the purposes of the actuarial valuation, where the valuation does not, because of the type of plan in question, require the use of a rate of increase in the remuneration.

170. The amortization amounts to be paid for each plan fiscal year or part thereof included in the amortization period shall be set as of the date on which the actuarial deficiency is determined.

In the course of the amortization period, such amounts may be decreased only as prescribed in section 171 or 172.

171. Any amortization amount paid during a plan fiscal year or part thereof may exceed the amount set as of the date on which the actuarial deficiency is determined, provided the excess amount is used

(1) either to reduce the amortization amounts to be paid, by applying the excess amount first to the amortization amount for the following plan fiscal year or part thereof and then, if a balance remains, to the amortization amount for the plan fiscal year or part thereof that comes after, and so forth until the excess amount becomes nil; or

(2) to reduce proportionately each amortization amount to be paid.

172. Where, on the date of an actuarial valuation, the amortization amounts to be paid exceed the lack of assets required to ensure that the plan is funded at such date, the excess amount may be used only to reduce proportionately the amortization amounts to be paid that are related to all the actuarial deficiencies.

173. Where an actuarial deficiency is amortized, sections 171 and 172 may result in a reduction of the amortization period applicable to the deficiency.

DIVISION III

SOLVENCY

174. Subject to section 176, a plan must be solvent at the date of each actuarial valuation of which it is the object.

175. A plan is solvent if its assets are at least equal to its liabilities.

176. A plan may be partially solvent on the date of each actuarial valuation of which it is the object provided the lack of assets required to ensure the plan's solvency is offset by the value, at the date of such actuarial valuation

(1) of the amounts allowed for to amortize the balance, at such date, of any initial actuarial deficiency or any amount referred to in section 182, determined in a previous actuarial valuation;

(2) of the amounts allowed for to amortize, over the five-year period following such date, any other actuarial deficiency determined in a previous actuarial valuation carried out after the coming into force of this Act.

177. The value of the amounts allowed for to amortize an actuarial deficiency referred to in section 176 shall be determined on the basis of an interest rate identical to the rate used to determine the plan's liabilities for the purposes of establishing the plan's solvency.

178. For the purposes of establishing the solvency of a plan at the date of the actuarial valuation, the plan's assets shall be determined according to their market value on that date.

If such value is not determinable on that date, the liquidation value or an estimate thereof shall be used.

179. For the purposes of determining the solvency of a plan at the date of the actuarial valuation, the plan's liabilities shall be equal to the value of the plan's obligations, assuming the plan is totally terminated on that date.

The actuarial assumptions used to determine such value shall be suitable, in particular, to the type of plan in question, its obligations and the position of the pension fund.

180. The assets and liabilities valuation method used to establish the plan's solvency shall provide for the levelling-out of short-term fluctuations in the value used for valuating the assets or in the interest rate used for valuating the liabilities.

181. For the purposes of establishing the solvency of a plan under which benefits are guaranteed by an insurer, the plan's liabilities shall include the value corresponding to the benefits, and its assets shall include an amount equal to such value.

The plan's liabilities shall be determined in accordance with section 179.

182. Any amount required to ensure that the plan is solvent or partially solvent shall be paid into the pension fund by the employer within one year after the date of the actuarial valuation.

The last paragraph of section 47 and section 49 apply, with the necessary adaptations, to the payment of such amount.

183. Unless the plan sets a higher interest rate, any amount not paid in accordance with section 182 shall bear interest, from the date of default, at the rate prescribed in section 53.

DIVISION IV

CONDITIONS GOVERNING THE PAYMENT OF BENEFITS

184. Subject to section 185, the value of any benefit to which a member or beneficiary becomes entitled under a plan having a degree of solvency of less than 100% as established in the last actuarial valuation of which it is the object may be paid out of the pension fund only in proportion to the plan's degree of solvency as established in such valuation.

Any unpaid balance of such value shall be funded and paid within five years after any payment under the first paragraph or, at the latest, at normal retirement age if the member reaches such age before the lapse of five years.

185. No payment under the first paragraph of section 184 may be for a value of less than the sum of the following amounts:

(1) the worker contributions and additional voluntary contributions paid into the plan by the member;

(2) the amounts credited to the account of the member following a transfer referred to in section 117 or 118;

(3) the interest accrued on the amounts referred to in paragraph 1 or 2.

186. Section 184 shall not preclude the periodic payment of any pension that has become payable.

CHAPTER X

ADMINISTRATION OF A PLAN

DIVISION I

ADMINISTRATION

187. Every plan shall, from its coming into force, be administered by an administrator designated in accordance with the plan and this Act.

188. Except in the case of insured plans, the administrator of a plan shall act as the plan's trustee.

189. Only the following persons may act as the administrator of a plan:

(1) an employer;

(2) an employers' committee;

(3) a pension committee;

(4) a workers' association.

In the case of an insured plan, the insurer may also act as the administrator of the plan.

190. Every plan involving 50 or more active members shall, if so requested by a majority of such members, be administered by a pension committee.

191. The pension committee shall consist of representatives of the employer, designated by him, and, for not less than one-half of its members, of representatives of the members, designated by them.

192. Every plan shall prescribe the mode of appointment and replacement of the members of the employers' committee or of the pension committee responsible for the administration of the plan, and their terms of office.

193. The employers' committee, the pension committee or the workers' association shall, once designated as the administrator of a plan, establish the plan's internal management by-laws.

194. Until the administrator of a plan or, in the case of an employers' committee or pension committee, its members, is or are appointed, the employer is deemed to be the administrator of the plan.

195. On accepting the office, the administrator shall be seized of the pension fund.

The same applies to the employer who is deemed to be the administrator of the plan pursuant to section 194.

196. An administrator may, for a specific act, delegate his functions or powers or be represented by a third person.

He shall not, however, delegate the general administration of the plan or the exercise of a discretionary power to any person other than the following natural or legal persons:

(1) a co-administrator;

(2) a member of the employers' committee or pension committee;

(3) a trust company authorized to do business in Québec or elsewhere in Canada where similar legislation is in force;

(4) an insurer authorized to transact the business of insurance in Québec or elsewhere in Canada where similar legislation is in force;

(5) in respect of the investment of the plan assets, a security broker or adviser registered as such with the Commission des valeurs mobilières du Québec.

197. In no case may an administrator be held liable for any damage caused by the person who is responsible for the general administration of a plan or who exercises a discretionary power, except if he knew or should have known the person to be incompetent or except if he was not empowered to make a valid delegation of the administration or of the power.

198. The person who is in charge of the general administration of a plan or the person who exercises a discretionary power shall be liable towards the members or beneficiaries for any damage they suffer through his fault.

199. Any person commissioned by the administrator or any person who exercises a function or power delegated pursuant to section 196 shall have the same obligations as the administrator.

200. Each member of an employers' committee or pension committee shall be accountable for the administration of the committee.

201. The administrator or, in the case of an employers' committee or pension committee, each member shall be deemed to have approved any decision made, as the case may be, by his co-administrators or the other members. He shall be jointly and severally liable with them unless he makes his dissent known to them immediately and in writing.

Each member shall also be deemed to have approved any decision made in his absence unless he makes his dissent known to his co-administrators or to the other members, in writing, within five days of the day he has knowledge of the decision.

202. An administrator may make only short-term loans.

In no case may the plan's assets be used to secure a loan.

Moreover, in no case may the total of unrepaid loans exceed, in a plan fiscal year, the amount representing twice the amount of the regular contributions payable in that year.

203. In addition to the obligations imposed on him by law, the administrator shall

(1) furnish to the Régie the name and address of the person commissioned by him or to whom he delegates a function or power pursuant to section 196, together with a description of the commission or delegated function or power;

(2) in the case of an employers' committee or pension committee, notify the Régie of any change of members;

(3) pay to the Régie the annual fees prescribed by regulation to finance the administration of this Act, within the time period and on the conditions fixed by such regulation.

204. Unless otherwise provided in the plan, the plan fiscal year ends on 31 December each year.

Except where authorized by the Régie, the plan fiscal year shall not exceed 12 months.

205. The administrator shall, within six months of the end of each plan fiscal year, transmit to the Régie the annual return and financial report prescribed by regulation.

The financial report shall be audited by an accountant to the extent prescribed by such regulation.

206. Unless assumed by the employer under the terms of the plan, the administrative costs are chargeable to the pension fund.

207. Where several beneficiaries claim benefits under a plan, the administrator or, as the case may be, the insurer may be relieved by depositing the amount due with the Minister of Finance, in accordance with the Deposit Act (R.S.Q., chapter D-5).

208. The administrator of a plan which has 50 or more active members shall see to the establishment of an advisory committee if so requested by a majority of such members, except where the administrator is a pension committee, an employer or an employers' committee acting jointly with a workers' association.

Not less than one-half of the members of the advisory committee shall be designated by the members and at least one member shall be designated by the employer or the employers' committee.

209. The functions of the advisory committee are

(1) to promote better understanding of the plan among its members;

(2) to examine improvements to be made to the administration of the plan and make recommendations in that respect to the administrator;

(3) to supervise the administration of the plan, in particular, the payment of contributions and benefits, the management of the pension fund, the investment of assets, the keeping of any record or document concerning the plan and the disclosure of information to members or beneficiaries.

210. The members of an advisory committee are entitled to examine any document or information relating to the plan.

211. The administration of a plan shall terminate when the plan ceases to be in force in accordance with section 22.

DIVISION II

INVESTMENTS

212. Any investment of the assets of the plan shall be made by the administrator, in accordance with the plan and according to law.

For that purpose, the plan shall be provided with an investment policy.

213. Any amount paid into the pension fund shall, upon payment and until it is invested, be deposited by the administrator in or with a bank, a société d'entraide économique, a savings and credit union, a trust company, an insurer or another institution holding a licence in force issued in accordance with the Deposit Insurance Act.

214. Every deposit or investment made in the course of the administration shall be made in the name of the administrator acting as such, except

(1) an investment in unregistered securities;

(2) an investment made in the name of a nominee pursuant to a written agreement between the latter and the administrator, after the Régie has been notified thereof;

(3) where an investment in the name of the administrator acting as such would entail additional expenses or losses of income, any investment made otherwise, provided it is made in accordance with the terms and conditions authorized by the Régie.

215. In no case may a proportion of the plan assets greater than 10% of their book value be invested

(1) in one and the same immovable;

(2) in one or more loans to one and the same natural person;

(3) in one and the same legal person, in any form whatever;

(4) in units of one and the same unincorporated mutual fund.

216. The ceiling set under section 215 does not apply to the following forms of investment:

(1) securities issued or guaranteed by the government of Québec, of Canada or a Canadian province;

(2) securities issued by an agency of a government referred to in paragraph 1 which operates a public utility service for which it is entitled to levy a charge;

(3) securities guaranteed by an engagement, toward a trustee, of a government referred to in paragraph 1 to grant sufficient subsidies to pay the interest and capital on their respective maturity dates;

(4) units of an investment pool and securities issued by a mutual fund or by an investment company determined by regulation provided that the conditions or prohibitions prescribed by regulation are complied with;

(5) any other form of investment determined by regulation.

217. The ceiling set under section 215 shall be raised to 25% in respect of the following forms of investment:

(1) securities issued or guaranteed by a municipality, an urban or regional community, a regional county municipality, a school board, the Conseil scolaire de l'île de Montréal or a fabrique;

(2) securities issued by a loan company incorporated by an Act of Québec or authorized to do business in Québec pursuant to the Loan and Investment Societies Act (R.S.Q., chapter S-30), provided the company has been specially approved by the Government and its main activity in Québec consists in making loans to municipalities, school boards or fabriques or loans secured by first hypothec on immovables situated in Québec;

(3) any other form of investment determined by regulation.

218. The plan assets shall not be invested in securities issued by a legal person that does not pay the prescribed dividends on its shares owing to the fact that such payment would be contrary to law, or fails to pay interest on its other securities.

Moreover, no loan may be granted to such legal person out of the plan assets.

219. The plan assets shall not be invested in securities issued by a legal person to whom a loan out of such assets is prohibited under section 224.

The Régie may, however, permit the administrator, on the conditions it determines, to make any investment prohibited by the first paragraph if he proves that the investment does not significantly affect the interests of any person referred to in that section and if it is otherwise consistent with this division.

220. Except in the cases determined by regulation, no administrator may have the control of a legal person.

221. For the purposes of this division, a person who holds, directly or indirectly, otherwise than as a guarantee, securities entitling him to elect in all cases a majority of the directors of a legal person has the control of that legal person.

222. In no case may the administrator issue options requiring him, if they are exercised, to sell securities not held by him at the time the options are issued or to acquire securities he is prohibited by law from acquiring.

223. In no case may the administrator, by way of a securities futures contract undertake to sell securities not held by him at the time the contract is made or undertake to acquire securities he is prohibited by law from acquiring.

Moreover, the administrator is prohibited from being a party to a commodity futures contract.

224. In no case may any loan out of the plan assets be granted to

(1) the members of a pension committee;

(2) a workers' association representing members or, if the latter is a legal person, its directors or officers or an employee of the association;

(3) the employees of the administrator;

(4) the directors or officers of the administrator, if the administrator is a legal person or a member of an employers' committee;

(5) the spouse or child of any person referred to in paragraph 1, 2, 3 or 4, or of the employer, if he is the administrator;

(6) where the employer is a legal person and the administrator, to

(*a*) a shareholder, associate or member who holds directly or indirectly more than 10% of the capital stock of the legal person or his spouse or child;

(*b*) a shareholder, associate or member or his spouse or child if, together, they hold directly or indirectly more than 10% of the capital stock of the legal person;

(7) where the employer is the administrator, any legal person of which he holds directly or indirectly more than 10% of the capital stock;

(8) a legal person, other than the employer, of which a person referred to in paragraph 1, 2, 3, 4, 5 or 6 holds more than 10% of the capital stock;

(9) a legal person other than the employer more than 50% of the capital stock of which is held by a group composed exclusively of persons referred to in paragraph 1, 2, 3, 4 or 6, of the employer where he is the administrator or the spouse or child of any of them;

(10) a legal person, other than the employer, controlled by a person referred to in paragraph 1, 2, 3, 4, 5 or 6, or by the employer where he is the administrator, or by a group composed exclusively of such persons.

225. The administrator may, notwithstanding section 224, grant a loan out of the plan's assets to a member, his spouse or his child

provided that the aggregate of the loans granted is not higher than the annual remuneration received by the member from the employer party to the plan, up to the ceiling fixed by regulation, or that the loan is secured by a hypothec on an immovable used as a dwelling-place by the member, his spouse or his child.

If the member's spouse or child receives a remuneration from the employer party to the plan, it shall be added to the member's remuneration for determining the borrowing limit contemplated in the first paragraph.

226. For the purposes of section 224, every natural or legal person is deemed to hold the shares held, directly or indirectly, by a legal person controlled by such natural or legal person.

227. If an event that the administrator is unable to foresee or control occurs, which results in rendering the investment of the plan's assets inconsistent with the law, the administrator shall, within 12 months of the day he has knowledge of the event, take every step necessary to regularize the situation.

If, however, the event is the re-organization, winding-up or amalgamation of a legal person in which the securities held by the administrator are replaced following the event, the time limit set under the first paragraph is extended to five years.

The Régie may grant any additional time period to the administrator.

228. The administrator of a plan the assets of which, prior to the date the plan became subject to this Act, were invested in investments that are not in conformity with the law shall, within five years after such date or within any additional time period granted by the Régie, regularize such investments.

229. The administrator who makes investments not in conformity with the law shall, by that sole fact and without further proof of wrongdoing, be liable for any resulting loss.

230. The members of the board of directors of a legal person that is the administrator or a member of an employers' committee, the members of the board of directors of a workers' association or the members of an employers' committee or of a pension committee who have consented to investments not in conformity with the law shall, by that sole fact and without further proof of wrongdoing, be jointly and severally liable for any resulting loss.

231. No fee, commission or other benefit may be paid or granted in respect of any transaction relating to the investment of the plan's assets to

(1) the administrator or the person commissioned by him or to whom he has delegated a function or power pursuant to section 196;

(2) the members of an employers' committee or pension committee;

(3) the employees of the administrator;

(4) where the administrator is a legal person, its directors or officers;

(5) the spouse or child of any person referred to in subparagraph 1, 2, 3 or 4.

The first paragraph does not apply, however, to a person referred to therein if such benefit is ordinarily granted to him in the performance of his duties and if it corresponds to what is usually granted in respect of such a transaction.

DIVISION III

TRUSTEESHIP

232. The Régie may, for the period it fixes, assume the administration of all or part of a plan or entrust it to the person it designates in any of the following cases:

(1) where the Régie or the person it designates is making an inquiry into the plan's conformity with the law or into the administration of the plan;

(2) where the Régie considers that the plan is not in conformity with this Act;

(3) where the Régie considers that the administrator has committed a malversation, a breach of trust or other form of misconduct or that he is seriously failing his obligations under the law.

For the purposes of this section, the word "administrator" includes any member of an employers' committee or pension committee and, where a legal person is the administrator or a member of an employers' committee, any director. It also includes the person commissioned by the administrator or to whom he has delegated a function or power under section 196.

233. Before deciding to assume the trusteeship of a plan, the Régie shall give every person concerned the opportunity to be heard.

However, in cases of emergency, the Régie may make its decision before hearing the persons concerned provided it does so within 15 days of the decision.

234. The Régie shall transmit its decision to the administrator and to the employer party to the plan.

The Régie shall also, where the decision bears on the trusteeship of the whole plan, transmit it to the members or, in the case of a plan set up under a labour agreement or an arbitration award in lieu thereof, to the workers' association representing the members; to do so, the Régie may choose either of the methods prescribed in section 251.

235. On receiving copy of the decision of the Régie, the employer shall display it in a prominent place of his establishment where the greatest number of members work in Québec.

236. The provisional administrator shall, to the extent provided in the decision of the Régie, perform the duties and exercise the powers of the administrator who becomes disqualified therefor for the duration of the trusteeship.

237. The provisional administrator shall have the same obligations as those imposed by law on the administrator.

238. After deciding to assume the trusteeship of a plan on any of the grounds set out in subparagraph 3 of the first paragraph of section 232 and having given the person concerned the opportunity to be heard, the Régie may decide that the administrator, or the person commissioned by him or to whom he has delegated a function or power under section 196 or, where the administrator is an employers' committee or a pension committee, one of its members, is relieved of his duties, and disqualify him from exercising such functions.

In such a case, the Régie may, on the conditions and according to the requirements it determines, see to the replacement of the administrator or member who has been relieved from his duties.

Sections 234 and 235 apply to every decision of the Régie made under this section.

239. The Régie may amend a plan placed under trusteeship either to bring the plan into conformity with the law or to protect the rights of members or beneficiaries.

Before amending the plan, the Régie shall give the employer and members, or in the case of a plan set up under a labour agreement or an arbitration award in lieu thereof, any workers' association representing members, the opportunity to be heard.

The Régie shall register every amendment it makes.

240. The provisional administrator appointed by the Régie may, for either of the purposes set out in the first paragraph of section 239, amend the plan.

The provisional administrator shall, beforehand, transmit the notice provided for in section 31 to the suspended administrator, to the employer and, in the case of a plan established under a labour agreement or an arbitration award in lieu thereof, to every workers' association representing members.

In addition to the ground set forth in section 34, the Régie may refuse the registration of an amendment applied for by the provisional administrator if, in its opinion, the amendment is not in the best interest of the members or beneficiaries.

241. Every plan amendment made by the Régie or by the provisional administrator appointed by it shall be effective from its registration date and shall be binding on the employer and members.

242. The Régie, where it assumes the trusteeship of a plan or, with its approval, the provisional administrator may, in accordance with Chapter XI, adapted as required, terminate a plan under trusteeship.

The Régie or the provisional administrator shall give notice of the termination of the plan to the employer, the members involved and, in the case of a plan set up under a labour agreement or an arbitration award in lieu thereof, to any workers' association representing members.

The notice shall indicate whether the termination is total or partial, the date on which it is to take place and the members involved in the termination.

243. The Régie shall determine the remuneration and, where such is the case, the allowances and indemnities to be paid to the provisional administrator it has designated.

The Régie is entitled to the repayment of expenses incurred by it for the trusteeship of a plan or for lending any of its officers to the provisional administrator it has designated.

244. If so required by the Régie, the provisional administrator it has designated shall make an inventory.

In addition, the provisional administrator shall, on the conditions and in accordance with the requirements fixed by the Régie, take out liability insurance or give any other security to guarantee his administration.

245. Unless assumed by the Régie, the expenses relating to the trusteeship of a plan shall be charged to the pension fund.

CHAPTER XI

WINDING-UP OF A PLAN

DIVISION I

TERMINATION

246. Unless he is prevented from doing so by an agreement, an employer may terminate, in whole or in part, the plan to which he is a party, by sending a notice of termination in writing to the members concerned or, in the case of a plan set up under a labour agreement or an arbitration award in lieu thereof, to the workers' association representing the members, and to the administrator and the Régie.

The notice shall indicate whether the termination is total or partial, the members who are concerned and the date on which the termination is to take place; such date shall not precede the date on which worker contributions stopped being deducted or, in the case of a non-contributory plan, the date on which the notice was transmitted to the members concerned.

247. In the case of a multi-employer plan, the notice of termination applies only to the employer who sends it and the members concerned.

A copy of such notice shall also be transmitted by the administrator to each employer who is a party to the plan.

248. The Régie may decide on the total or partial termination of a plan where an employer who has not transmitted the notice of termination fails to deduct worker contributions or to pay into the

pension fund or to the insurer his employer contributions or the worker contributions he has deducted, or where there is a decrease in the number of active members.

However, before deciding on such termination, the Régie shall give notice of the employer's default to the members concerned or, in the case of a plan set up under a labour agreement or an arbitration award in lieu thereof, to the workers' association representing the members. The Régie shall also give the parties concerned the opportunity to be heard.

249. In its decision to terminate a plan, the Régie shall indicate whether the termination is total or partial, the members who are concerned and, subject to section 252, the date on which the termination is to take place.

The decision of the Régie shall be transmitted to the employer and the members concerned or, in the case of a plan set up under a labour agreement or an arbitration award in lieu thereof, the workers' association representing the members and the administrator or, where applicable, the insurer.

250. Partial termination of a plan concerns only the active members unless it results from the withdrawal of an employer from a multi-employer plan.

251. The Régie may fulfil its obligation to furnish the members or the workers' association representing the members with the notice provided for in section 248 or the decision referred to in section 249

(1) either by sending it to the employer who, upon receipt thereof, shall display it in a prominent place in his establishment where the greatest number of the members involved in the plan termination work in Québec; or

(2) by having it published in a daily newspaper circulated in the locality where such establishment is situated.

252. Where the Régie decides on total or partial termination of a plan, the termination date is the date set by the Régie. This date shall not be

(1) in the case of a non-contributory plan, later than the date on which the notice prescribed by section 248 was sent to the members or to the workers' association representing the members or, if the Régie

avails itself of section 251, the date on which the notice was sent to the employer or the date on which it was published, as the case may be;

(2) in the case of a contributory plan, prior to the date on which worker contributions stopped being deducted or later than the date referred to in paragraph 1.

253. Once an administrator has been notified of the total or partial termination of a plan, he shall have an actuary prepare a termination report determining in particular, for settlement purposes, the benefits of each member or beneficiary involved in the termination and their value, and containing the information determined by regulation.

The termination report may also, in the case of a defined contribution plan, be prepared by an accountant or, in the case of an insured plan, by the insurer.

254. The administrator shall submit the termination report for approval to the Régie within 60 days after the date of receipt of the notice of termination or the decision whereby the Régie has terminated the plan, or within any additional time period that may be granted by the Régie.

255. In case of total termination of a plan which provides in such case that the surplus assets be allocated to the employer, the Régie may, where a majority of the active members involved in the terminated plan become eligible for membership in or join, before the Régie has approved the termination report, another plan to which the same employer is a party, order the transfer to the latter plan of all benefits credited before the termination date to any member or beneficiary under the terminated plan, as well as the assets of the terminated plan.

256. Where a plan has been the object of one or more partial terminations and is terminated in whole, and the surplus assets as determined upon the total termination must, under the plan or this Act, be remitted to the members or beneficiaries involved in the termination, the Régie may approve the termination report only if the surplus assets are distributed, in accordance with section 293, among the members or beneficiaries and those who were involved in a previous partial termination as indicated by the Régie.

257. Within 30 days after the date on which the Régie has approved a termination report or within any additional time period that may be granted by the Régie, the administrator shall provide to each member or beneficiary involved in a plan termination a statement setting out

his benefits and their value and containing the information determined by regulation.

Such statement shall be accompanied with a notice informing the member or beneficiary that he may examine the data used in calculating his benefits at the administrator's office or at the employer's establishment closest to the member's or beneficiary's residence, and that he may, within 30 days of the date on which the notice was sent, make his comments known to the administrator or the Régie.

258. If a plan is terminated in whole, the administrator shall, within the time period prescribed by section 257, cause to be published in a daily newspaper circulated in the region in Québec where the greatest number of members reside, a notice inviting any person who has not received the notice provided for under that section and who believes that he is entitled to benefits under the plan or under this Act, to assert his rights with the administrator within 60 days of the date of such publication.

In the case of a multi-employer plan, for each employer who is a party to the plan, the notice shall be published in the region in Québec where the greatest number of members in the service of that employer reside.

DIVISION II

SETTLEMENT OF THE BENEFITS OF MEMBERS OR BENEFICIARIES

§ 1.—*Non-application*

259. The Régie may exempt from the application of this division any partial termination of a multi-employer plan, if the following conditions are met:

(1) the members involved in the termination remain active members and the Régie considers that most of them will continue to be active members in the short term;

(2) the plan prescribes that all employers who are parties to the plan on or after the termination date are jointly and severally liable for the plan's solvency, within the meaning of section 175.

260. Sections 267 to 271 do not apply to the settlement of the benefits of members or beneficiaries involved in the total or partial termination of a plan if, on the date of termination, the degree of solvency of the plan is equal to or greater than 100%.

§ 2.—Determination of benefits and order of priority for their payment

261. The administrator or the insurer, as the case may be, shall proceed with the payment of the benefits of the members or beneficiaries involved in the total or partial termination of a plan, in accordance with this Act and the termination report approved by the Régie.

262. Except in the case of a pension that is in payment on the date of the plan termination or which first becomes payable after that date, the administrator shall not proceed with any settlement of benefits between that date and the end of the time limit referred to in the second paragraph of section 257 or, in the case of a total plan termination, the sixty-day period prescribed by section 258.

263. If, after the date of the plan termination, a member or beneficiary receives benefits in excess of those allocated to him in the termination report, he shall repay the overpayment to the administrator or the insurer, as the case may be.

Otherwise, the overpayment shall be deducted from the benefits that remain to be paid to the member or beneficiary.

264. A member who is involved in the total or partial termination of a plan and who has been an active member for at least two years shall be entitled to the value of the normal pension in respect of service credited to him under the plan until the termination date.

265. The value of the normal pension which under the plan is calculated, in particular, according to the progression of the member's remuneration, shall, for the purposes of this chapter, be determined on the basis of the remuneration paid until a date not prior to the date of the plan termination.

However, if a member withdraws from the plan before the termination date, and the plan provides that in such a case remuneration stops increasing on the date of withdrawal or on any later date set by the plan, such value shall be determined on the basis of the remuneration paid until the date on which the remuneration stops increasing.

266. For the application of this subdivision, the date of cessation of contributions is, depending on the first event leading to total or partial termination of a plan, the date on which the employer ceases paying into the pension fund or to the insurer, as the case may be, either his employer contributions or the worker contributions he has deducted.

267. Any benefit derived from an obligation undertaken by the plan and leading to an initial actuarial deficiency not fully amortized at the date of cessation of contributions, shall be reduced for settlement purposes if, on that date, the value of n in the following formula is greater than 0:

$$p - (c - a) = n$$

where

"p" represents the value of the benefit, determined in accordance with sections 264 and 265;

"c" represents the value of the benefit on the date of cessation of contributions, according to the actuarial assumptions and methods used for the funding of such value;

"a" represents the value of the payments which, if the plan had not been terminated, would still be payable for the amortization of the deficiency, discounted at the date of cessation of contributions.

Values c and a shall be determined on the basis of identical interest rates.

The reduced benefit is obtained by multiplying the benefit amount by the following fraction:

$$\frac{p - (c - a)}{p}$$

268. Any benefit derived from a plan amendment made after the date of coming into force of this Act and related to service completed before the date on which the amendment becomes effective shall, for payment purposes, be reduced

(1) by 100%, if the period from the date on which the amendment becomes effective to the date of cessation of contributions is less than one year;

(2) by 80%, if such period is one year or more, but less than two years;

(3) by 60%, if such period is two years or more, but less than three years;

(4) by 40%, if such period is three years or more, but less than four years;

(5) by 20%, if such period is four years or more, but less than five years.

However, no benefit derived from a plan amendment leading to an improvement actuarial deficiency that is considered an initial actuarial deficiency pursuant to this Act may be reduced in accordance with this section.

269. For the application of section 270, a vested member or beneficiary is any person who, on the date of the plan termination

(1) is receiving benefits under the plan;

(2) has postponed the payment of a pension;

(3) has stopped working for his employer and is entitled to a deferred pension, a pension referred to in section 108 or to the worker contributions above the ceiling fixed by section 68;

(4) would have been entitled to a deferred, early or normal pension if he had stopped working for the employer on that date.

270. The benefits of the members or beneficiaries involved in a total or partial plan termination shall be settled in the following order:

(1) the amounts representing the following values, paid concurrently:

(*a*) the value, discounted at the date of the plan termination, of the benefits vested in respect of service completed before the date of cessation of contributions and payable to a vested member or beneficiary;

(*b*) the value of the worker contributions paid on behalf of a non-vested member, before the date of cessation of contributions, into the pension fund or to the insurer, as the case may be;

(*c*) the value of the worker contributions that are paid, from the date of cessation of contributions to the date of termination of the plan into the pension fund or to the insurer, as the case may be;

(*d*) the value of the additional voluntary contributions paid, up to the date of termination of the plan, into the pension fund or to the insurer, as the case may be;

(*e*) the value of the amounts received by the plan following a transfer referred to in section 117 or 118;

(2) the amount representing the value of the worker contributions or additional voluntary contributions collected by the employer from the date of cessation of contributions to the date of termination of the plan and not paid into the pension fund or to the insurer, as the case may be;

(3) the amount representing the value of unpaid benefits accrued in respect of service completed from the date of cessation of contributions to the date of termination of the plan;

(4) the amount representing the value of any reduction in benefits carried out pursuant to section 267 or 268.

271. Where the assets are not sufficient to pay in full the benefits of the members or beneficiaries of the same rank, the settlement shall be made in proportion to the value of the benefits of each member or beneficiary.

272. The benefits of any member involved in the partial termination of a multi-employer plan and to whom no pension is being paid under the plan at the date of termination, may remain unpaid where the following conditions are met:

(1) the plan provides that the member is deemed to fulfil the requirements for a deferred pension in respect of service credited to him under the plan before the date of coming into force of this Act;

(2) the member remains an active member;

(3) the plan provides that all employers who are parties to the plan on or after the date of termination are jointly and severally required to assume at any time payment of the contributions required to insure the funding, within the meaning of section 145, of the plan's obligations from which such benefits derive.

273. The benefits of any member or beneficiary involved in the partial termination of a multi-employer plan and to whom a pension is being paid on the date of termination may remain unpaid if the following conditions are met:

(1) the member or beneficiary requests that the payment of the pension continue to be assumed by the plan rather than by an insurer, pursuant to section 295;

(2) in respect of such benefits, the plan provides that the employers' liability is identical to that which is prescribed by paragraph 3 of section 272.

§ 3.—*Distribution of the assets*

274. The Régie may exempt from the application of this subdivision the settlement of the benefits of the members or beneficiaries involved in the partial termination of a plan, in either of the following cases:

(1) where, on the date of termination, the plan is solvent within the meaning of section 175, and the benefits are calculated at a value at least equal to that of the normal pension determined, if applicable, in accordance with section 265;

(2) where, in the case of a multi-employer plan, the benefits have not all been paid, on condition that the plan is solvent as required under paragraph 1 and provides that all employers who are parties to the plan on or after the date of termination are jointly and severally required to guarantee at all times, in respect of the unpaid benefits, a value at least equal to that of the normal pension determined, if applicable, in accordance with section 265.

275. In the case of partial termination of any plan or total termination of a multi-employer plan, the assets of the plan, for the purposes of paying the benefits to the members or beneficiaries involved in the termination, are distributed in accordance with sections 276 to 284.

276. In the cases referred to in section 275, the benefits accrued under a plan to each of the members or beneficiaries not involved in the termination of the plan are determined at the date of termination, in accordance with sections 264 to 268.

277. In the case of partial termination of a plan, the benefits accrued under the plan to the members or beneficiaries shall be divided into two groups, one of which shall consist of the benefits of the persons involved in the termination.

Where more than one employer is involved in the partial termination of a multi-employer plan, the group of benefits of the members or beneficiaries involved in the termination shall be distributed in accordance with section 278.

278. In the case of total termination of a multi-employer plan, the benefits accrued under the plan to the members or beneficiaries shall be divided into as many groups as there are employers; each group, subject to section 279, shall consist of the benefits accrued to a member in respect of his work for the employer to whom the group of benefits pertains.

279. Where a member has worked for more than one of the employers who are parties to a multi-employer plan, the benefits accrued to such member under the plan shall, for the application of the second paragraph of section 277 and section 278, be accounted for in the group of benefits pertaining to the last employer for whom he worked while an active member.

However, the first paragraph does not apply if the plan provides that, in such a case, any benefit accrued to the member in respect of his work with one of the employers is accounted for in the group of benefits pertaining to that employer.

280. In the case of partial termination of a multi-employer plan, the members' or beneficiaries' benefits that are unpaid pursuant to section 272 or 273 constitute a separate group of benefits, for purposes of distributing the plan's assets.

The remainder of the benefits of the members or beneficiaries involved in a previous partial termination of the plan which, upon such termination, were unpaid pursuant to the said section, is added to that group.

281. The assets of any plan that is partially terminated or of a multi-employer plan that is totally terminated are, subject to section 282, divided among the groups of benefits constituted pursuant to this subdivision, according to the value of the benefits in each group and the order of payment established by this Act.

282. The assets of a multi-employer plan that is terminated in whole or in part shall, in view of their distribution among the groups of benefits constituted pursuant to this subdivision, be increased by the amount representing the sum of the contributions that an employer who is a party to the plan has, by the date of termination, failed to pay into the pension fund or to the insurer, as the case may be.

283. If, once the plan's assets have been distributed in accordance with sections 281 and 282, there is a surplus, the surplus shall be divided among the groups of benefits constituted pursuant to this subdivision,

in such a manner that the plan's obligations from which the benefits in each group derive are maintained at a funding level identical or similar to that which they would have had if the plan had not been terminated.

Such funding level is determined irrespective of the value of the plan's obligations with respect to any portion of an initial or improvement actuarial deficiency remaining to be amortized on the date of termination.

284. Any contribution which, by the date of termination of the plan in whole or in part, an employer who is a party to a multi-employer plan has failed to pay into the pension fund or to the insurer, as the case may be, must be deducted from that portion of the assets which, pursuant to sections 281 to 283, is allocated to the group of benefits pertaining to that employer.

§ 4.—*Debt of the employer*

285. In the case of total or partial termination of a plan, the assets lacking which are required to pay all the benefits of the members or beneficiaries involved in the termination constitute a debt of the employer.

If, at the date of termination, the employer has failed to pay contributions into the pension fund or to the insurer, as the case may be, the debt shall be the amount by which the assets lacking exceed such contributions.

In the case of a multi-employer plan, this section applies to every employer who is a party to the plan and to whom a group of benefits constituted pursuant to subdivision 3 and consisting of the benefits of the members or beneficiaries involved in the termination pertains.

286. Where an employer who is a party to a multi-employer plan fails to repay a debt referred to in section 285 or who has, on the date of the plan termination, failed to pay contributions owing to the pension fund or to the insurer, as the case may be, the other employers who are parties to the plan on that date are liable for the payment of the benefits referred to in paragraph 1 of section 270 that are included in the group of benefits pertaining to the employer in default and which are not paid because of such default.

Subject to section 287, each employer's share of liability shall be determined as a proportion of the number of members in his service on the termination date to the total number of plan members on the same date.

287. The plan may prescribe, with respect to the employers' liability as provided for in section 286, a distribution method different from the method prescribed in the second paragraph of that section, provided the amount to be assumed by the employers is not lower than the amount m of the following formula:

$$d \times \frac{v^1}{v^2} = m$$

where

"d" represents the debt or the unpaid contributions of the employer in default;

"v^1" represents the value of the benefits referred to in paragraph 1 of section 270, as determined for the members in the service of the other employers on the termination date;

"v^2" represents the value of the benefits referred to in paragraph 1 of section 270, as determined for all of the plan members on the termination date.

288. Any amount owed by an employer under section 285, 286 or 287 shall, upon its determination, be paid into the pension fund or to the insurer, as the case may be.

However, the Régie may, upon the conditions it determines, allow any employer to spread the payment of such amount over a period of not more than five years.

Any amount not paid in accordance with the first paragraph or payment of which is spread pursuant to the second paragraph shall bear interest from the date of termination at the rate set by regulation.

289. Any amount paid by an employer under this subdivision shall be used for the payment of benefits in the order of priority set under this Act; the balance, if any, shall be liquidated in accordance with subdivision 5.

§ 5.—*Remittance of surplus assets*

290. No surplus assets determined upon the total termination of any plan or the partial termination of a multi-employer plan due to the withdrawal of one of the employers, may be remitted before the benefits of the members or beneficiaries involved in the termination have been paid, unless such benefits are unpaid pursuant to section 272 or 273,

in which case, the surplus assets may be credited to the members in accordance with the plan and this Act.

291. No surplus assets determined upon the partial termination of a plan may be remitted except in the case of partial termination of a multi-employer plan due to the withdrawal of one of the employers.

In such case, the surplus assets may be remitted to the withdrawing employer or to the members or beneficiaries whose benefits are included in the group of benefits pertaining to that employer.

292. Unless a plan provides that any surplus assets determined upon the total termination of a plan are to be remitted to the employer, the surplus assets determined upon the total termination of any plan or upon the partial termination of a multi-employer plan due to the withdrawal of one of the employers shall be remitted, in the first case, to the members or beneficiaries involved in the termination and, in the second case, to the members or beneficiaries whose benefits are included in the group of benefits pertaining to that employer.

293. Any surplus assets which, under a plan or this Act, must be remitted to the members or beneficiaries, shall be determined as a proportion of the value of their benefits.

§ 6.—*Miscellaneous provisions*

294. The benefits vested under a plan in any member involved in the total or partial termination of the plan shall, if the member has been an active member for two years, be paid by means of a transfer referred to in sections 117 to 124, which apply with the necessary adaptations.

295. Except in the case referred to in section 273, any pension vested under a plan in a member or beneficiary involved in the total or partial termination of the plan and which is in payment on the termination date, shall be guaranteed by an insurer.

Such pension shall be paid for life and shall not be paid in any form other than that authorized by this Act.

296. Any income that is derived from the investment of a plan's assets to be distributed among the members or beneficiaries involved in the total or partial termination of the plan and which is realized after the termination date, shall be allocated to the members or beneficiaries in proportion to the value of their benefits.

297. Every member who fails to claim his benefits as provided under section 258 shall be deprived of the right to claim payment thereof out of the plan's assets.

298. The administrator or the insurer, as the case may be, shall transmit to the Régie the name and last known address of any member or beneficiary who is involved in the total or partial termination of a plan and who cannot be located.

Where, on the basis of the information at its disposal, the Régie succeeds in locating such member or beneficiary, it shall notify him of the termination and inform him of the address of the administrator or insurer, as the case may be.

299. If a member or beneficiary involved in the total termination of a plan cannot be located, any sum owing to him under the plan or this chapter shall be remitted to the Public Curator.

300. The assets of an uninsured plan under which certain refunds or benefits are guaranteed by an insurer shall, when the plan is terminated in whole or in part, include the value of the benefits guaranteed by the insurer, for the purposes of settlement of the benefits of the members or beneficiaries involved in the termination.

301. In the case referred to in section 300, if the value of the guaranteed benefits of the members or beneficiaries involved in a plan termination, which the insurer would have to assume had the plan not been terminated, exceeds the value of such benefits as determined pursuant to this chapter, the insurer shall, upon the administrator's request, guarantee, up to the excess amount, the non-guaranteed benefits of the members or beneficiaries.

302. The premium that may be required by an insurer who is required to guarantee benefits pursuant to section 301 shall not exceed the premium determined on the basis of the actuarial assumptions and methods that were used to determine the value referred to in section 300.

303. In no case may the application of sections 301 and 302 result in a lower degree of solvency of a plan.

CHAPTER XII

REVIEW AND APPEAL

DIVISION I

REVIEW

304. The Régie may, of its own initiative or at the request of any interested person, review any decision or order made by it or by any person or agency exercising a delegated power.

The person or agency exercising a delegated power may also, of his or its own initiative or at the request of an interested person, review its own decision.

305. Every application for a review shall be made in writing within 60 days of the date the contested decision or order was made and shall contain a brief statement of the grounds on which it is based.

The application shall not suspend the execution of the decision unless the person who rendered it decides otherwise.

306. The Régie or, as the case may be, the person or agency exercising a delegated power, after giving any interested person the opportunity to be heard, shall rule on the application for review without delay.

The decision shall be substantiated and served on the applicant and on the plan administrator by registered or certified mail.

DIVISION II

APPEAL

307. Any person concerned by a decision relating to an application for a review may appeal to the Provincial Court on any question of law or competence.

308. The appeal is brought by filing, with the secretary of the Régie, a notice of appeal served on the parties, within 60 days after the date on which the decision appealed from was rendered.

The filing of the notice shall be in lieu of service on the Régie.

309. The secretary shall, without delay, transmit the notice of appeal to the office of the Provincial Court, at Montréal or at Québec, according to the choice of the appellant.

He shall also transmit to the office of the court, to be in lieu of the joint record, four copies of the record relating to the decision appealed from.

310. Subject to any additional evidence it may require, the Court shall render its decision on the record transmitted to it by the secretary.

311. Appeals are governed by articles 491 to 524 of the Code of Civil Procedure (R.S.Q., chapter C-25), with the required adaptations.

However, the parties are required to file only four copies of the factum setting out their pretentions.

312. The Provincial Court may, in the manner set out in article 47 of the Code of Civil Procedure, adopt the rules of practice it considers expedient for the carrying out of this division.

313. An appeal does not suspend the execution of the decision appealed from unless the person who made it or the court decides otherwise.

314. A decision by the Provincial Court is final.

CHAPTER XIII

REGULATIONS

315. The Régie may make regulations

(1) determining the form and content of any document or attestation prescribed by this Act or the regulations;

(2) determining who is authorized to prepare the report referred to in subparagraph 5 of the second paragraph of section 29;

(3) determining the documents or information which are to accompany an application for registration of a plan or amendment;

(4) determining, for the purposes of section 53, the interest rate that may be prescribed in a plan in respect of any contribution paid into the plan or that applies to any contribution paid into an insured plan, or the rules governing the calculation of that rate;

(5) determining what is included, for a given period, in the word "remuneration" as used in the first paragraph of section 91, and the rules governing the calculation of the reduction referred to in that paragraph;

(6) establishing rules concerning the revalorization of any postponed pension;

(7) determining the amount of any monthly life pension below which a pension may, pursuant to subparagraph 4 of the first paragraph of section 108, be paid in a lump sum;

(8) determining, for the purposes of section 117, the plans or annuity contracts not governed by this Act that are included in the expression "pension plan";

(9) setting, for the purposes of section 122, the interest rate applicable to any amount transferred under section 117 or 118 into a pension plan not governed by this Act;

(10) fixing, for the purposes of section 118, the amount below which the administrator may transfer to a pension plan referred to in section 117 any amount provided for in the said section;

(11) determining the rules governing all transfers of obligations, benefits or assets referred to in section 125;

(12) determining any document which may be examined pursuant to section 135;

(13) determining the cases in which an actuarial deficiency need not be identified in the plan's actuarial valuation or the cases in which the valuation need not specify the method of amortization of the deficiency;

(14) prescribing the rules applicable to the valuation of the plan's assets for the purposes of determining the plan's funding or solvency;

(15) determining the investment pools or companies, unincorporated mutual funds and forms of investment to which the ceiling set by section 215 does not apply, and the conditions and prohibitions that are applicable to the investment of the plan's assets in units or securities of such funds or companies, or in other forms of investment;

(16) determining the forms of investment for which the ceiling set by section 215 is increased to 25%;

(17) limiting or prohibiting the investment of the plan's assets in certain forms of investment;

(18) determining the cases in which the administrator of a plan may, notwithstanding section 220, have the control of a legal person;

(19) setting the amount that constitutes the ceiling referred to in section 225;

(20) setting the rate of interest applicable to any amount not paid in accordance with the first paragraph of section 288 or any amount the payment of which is spread pursuant to the second paragraph of that section;

(21) determining the methods, assumptions, rules or factors which are applicable or prohibited for the purposes of calculating any contribution or the amount of any refund or benefit to which a member or beneficiary is entitled and for calculating the actuarial value of such refund or benefit;

(22) determining the extent to which a document relating to any matter contemplated by this Act and signed by a member of the personnel of the Régie may be binding on the Régie or attributed to it;

(23) establishing special conditions for the registration of a plan set up under an Act or for the registration of an amendment to such plan;

(24) determining in what cases and from whom the Régie may require an attestation;

(25) determining the rules of proof and procedure for any matter within its competence, the applicable time limits and the required documents;

(26) prescribing the fees payable for any formality prescribed under this Act or the regulations, or for the financing of expenses incurred by the Régie for the administration of this Act as well as the time limits for and terms and conditions of their payment;

(27) exempting any plan from the application of this Act or of a provision of this Act;

(28) determining, from the provisions of any regulation made under this section, those provisions the contravention of which is punishable under the terms of section 329.

316. The Régie shall publish every draft regulation in the *Gazette officielle du Québec* with a notice indicating that upon the lapse of 60 days after the day of publication, the regulation will be adopted with or without amendment and submitted to the Government for approval.

317. Every regulation adopted by the Régie and approved by the Government shall come into force ten days after the day of its publication in the *Gazette officielle du Québec* or on any later date fixed in it.

CHAPTER XIV

FUNCTIONS AND POWERS OF THE RÉGIE

318. It is the function of the Régie

(1) to administer this Act;

(2) to promote the establishment and improvement of pension plans;

(3) to supervise and control the administration and management of pension plans.

319. For the performance of its functions the Régie may, in particular,

(1) conduct or commission surveys and research programs on any matter related to this Act;

(2) carry out the inspection of any pension plan;

(3) prepare any document provided for or required by this Act and not furnished in accordance with this Act or the requirements of the Régie or cause such a document to be prepared at the expense of the person who is required to furnish it;

(4) in the case of a plan to which Chapter IX does not apply, require from the administrator or the insurer, on the conditions and within the time limits it establishes, any document or information it considers necessary to verify the funding or solvency of such plan;

(5) require from the administrator or the insurer, on the conditions and within the time limits it establishes, any document or information it considers necessary to ascertain whether a plan or an actuarial valuation is consistent with this Act;

(6) carry out any mandate entrusted to it by the Government.

320. For the purposes of paragraph 2 of section 319, the inspector appointed by the Régie may enter at any reasonable time any premises, other than a dwelling-house, where the administrator or any party to a plan keeps a document related to the plan, and examine or take an abstract from or make a copy of such document.

321. Where the Régie is of opinion that the assumptions or methods used for the actuarial valuation of a plan, the determination of the value referred to in section 68, the setting of the annual rate of return on assets investment or in the termination report are not consistent with generally recognized actuarial or accounting principles, it may order the administrator or any party to the plan to take any remedial measure determined by the Régie, on the conditions and within the time limits indicated by it.

The same applies where the Régie considers that such assumptions or methods are not suitable, in particular, to the type of plan in question, to the plan's obligations or to the position of the pension fund.

322. The Régie, for the purposes of this Act, may, with the authorization of the Government and according to law, enter into an agreement with a government other than that of Québec or with any department or agency of such government.

The agreement may, in particular,

(1) prescribe the conditions and scope of applicability of this Act to a plan that is also governed by legislation of another jurisdiction, and any other rule applicable to such plan;

(2) prescribe the conditions and scope of applicability of this Act to benefits or assets transferred from or to a plan governed by this Act and a plan governed by legislation of another jurisdiction;

(3) provide for the delegation of powers that this Act confers on the Régie or that legislation of another jurisdiction confers on a similar agency.

323. Every agreement bearing on a matter referred to in subparagraph 1, 2 or 3 of the second paragraph of section 322 shall be tabled before the National Assembly within 15 days after the date on which it is entered into if the Assembly is in session or, if not, within 15 days of the opening of the next session or of resumption.

324. The Régie may delegate to a member of its board of directors, to a member of its personnel or to a committee set up by it and consisting

of either of those persons, any of its powers under this Act. Every decision in that respect shall be published in the *Gazette officielle du Québec*.

325. No document relating to a matter contemplated in this Act is binding on the Régie or may be attributed to it unless it is signed by the president of the Régie or by a member of its personnel but, in the latter case, only to the extent provided for by regulation.

326. The Régie may, by motion, apply to a judge of the Superior Court to obtain an injunction in respect of any matter contemplated by this Act.

The application for an injunction shall in itself constitute an action.

The procedure provided for in the Code of Civil Procedure applies except that the Régie shall not be required to give security.

327. The Régie may, *ex officio* and without notice, intervene in any civil action pertaining to this Act to participate in the proof and hearing.

CHAPTER XV

PENAL PROVISIONS

328. Every person who

(1) contravenes any provision of sections 18, 20, 21, 30, 47, 49, 50, 51, 52, 121, 189, 196, 205, 212 to 231, 261 or 262;

(2) contravenes any regulatory provision made under paragraph 15 or 17 of section 315, or

(3) makes a false declaration, hinders or attempts to hinder the Régie, a member of its personnel, a provisional administrator or the person to whom the Régie has delegated a function or power, in the carrying out of its or his duties,

is liable, in addition to cost, to a fine of $200 to $10 000 in the case of a natural person or $500 to $25 000 in the case of a legal person.

329. Every person who contravenes any provision of this Act or of the regulations not referred to in section 328 is liable, in addition to cost, to a fine of not over $1 000 in the case of a natural person or $2 500 in the case of a legal person.

330. In the case of a first subsequent offence, the offender is liable, in addition to cost, to a fine of not less than twice the amount of the fine imposed on him for the previous conviction.

In the case of any further subsequent offence, the amount of the fine shall not be less than three times the amount of the last fine imposed on the offender.

A subsequent offence occurs where the subsequent offence is identical to a previous offence and is committed within two years of conviction for the previous offence.

331. Every person who by encouragement, advice or order induces another person to commit an offence referred to in section 328 or 329 is guilty of that offence and of any other offence committed by the other person in consequence of such encouragement, advice or order if he knew or should have known that it would problably result in the commission of the offence.

332. Every person who by act or omission helped another to commit an offence referred to in section 328 or 329 is guilty of that offence as if he had committed it himself, if he knew or should have known that his act or omission would problably result in helping the commission of the offence.

333. Penal proceedings are brought in accordance with the Summary Convictions Act (R.S.Q., chapter P-15).

CHAPTER XVI

TRANSITIONAL AND MISCELLANEOUS PROVISIONS

334. An actuary within the meaning of this Act is a member of the Canadian Institute of Actuaries having the title of "Fellow" or a status recognized as equivalent by such Institute.

335. An accountant within the meaning of this Act is a member of a professional corporation of accountants listed in Schedule 1 of the Professional Code (R.S.Q., chapter C-26).

336. The following amounts or contributions are unassignable and unseizable:

(1) all worker or employer contributions paid or payable into the pension fund or to the insurer;

(2) all amounts refunded or benefits paid under a plan or this Act and which are derived from worker or employer contributions;

(3) except additional voluntary contributions and benefits resulting therefrom, all amounts transferred under section 117 or 118 as well as refunds of or benefits resulting from such amounts.

However, any amount referred to in subparagraph 1, 2 or 3 of the first paragraph may be seized for the payment of support in accordance with article 553 of the Code of Civil Procedure.

337. Any amount that an employer fails to pay in accordance with the plan or this Act shall constitute a privileged claim on his movable and immovable property.

Such privilege shall be collocated at the same rank as the claims of suppliers as to movable property and as the claims for servant's wages as to immovable property.

Except where the employer is the administrator, the privilege on the immovable property is created and preserved on the conditions set down in article 2103 of the Civil Code of Lower Canada; the registration required by that article shall be effected within 60 days after the day of knowledge of the employer's default.

ACT RESPECTING THE CAISSE DE DÉPÔT ET PLACEMENT DU QUÉBEC

338. Section 21 of the Act respecting the Caisse de dépôt et placement du Québec (R.S.Q., chapter C-2) is amended by replacing the second paragraph by the following paragraph:

"The Fund shall keep the investments of every plan contemplated by section 20 separate from its own investments and manage them in accordance with the Supplemental Pension Plans Act (R.S.Q., chapter *insert here the alphanumerical reference assigned to that Act*), or Division IV of this Act, and, in the case of the investments of the plan contemplated by paragraph *c* of the said section, by taking into account the general standards, if they have been prescribed, made by the pension committee in respect of the funds referred to in paragraph 2 of section 165 of the Act respecting the Government and Public Employees Retirement Plan."

CODE OF CIVIL PROCEDURE

339. Article 553 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended by replacing paragraph 7 by the following paragraph:

"(7) All amounts declared exempt from seizure by the Supplemental Pension Plans Act (R.S.Q., chapter *insert here the alphanumerical reference assigned to that Act*) and benefits granted to employees under a pension plan set up by an Act as well as contributions paid or payable into such a plan;".

PROFESSIONAL SYNDICATES ACT

340. Section 9 of the Professional Syndicates Act (R.S.Q., chapter S-40) is amended by replacing subparagraph 2 of the second paragraph by the following subparagraph:

"(2) Establish and administer pension plans whose membership may include, in particular, members of more than one professional syndicate;".

341. Section 14 of the said Act is replaced by the following section:

"**14.** The pension plans established pursuant to subparagraph 2 of the second paragraph of section 9 are governed by the Supplemental Pension Plans Act (R.S.Q., chapter *insert here the alphanumerical reference assigned to that Act*), adapted as required."

342. Every general or special legislative provision requiring the approval of the Régie as a condition precedent to the coming into force of a plan or plan amendment is hereby repealed as to that requirement.

343. This Act replaces the Act respecting supplemental pension plans (R.S.Q., chapter R-17), except to the extent that the latter Act continues to apply to a plan pursuant to section 383.

344. Every legislation of another jurisdiction that the Government has declared to be similar to the Act respecting supplemental pension plans is, subject to the second paragraph of section 4, deemed to be similar to this Act.

345. Every plan registration made and certificate of registration issued under the Act respecting supplemental pension plans remain valid.

The same applies to the other decisions rendered under the said Act.

346. Every agreement entered into pursuant to section 74 of the Act respecting supplemental pension plans remains effective.

Such agreements may, however, be amended, replaced or repealed in accordance with this Act.

347. Matters pending on the date of coming into force of this Act either before the Régie or before a person or agency performing or exercising a delegated function or power are continued or decided in accordance with the said Act.

This section may in no case invalidate anything that has been validly made.

348. Proceedings for an offence against the Act respecting supplemental pension plans are instituted or continued in accordance with the said Act.

349. Worker contributions or additional voluntary contributions paid into the plan by a member before the date of coming into force of this Act, including accrued interest where applicable, shall bear interest, from that date, at the rate referred to in section 53.

350. Except if, under the terms of the plan, section 68 applies to a benefit accrued in respect of service credited under the plan both before and after the date of coming into force of this Act, section 68 does not apply to any benefit vested in a member or an assignee of the member in respect of service credited under the plan before the date of the coming into force of this Act.

351. The value of the benefit to which section 68 does not apply and that is vested in a member or an assignee of the member in respect of service credited under the plan during the period included between the date the plan came to be governed by the Act respecting supplemental pension plans or similar legislation and the date of coming into force of this Act, shall be at least equal to the worker contributions paid into the plan by the member during such period.

For the purposes of the first paragraph, any interest accrued to the date on which the value of such benefit is determined, calculated at the rate prescribed by the plan for the period prior to the coming into force of this Act and at the rate referred to in section 53 for the subsequent period, shall be added to the worker contributions.

352. The value of the benefit referred to in section 351 shall be determined on the basis of the same actuarial assumptions and methods as those used to determine the value referred to in section 68.

353. Section 70 does not apply to the assignee of a member who died before the date of the coming into force of this Act.

354. Notwithstanding paragraph 2 of section 76, any member who is entitled to a deferred pension under the terms of section 81 although he is not entitled to a deferred pension in respect of service credited to him under the plan before the date of coming into force of this Act, is entitled to the refund of the worker contributions he has paid into the plan from the date on which the plan came to be governed by the Act respecting supplemental pension plans or similar legislation to the date of coming into force of this Act, including accrued interest.

355. Notwithstanding section 81, no member is entitled to a deferred pension in respect of service credited to him under the plan from the date the plan came to be governed by the Act respecting supplemental pension plans or similar legislation to the date of coming into force of this Act, unless he meets the following requirements at the time he ceases his continuous service or, in the case provided for in paragraph 2 of section 43, he ceases to be an active member:

(1) he has reached 45 years of age but not normal retirement age;

(2) he has completed 10 years of continuous service or has been an active member for at least 10 years.

356. A deferred pension granted pursuant to section 355 shall be at least equal to the normal pension determined in accordance with the plan.

357. Any service credited under the plan after the date the plan came to the governed by the Act respecting supplemental pension plans or similar legislation and which pertains to a period prior to such date shall be counted for the determination of the deferred pension referred to in section 355.

Similarly, any increase in the value of benefits vested in respect of service credited under the plan prior to such date shall also be counted, provided the increase results from a plan amendment made after the said date.

358. In the case of a plan insured by individual annuity contracts that have become effective before the date on which the plan came to be governed by the Act respecting supplemental pension plans or similar legislation and where such plan is funded by means of level premiums spread over a period not beyond retirement age, the deferred pension may be equal to the pension that, under such contracts, is accrued through the contributions paid from such date, provided all the required periodical amounts of amortization have been paid.

359. The revalorization of any pension postponed before 1 April 1982 shall be made so as to ensure that the pension payable at the end of the postponement is actuarially equivalent to the pension the payment of which would have begun on such date had the pension not been postponed.

Such revalorization shall not result in creating only surplus assets or only liabilities in the pension fund.

360. Section 99 does not apply to the spouse of a member where the member is already receiving a pension provided for in Division III of Chapter VI on the date of coming into force of this Act.

361. The amount referred to in the first paragraph of section 114 shall be established on (*insert here the date of introduction of this bill before the National Assembly*) if the member is, before such date, entitled to a pension the amount of which was not determined before such date.

362. Sections 110 to 114 do not apply to a pension the amount of which was determined before (*insert here the date of introduction of this bill before the National Assembly*).

363. Notwithstanding paragraph 1 of section 117, where a member becomes entitled to a deferred pension in respect of service credited under the plan after the date of coming into force of this Act but is not entitled to such a pension in respect of service credited under the plan before such date, the member is entitled to a transfer of the worker contributions he has paid into the plan before such date in accordance with sections 117 to 124, with accrued interest, if applicable.

364. Notwithstanding paragraph 2 of section 117, no member shall be entitled to transfer the amount representing the value of any benefit to which he became entitled before the date of coming into force of this Act unless the plan so provides.

365. Chapter IX does not apply to an insured plan the premiums of which have been fixed before the date such plan came to be governed by the Act respecting supplemental pension plans or similar legislation and for which funding is achieved in respect of each member by means of level premiums over a period not beyond normal retirement age.

366. Any liability referred to in paragraph *c* of section 1 of the General Regulation respecting supplemental pension plans (R.R.Q., 1981, R-17, r.1) that is determined before the date of the coming into

force of this Act constitutes an initial actuarial deficiency within the meaning of section 153.

367. Any deficiency referred to in paragraph *d* of section 1 of the General Regulation respecting supplemental pension plans that is determined before the date of coming into force of this Act constitutes an experience actuarial deficiency within the meaning of section 156.

368. For the purposes of section 176, the balance, on the date of any actuarial valuation, of any deficiency which, pursuant to section 367, constitutes an experience actuarial deficiency, shall be added to the balance of any initial actuarial deficiency referred to in paragraph 1 of the said section 176.

369. Notwithstanding section 182, in the case of the first actuarial valuation carried out after the date of coming into force of this Act, the amount required to ensure that the plan is fully or partially solvent may be amortized as any experience actuarial deficiency.

370. The actuarial deficiencies that are determined before the date of the coming into force of this Act may be amortized in accordance with the legislation in force at the time they are determined or, if a plan is solvent within the meaning of section 175, on the date of the first actuarial valuation of the plan carried out after the date of coming into force of this Act, in accordance with the rules provided for by this Act for the amortization of a technical actuarial deficiency, after such deficiencies are converted into a single technical actuarial deficiency.

371. Where a plan is under trusteeship on the date of the coming into force of this Act, the curator appointed pursuant to section 56 of the Act respecting supplemental pension plans shall continue to act as the provisional administrator as if he had been appointed pursuant to this Act.

372. Notwithstanding section 264, any member involved in the total or partial termination of a plan who has not been an active member for at least two years on termination date and to whom service has been credited under the plan before the date of coming into force of this Act is entitled, for the purposes of Chapter XI, to the value of the normal pension in respect of such service.

The same applies, for the purposes of subdivision 3 of Division II of Chapter XI, to any member not involved in the plan termination who has not been an active member for at least two years on termination date and to whom service has been credited under the plan before the date of coming into force of this Act.

373. The service referred to in subparagraph *a* of paragraph 1 of section 270 does not include service credited by the plan prior to the date the plan came to be governed by the Act respecting supplemental pension plans or a similar legislation.

Subparagraph *b* of paragraph 1 of section 270 does not apply to worker contributions paid before the date provided for in the first paragraph.

374. In cases of the total or partial termination of a plan, the order of payment set forth under section 270 is completed as follows:

(1) the amount representing the value of worker contributions paid into the pension fund or to the insurer, as the case may be, before the date the plan came to be governed by the Act respecting supplemental pension plans or a similar legislation shall be paid immediately after the amounts referred to in paragraph 1 of section 270;

(2) the amount representing the value of unpaid benefits vested in respect of service completed before the date set in paragraph 1 of this section and which is payable to a vested member or beneficiary shall be paid immediately after the amount referred to in paragraph 1 of this section;

(3) the amount representing the value of unpaid benefits granted by section 372 in respect of service credited by the plan before the date of the coming into force of this Act and which are payable to a non-vested member or beneficiary shall be paid immediately after the amount referred to in paragraph 2 of this section;

(4) notwithstanding paragraph 4 of section 270, the amount representing the value of any reduction in benefits which, for the purposes of section 267, is made by reason of an initial actuarial deficiency determined before the date of the coming into force of this Act shall be paid immediately after the amount referred to in the said paragraph 4 of section 270.

375. The debt referred to in section 285 does not include the amount representing the value of any benefit reduction which, for the purposes of section 267, has been made to offset an actuarial deficiency not fully amortized on the plan termination date and determined before the date of the coming into force of this Act.

376. The amounts referred to in paragraphs 1, 2 and 3 of section 374 which remain unpaid owing to the employer's failure to repay a debt referred to in section 285 or to pay, on the plan termination date,

the contributions owing to the pension fund, shall be added, for the purposes of section 286, to the benefits referred to in paragraph 1 of section 270.

For the purposes of section 287, v^1 and v^2 shall include, in addition to the benefits referred to in paragraph 1 of section 270, the amounts referred to in paragraphs 1, 2 and 3 of section 374.

377. Section 294 does not apply to benefits accrued in respect of service credited under the plan before the date of coming into force of this Act unless, on the plan termination date, the member has reached 45 years of age and has completed 10 years of continuous service or has been an active member for at least 10 years.

378. In addition to the transitional provisions provided for in this chapter, the Régie may, by regulation, adopt any other transitional provision to facilitate the application of this Act.

Sections 316 and 317 apply to a regulation adopted pursuant to this section; such regulation may also, once published and if so provided in it, apply from any date not prior to the date of coming into force of this Act.

379. Every amendment required to bring any plan in force on the date of coming into force of this Act into conformity with this Act shall be submitted for registration to the Régie within 12 months after such date or within such additional time period as may be granted by the Régie.

380. Notwithstanding section 379, every amendment required to bring any plan in force on the date of the coming into force of this Act and whose membership is governed by a labour agreement, an arbitration award in lieu thereof or a decree requiring a labour agreement, as the case may be, into conformity with this Act shall be submitted to the Régie for registration within three months after the date of the signing of a new labour agreement, of the rendering of the arbitration award in lieu thereof, of the extension or renewal of such decree or of the coming into force of a decree replacing a decree that has expired.

The Régie may grant an additional time period for the application of this section.

381. From such time as the amendments referred to in sections 379 and 380 have been registered in accordance with this Act, they shall have effect

(1) in the case of section 379, from the date of coming into force of this Act;

(2) in the case of section 380,

(*a*) in respect of workers governed by a labour agreement, an arbitration award in lieu thereof or a decree, as the case may be, in force on the date of coming into force of this Act, from the expiry date of such agreement or award or from the date of expiry, extension or renewal of such decree;

(*b*) in respect of workers not governed by a labour agreement, arbitration award or decree as referred to in subparagraph *a* of the second paragraph, from the date of coming into force of this Act.

382. Any actuarial deficiency resulting from

(1) any plan amendment referred to in section 379 or 380 made for the purpose of bringing the plan into conformity with Chapter IV, V or VI, or from

(2) any plan amendment for the purposes of the application of section 53, 68 or 81 to benefits accrued in respect of service credited under the plan before the date of coming into force of this Act,

constitutes an improvement actuarial deficiency.

Any improvement actuarial deficiency constituted under the first paragraph may be considered to be an initial actuarial deficiency.

383. Every labour agreement, arbitration award in lieu thereof or decree requiring a labour agreement in force on the date of coming into force of this Act and applicable to workers who are members of a plan shall continue to have effect notwithstanding this Act until the expiry date of the agreement or award or until the date of expiry, extension or renewal of the decree.

The Act respecting supplemental pension plans shall continue to apply to such plan, for the same period, to the extent that it concerns workers governed by such agreement, award or decree.

384. Any pension committee established under a plan before the date of coming into force of this Act whose composition is not consistent with section 191 may continue to administer the plan until the expiry of the time limit prescribed in section 379 or 380 for the submission of amendments or until any later date that may be set by the Régie.

385. In any Act, regulation, decree, order, contract or other document, unless otherwise required by the context,

(1) a reference to a provision of the Act respecting supplemental pension plans is a reference to the corresponding provision of this Act;

(2) the expression "Act respecting supplemental pension plans" is replaced by "Supplemental Pension Plans Act" and the expression "régime supplémentaire de rentes" is replaced in French by "régime complémentaire de rente", wherever they appear, in particular, in the following provisions:

(*a*) paragraph *l* of section 22 of the Legal Aid Act (R.S.Q., chapter A-14);

(*b*) subparagraph *c* of paragraph 2 of section 38 of the Act respecting the Barreau du Québec (R.S.Q., chapter B-1);

(*c*) subparagraph *a* of the first paragraph of section 20 and the first paragraph of section 45 of the Act respecting the Caisse de dépôt et placement du Québec (R.S.Q., chapter C-2);

(*d*) section 138 of the Act respecting certain caisses d'entraide économique (R.S.Q., chapter C-3.1);

(*e*) paragraph *e* of section 15 of the Savings and Credit Unions Act (R.S.Q., chapter C-4);

(*f*) the fifth paragraph of paragraph 8 of section 464 of the Cities and Towns Act (R.S.Q., chapter C-19);

(*g*) paragraph *n* of the first paragraph of section 86 of the Professional Code (R.S.Q., chapter C-26);

(*h*) the third paragraph of article 706 of the Municipal Code of Québec (R.S.Q., chapter C-27.1);

(*i*) paragraph *g* of section 76 of the Act respecting the Communauté régionale de l'Outaouais (R.S.Q., chapter C-37.1);

(*j*) paragraph *g* of section 113 of the Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2);

(*k*) paragraph *g* of section 84 of the Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3);

(*l*) the second paragraph of section 1 and the second paragraph of section 19.1 of the Act to promote housing construction (R.S.Q., chapter C-64.01);

(*m*) paragraph *b* of section 37 of the Act respecting municipal and intermunicipal transit corporations (R.S.Q., chapter C-70);

(*n*) section 125 of the Act to promote the advancement of science and technology in Québec (R.S.Q., chapter D-9.1);

(*o*) sections 54 and 55 of the Hydro-Québec Act (R.S.Q., chapter H-5);

(*p*) the first paragraph of section 232 of the Education Act (R.S.Q., chapter I-14);

(*q*) the second paragraph of section 49 of the Act respecting labour standards (R.S.Q., chapter N-1.1);

(*r*) paragraph *b* of section 96 of the Notarial Act (R.S.Q., chapter N-2);

(*s*) section 2 and paragraphs *a* and *c* of section 3 of the Act respecting complementary social benefits plans in the construction industry (R.S.Q., chapter R-15);

(*t*) paragraph *t* of section 1 and subsection 3 of the first paragraph of section 92 of the Act respecting labour relations in the construction industry (R.S.Q., chapter R-20);

(*u*) section 90.1 of the Act respecting the Société d'habitation du Québec (R.S.Q., chapter S-8);

(*v*) paragraph 10 of section 44 of the Securities Act (R.S.Q., chapter V-1.1);

(*w*) section 302 of the Act respecting Northern villages and the Kativik Regional Government (R.S.Q., chapter V-6.1).

386. From 1 January 1984 to the date of coming into force of this Act no plan provisions may preclude the payment of the retirement pension of any member prior to his reaching 65 years of age or permit that such pension be reduced on the ground that he is receiving, during that period, a retirement pension payable pursuant to the Act respecting the Québec Pension Plan or a similar legislation, or on the ground that he is eligible for such a pension.

The first paragraph does not apply if the member applies for a reduction of his retirement pension on any of the grounds stated in that paragraph provided the reduction does not reduce the value of the pension.

This section has effect from 1 January 1984.

[[**387.** The appropriations allocated for the administration of the Act respecting supplemental pension plans shall be transferred for the administration of this Act.

Any supplementary appropriation allocated for the administration of this Act in respect of the fiscal year during which this Act comes into force shall be taken out of the consolidated revenue fund to the extent determined by the Government.]]

388. The Minister of Manpower and Income Security is responsible for the administration of this Act.

389. Section 25 and Division V of Chapter VI take effect on (*insert here the date of introduction of this bill before the National Assembly*).

390. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B to the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

391. This Act will come into force on the date fixed by proclamation of the Government except the provisions excluded by that proclamation, which will come into force on any later date fixed by proclamation of the Government.

TABLE OF CONTENTS