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# NATIONAL ASSEMBLY

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FIRST SESSION

FORTIETH LEGISLATURE

Bill 39  
(2013, chapter 26)

## **Voluntary Retirement Savings Plans Act**

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**Introduced 8 May 2013**  
**Passed in principle 1 October 2013**  
**Passed 3 December 2013**  
**Assented to 4 December 2013**

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**Québec Official Publisher**  
**2013**

## **EXPLANATORY NOTES**

*This Act establishes a type of retirement plan called a “voluntary retirement savings plan” that is accessible, to the extent that fiscal rules allow it, to all individuals, including self-employed workers and workers whose employer has not subscribed to such a plan.*

*Voluntary retirement savings plans are to be administered by insurers, trust companies or investment fund managers who must hold an authorization granted for that purpose by the Autorité des marchés financiers. The plans must be registered with the Régie des rentes du Québec.*

*Without any obligation to do so, any individual may contribute to a voluntary retirement savings plan, as may any employer on behalf of the employees. However, employers having five or more eligible employees 18 years of age or over who are credited with one year of uninterrupted service within the meaning of the Act respecting labour standards and do not have a registered retirement savings plan or a tax-free savings account for which payroll deductions could be made or a registered pension plan must automatically enroll those employees in a plan. Such employees, however, have the right to renounce membership in the plan.*

*It is up to plan members to determine their own rate of contribution to the plan and their own investment option among those offered. Members may, under certain conditions, set their rate of contribution to the plan at 0%.*

*The other terms and conditions that apply to the establishment and administration of these voluntary plans are determined and the functions and powers conferred on the Régie des rentes du Québec, the Autorité des marchés financiers and the Commission des normes du travail are specified.*

## **LEGISLATION AMENDED BY THIS ACT:**

- Civil Code of Québec;
- Act respecting the Autorité des marchés financiers (chapter A-33.2);

- Code of Civil Procedure (chapter C-25);
- Act respecting administrative justice (chapter J-3);
- Act respecting labour standards (chapter N-1.1);
- Supplemental Pension Plans Act (chapter R-15.1).

**REGULATION AMENDED BY THIS ACT:**

- Regulation under the Act respecting insurance (chapter A-32, r. 1).



# **Bill 39**

## **VOLUNTARY RETIREMENT SAVINGS PLANS ACT**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

### **CHAPTER I**

#### **PURPOSE AND APPLICATION**

**1.** This Act establishes a type of retirement plan called a “voluntary retirement savings plan” in order to promote retirement savings, and provides a legal framework for the establishment and administration of such a plan.

Such a plan is called voluntary because membership is optional. Members determine their contribution to the plan and the employer is not required to contribute to the plan.

**2.** Individuals may become members of a voluntary retirement savings plan to the extent that fiscal rules permit them to contribute to the plan, even individuals who are self-employed workers or whose employer has not subscribed to a voluntary retirement savings plan. Individuals are called members and remain members from the time they hold an account under the terms of a voluntary retirement savings plan.

Employers may contribute to the voluntary retirement savings plan they have subscribed to on behalf of their employees where employees are members of the plan.

### **CHAPTER II**

#### **REGISTRATION OF THE PLAN**

**3.** A voluntary retirement savings plan must be registered with the Régie des rentes du Québec, in the manner prescribed by regulation. The same applies to each of its amendments.

An administrator that files an application for the registration of the plan and its amendments must file the following with the Régie:

(1) the text of the plan and its amendments, or a copy of those documents certified by the administrator;

(2) in the case of the registration of the plan, a certified extract of the administrator's registration in the register of administrators authorized by the Autorité des marchés financiers;

(3) a declaration, signed by the administrator, that the plan and its amendments are in conformity with this Act;

(4) any document or information determined by regulation; and

(5) the fees prescribed by regulation.

An administrator that proposes to apply for the registration of an amendment to the plan must inform the members and the employers by written notice.

**4.** The text of the plan must include the information determined by regulation.

**5.** The Régie sends a plan administrator whose application for registration meets the requirements prescribed by this Act an acknowledgement of receipt showing the date of receipt of the application.

If the application for registration is incomplete, the Régie notifies the administrator and specifies the information which remains to be filed.

**6.** The Régie may, after giving a plan administrator an opportunity to submit observations, refuse to register the plan or an amendment, or part of the plan or amendment, that, in its opinion, is not in conformity with this Act. It informs the administrator of its refusal by means of a written notice specifying the reasons.

**7.** Upon registering a plan or an amendment, the Régie notifies the plan administrator. The Régie assigns a number to each plan it registers.

**8.** A plan and its amendments become effective on the date they are registered with the Régie and may not become effective before that date, except in the cases prescribed by regulation.

No member may be accepted in the plan before the plan is registered.

**9.** The registration of a plan or of an amendment does not constitute proof of its conformity with this Act.

**10.** The Régie may, after giving a plan administrator an opportunity to submit observations, revoke the registration of any part of the plan or of an amendment that is not in conformity with this Act.

The Régie may also revoke the registration of a plan that has never had any members when the administrator applies to have it revoked.

An administrator applying for revocation under the second paragraph must submit a document signed by a person in authority attesting that the plan has never had any members.

The Régie notifies the plan administrator of any revocation of registration by means of a written notice specifying the reasons for the revocation.

**11.** The registration of a plan is revoked of right if it has never had any members and the administrator's authorization has been revoked or cancelled.

The Autorité des marchés financiers must notify the Régie without delay that such authorization has been revoked or cancelled.

**12.** Only one voluntary retirement savings plan per administrator may be registered with the Régie.

**13.** A provision of a voluntary retirement savings plan that is incompatible with this Act is without effect.

### **CHAPTER III**

#### **ADMINISTRATION OF THE PLAN**

##### **DIVISION I**

###### **ADMINISTRATOR**

###### **§1. — *Obligations***

**14.** A legal person must hold an authorization granted by the Autorité des marchés financiers to act as administrator of a voluntary retirement savings plan.

Only the following legal persons may act as administrator of a voluntary retirement savings plan:

(1) insurers holding a life insurance class licence issued under the Act respecting insurance (chapter A-32) in conformity with the Regulation under the Act respecting insurance (chapter A-32, r. 1);

(2) trust companies holding a licence issued under the Act respecting trust companies and savings companies (chapter S-29.01); and

(3) investment fund managers registered in accordance with Title V of the Securities Act (chapter V-1.1).

**15.** The administrator manages the plan and its assets as administrator of the property of another and, as such, must exercise the prudence, diligence and skill that a reasonable person would exercise in similar circumstances. The

administrator must also act with honesty and fairness in the best interest of the members.

**16.** The administrator is responsible for ensuring that the plan it manages is in conformity with this Act.

**17.** The contract between an administrator and an employer or an individual, as the case may be, must be in conformity with the plan previously registered with the Régie and contain the information prescribed by regulation.

**18.** The administrator must provide the employer or the individual, free of charge, with

(1) a copy of the contract between the parties; and

(2) on request, the annual statement and the financial report referred to in section 24.

The employer must make any document mentioned in the first paragraph available to participants on request and free of charge.

The administrator must also give the individual a written summary of the plan that describes, in particular, the individual's rights and obligations and the investment options available under the contract as well as the costs related to the plan. The summary must also include the information provided for in subparagraphs 2 to 5 of the second paragraph of section 19.

**19.** Within 30 days after the contract is signed by an employer or after an employee has enrolled in the plan under section 48, the administrator sends each of those employees

(1) a written notice confirming his or her membership in the plan;

(2) a written summary of the plan that describes, in particular, the rights and obligations of the member and the employer, the investment options available under the contract and the costs related to the plan; and

(3) a form for the designation of beneficiaries in case of the death of the member.

The administrator informs the employer without delay of the date the notices provided for in subparagraph 1 of the first paragraph are sent to the employees.

The summary must contain the following information:

(1) the possibility for an eligible employee of opting out of the plan by notifying the employer in writing within 60 days after the notice mentioned in subparagraph 1 of the first paragraph is sent;

(2) the conditions under which the member may set his or her rate of contribution at 0%;

(3) the default contribution rate and the fact that a member may change his or her contribution;

(4) the fact that a member may change his or her investment options; and

(5) any other information determined by regulation.

**20.** The personal information provided by the employer concerning the employees who opt out of the plan must be destroyed by the administrator within 60 days after the notice sent by the employer under section 49 is received.

**21.** The administrator may not refuse the application of an employer or an individual to subscribe to the plan except on the grounds determined by regulation.

**22.** The administrator must provide a plan on the same conditions for all employers who participate in the plan and all individuals who become members of the plan.

**23.** Subject to the regulations, an administrator may not give, offer or agree to give or offer an employer an inducement to enter into a contract with the administrator in respect of a voluntary retirement savings plan.

**24.** The administrator must, within six months after the end of each fiscal year of the plan, transmit to the Régie an annual statement drawn up on the form it provides, along with the certificates and documents required by the form. The annual statement must be accompanied by the fees prescribed by regulation.

The administrator must cause to be prepared, within the same time, a financial report containing a statement of the financial situation and a statement of changes in the net assets available for the provision of benefits, presenting the information determined by regulation for the fiscal year just ended. The report must be audited by an accountant who is a member of the Ordre des comptables professionnels agréés du Québec.

**25.** The administrator must provide a plan that includes a default investment option that meets the criteria determined by regulation.

The administrator must, in addition, subject to the conditions prescribed by regulation, offer from three to five other investment options of varying degrees of risk and expected return that would allow a prudent person to create a portfolio of investments appropriate for retirement savings and from among which a member may make an investment choice.

If a member does not make an investment choice under the second paragraph, the investment option provided for in the first paragraph applies to the member's accounts.

All investments must be permitted under fiscal rules.

For the purposes of the second paragraph, "other investment option" means any investment strategy determined according to the following criteria:

- (1) the investor profile determined according to risk tolerance;
- (2) the term of the investment;
- (3) the expected return and appreciation;
- (4) the guarantees on the investment, if any; and
- (5) any other criteria determined by regulation.

**26.** A member's investment choices may not be changed by the administrator except on the request of the member or, after written notice is given to the members concerned, in the circumstances and in the manner determined by regulation.

**27.** The administrator must provide a plan to its members at a low cost. The criteria for determining if a plan is low cost are determined by regulation.

In addition, the fees that may be deducted from the return on fund assets may vary according to the investment option chosen. The nature or amount of those fees and of the fees the administrator may charge members are determined by regulation.

## §2.—*Authorization*

**28.** A legal person referred to in section 14 applying for authorization must forward the application to the Autorité des marchés financiers in the form it prescribes.

The application must be accompanied by the fees determined by regulation and the following documents:

(1) a five-year business plan dealing with the proposed development of activities related to the voluntary retirement savings plan and showing how the legal person intends to comply with the conditions and obligations applicable under this subdivision;

(2) a document attesting that the amount by which the assets of the legal person exceed the liabilities is at least equal to the amount determined by regulation, or an irrevocable letter of credit or a suretyship, which letter or

suretyship is in an amount determined by regulation and is issued by a financial institution licensed as an insurer, trust company or deposit institution under an Act of Canada or of a Canadian province or territory;

(3) a certificate confirming that the legal person holds liability insurance in accordance with the requirements determined by regulation; and

(4) any other document determined by regulation.

**29.** The Autorité des marchés financiers grants an authorization to legal persons who

(1) provide all the documents and information required under this Act and pay the fees due; and

(2) in the opinion of the Autorité des marchés financiers, are able to comply with the conditions and obligations applicable under this subdivision.

**30.** Authorization granted by the Autorité des marchés financiers is valid for an indeterminate period.

**31.** In order to maintain its authorization, an administrator must at all times,

(1) maintain its liability insurance in accordance with the requirements determined by regulation;

(2) maintain its operational capability and the expertise required to properly administer a voluntary retirement savings plan;

(3) in respect of its activities as insurer, trust company or investment fund manager, comply with the Acts and the regulations and any orders, written instructions or undertakings made under any Act governing those activities; and

(4) have a satisfactory financial situation.

**32.** The Autorité des marchés financiers may suspend or revoke the authorization granted any administrator that is not in compliance with this Act.

**33.** A suspension of authorization is effective from the date specified in the notice sent to the administrator by the Autorité des marchés financiers. The administrator may, however, take the necessary corrective measures specified in the notice before that deadline.

An administrator whose authorization has been suspended may continue to administer the plan subject to the conditions or restrictions determined by the Autorité des marchés financiers. The administrator may not, however, offer the plan to new employers or individuals.

The Autorité des marchés financiers consults the Régie before making its decision.

**34.** The Autorité des marchés financiers revokes a suspended authorization if the administrator has not taken the necessary corrective measures before the deadline specified by the Autorité des marchés financiers.

**35.** The authorization of the administrator of a plan is revoked of right by the Autorité des marchés financiers on the occurrence of one of the following events:

(1) the plan having never had any members, its registration is revoked by the Régie on application by the administrator under the second paragraph of section 10;

(2) the registration of the plan is revoked by the Régie under section 93.

**36.** An administrator's authorization is cancelled of right by the Autorité des marchés financiers if

(1) the administrator has not filed an application for the registration of the plan within 90 days after the date authorization is granted; or

(2) the registration of the plan has been refused.

**37.** The Régie must notify the Autorité des marchés financiers without delay if any of the situations described in section 35 or 36 occurs.

**38.** Following an amalgamation of administrators, the Autorité des marchés financiers revokes the authorization granted the administrators that have amalgamated and grants authorization anew to the administrator resulting from the amalgamation.

On the date of the amalgamation, the administrator resulting from the amalgamation retains the management of the voluntary retirement savings plan designated by the administrators that have amalgamated. The assets of the other plans are liquidated in accordance with Chapter VII.

**39.** An administrator's authorization is revoked of right the moment the administrator no longer holds an insurer's licence under the Act respecting insurance, no longer holds a trust company licence under the Act respecting trust companies and savings companies, or is no longer registered as an investment fund manager in accordance with Title V of the Securities Act.

**40.** Any decision by the Autorité des marchés financiers with respect to an authorization under this Act is published in its bulletin.

§3.—*Register of authorized administrators*

**41.** The Autorité des marchés financiers keeps a register of administrators authorized under this Act, in which the name of the administrators, the address of their head office and main place of business and all other useful information must be recorded.

The register is public and the Autorité des marchés financiers must make it accessible to the public.

§4.—*Distribution*

**42.** The administrator of a voluntary retirement savings plan, other than an insurer, that provides such a plan to an employer or an individual must act through a dealer registered in accordance with Title V of the Securities Act or a person exempt from the registration requirement under that Act.

An insurer that provides such a plan to an employer must act through a group insurance representative authorized to provide group annuities within the meaning of the Act respecting the distribution of financial products and services (chapter D-9.2) or through an actuary referred to in section 4 of that Act. When providing such a plan to an individual, the insurer must act through a representative in insurance of persons within the meaning of section 3 of that Act.

However, the administrator of a voluntary retirement savings plan may provide such a plan without acting through a dealer, a person exempt from registration or a representative when no advice is requested or given.

**43.** Neither the Securities Act nor the Act respecting the distribution of financial products and services applies to the provision of a plan by an employer to an employee.

**44.** Only a representative in insurance of persons referred to in section 3 of the Act respecting the distribution of financial products and services, a dealer registered in accordance with Title V of the Securities Act or a person exempt from the registration requirement under that Act may advise a member of a voluntary retirement savings plan with respect to the choice of an investment option.

## **DIVISION II**

### **EMPLOYERS**

**45.** An employer within the meaning of subparagraph 7 of the first paragraph of section 1 of the Act respecting labour standards (chapter N-1.1) having an establishment in Québec may offer a voluntary retirement savings plan to employees.

However, any employer who, on 31 December of a given year, employs five eligible employees or more must, in the year that follows, subscribe to a voluntary retirement savings plan and automatically enroll those employees in the plan.

The obligations described in the second paragraph do not apply with respect to eligible employees who

(1) have the opportunity to make contributions, through payroll deductions, to a designated registered retirement savings plan or a designated tax-free savings account, within the enterprise of the employer; or

(2) belong to a category of employees who benefit from a registered pension plan within the meaning of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) to which the employer is party.

For the purposes of this division, “eligible employee” means an employee who

(1) is 18 years of age or over;

(2) is an employee within the meaning of subparagraph 10 of the first paragraph of section 1 of the Act respecting labour standards and works in Québec, or is described in paragraph 1 or 2 of section 2 of that Act; and

(3) is credited with one year of uninterrupted service within the meaning of subparagraph 12 of the first paragraph of section 1 of the Act respecting labour standards.

**46.** For the purposes of this Act, an employer and an administrator are deemed to have entered into a contract in compliance with section 17 if the employer has entered into an agreement with a professional order, an association or another group that allows the employer’s employees to become members of the administrator’s voluntary retirement savings plan subscribed to by the professional order, the association or the other group. The administrator and the employer are in that case subject to the same rights and obligations under this Act as they would be if the employer had subscribed to the plan.

The agreement must contain the information prescribed by regulation.

**47.** At least 30 days before subscribing to a voluntary retirement savings plan with the administrator of such a plan, an employer must notify each employee in writing

(1) of the employer’s intention to subscribe to the plan;

(2) of any existing business relationship the employer has with that administrator;

(3) of the fact that eligible employees are automatically enrolled in the plan and that they will have the opportunity to opt out of the plan;

(4) of the fact that the employer will provide the administrator with the personal information determined by regulation concerning the employees referred to in the last paragraph of section 48;

(5) of the requirement for an employee who is not an eligible employee and who wishes to become a member of the plan to inform the employer;

(6) of the fact that the employee may determine his or her own contribution;

(7) of any contribution the employer agrees to pay into the plan or the method of calculating it; and

(8) of any other information determined by regulation.

**48.** An employer who has subscribed to a voluntary retirement savings plan must automatically enroll in the plan any eligible employee and any employee who so requests, except in the case of employees described in subparagraph 1 or 2 of the third paragraph of section 45.

The employer must also offer the plan to any eligible employee who has opted out of the plan and offer any eligible employee who has set his or her rate of contribution at 0% the possibility of resuming contributions to the plan. The employer must do so in the month of December every two years following the date the employee opted out of the plan or set the rate of contribution at 0%.

The rules set out in the first and second paragraphs apply even if the number of eligible employees falls under five, unless, as long as the number of eligible employees remains under five, all eligible employees opted out of the plan.

An employer has 30 days to enroll the eligible employees and any other employee who so requests in the plan.

**49.** When an eligible employee opts out of the plan, the employer must keep the notice of opting out for the full duration of the employment and notify the plan administrator in writing within 30 days.

**50.** An employer may change voluntary retirement savings plans. The employer must then pay the costs related to the transfer of the employee accounts under the conditions prescribed by regulation.

The new administrator must give written notice, to each employee concerned by the transfer, of the employee's membership in the new plan and of the fact that the employee must inform the new administrator of the investment option he or she has chosen within 60 days after the notice is sent.

The plan administrator must transfer the accounts upon expiry of the 60-day period mentioned in the second paragraph, subject to the conditions prescribed by regulation.

Sections 86 and 88 apply to the transfer, with the necessary modifications.

**51.** An employer is not liable for the acts and omissions of the plan administrator.

**52.** An employer must provide the plan administrator with the documents and information the plan administrator requires to comply with the law.

**53.** An employer must notify the plan administrator that employment of an employee who is a member of the plan is terminated within 30 days after the date of termination of employment.

**54.** Subject to the regulations, an employer may not demand, accept or agree to accept any inducement from a plan administrator, or offer or agree to offer a plan administrator any inducement, with a view to entering into a contract with the administrator in respect of a voluntary retirement savings plan.

## **CHAPTER IV**

### **CONTRIBUTIONS**

#### **DIVISION I**

##### **DETERMINATION, COLLECTION AND REMITTANCE**

**55.** A member determines his or her contribution to the voluntary retirement savings plan.

A member of a plan provided by his or her employer must determine his or her contribution within 60 days after the notice mentioned in subparagraph 1 of the first paragraph of section 19 is sent, failing which the rate of contribution set by regulation applies.

**56.** A member may, at any time, change his or her contribution to the plan. However, an employee who is a member of a plan provided by his or her employer may not change the contribution more than twice per 12-month period, unless the employer agrees that the member do so more often. A member may also, on the conditions determined by regulation, set his or her rate of contribution at 0%.

An employer has 30 days in which to give effect to a member's request.

An employer must remit to the administrator the contributions collected and those the employer agreed to pay before receiving a member's request.

**57.** An employer is not required to contribute to the plan on behalf of employees but may do so where employees are members of the plan.

An employer who contributes to a member's plan may change the contribution the employer has agreed to pay, subject to any clause to the contrary in an agreement within the meaning of subparagraph 4 of the first paragraph of section 1 of the Act respecting labour standards. The employer must in that case send a written notice to the plan administrator and the member concerned.

The change cannot take effect until the thirtieth day following the date on which the notice is sent if it means the employer contribution is reduced.

**58.** As of the first pay that follows the sixty-first day after the notice mentioned in section 19 is sent by the administrator, an employer must collect the members' contributions for each pay period from their salary.

**59.** An employer must remit member contributions to the plan on or before the last day of the month that follows the day on which they are collected, pays on behalf of the members.

**60.** If an employer fails to pay the contributions to the plan within the time limit set in section 59, the employer must pay interest on the contributions due.

Contributions bear interest from the last day of the month that follows the month for which they should have been paid to the plan until they are paid to the plan, at the rate and in the manner determined by regulation.

**61.** If contributions due in respect of a member are paid after a transfer or refund of the balance in the member's account, the plan administrator must transfer or refund those contributions as it did for the accounts in which they were to be paid.

**62.** Until the contributions and interest accrued are remitted to the plan, an employer is deemed to hold those amounts in trust, whether or not the employer has kept them separate from the employer's own assets.

**63.** Within 60 days after the time limit set in section 59, a plan administrator must notify the Régie of any contributions not remitted by the employer and the measures taken to ensure remittance.

## **DIVISION II**

### **LOCKING IN**

**64.** The administrator of a voluntary retirement savings plan must keep a locked-in account and a not locked-in account in its books for each member.

**65.** Employer contributions are credited to the locked-in account and member contributions are credited to the not locked-in account. Each account is also credited with accrued interest and the other amounts determined by regulation.

**66.** No sum may be transferred between a member's locked-in and not locked-in accounts.

### **DIVISION III**

#### **REFUNDS AND TRANSFERS**

##### *§1.—Locked-in account*

**67.** When employment of a member is terminated, when the member reaches the age of 55, when the member's employer establishes a pension plan or an account referred to in the third paragraph of section 45, or in the cases referred to in section 68, all or part of the member's locked-in account may be transferred to a pension plan determined by regulation and chosen by the member.

The plan administrator must make the transfer within 60 days after the member's request.

In the case of a member for whom no employer has subscribed to a plan, the locked-in account may at any time be transferred to a pension plan determined by regulation.

**68.** A member is entitled to the refund of the funds in the locked-in account

(1) if a physician certifies that the member's physical or mental disability reduces his or her life expectancy;

(2) if a physician certifies that the member is physically or mentally disabled without giving an opinion on his or her life expectancy. In such a case, the member must provide a statement to the administrator certifying that the income he or she is to receive during the 12 months following the application for a refund will not exceed 40% of the Maximum Pensionable Earnings determined, for the year of the refund, pursuant to the Act respecting the Québec Pension Plan (chapter R-9);

(3) if the balance in the member's locked-in account is, subject to any other percentage and conditions set by regulation, less than 20% of the Maximum Pensionable Earnings established in accordance with the Act respecting the Québec Pension Plan for the year in which the member is no longer employed by an employer who subscribed to a voluntary retirement savings plan; or

(4) if the member is deemed, for the purposes of the Taxation Act (chapter I-3), to not have resided in Canada for at least two years.

The plan administrator must make the refund within 60 days after the member's request.

§2. — *Not locked-in account*

**69.** Upon a request to the plan administrator, at the intervals determined in the plan but never less than once per 12 months, a member is entitled to the refund of all or part of the not locked-in account or to the transfer of all or part of that account to a pension plan determined by regulation and chosen by the member.

Despite the first paragraph, in the case of termination of employment and in the cases provided for in subparagraphs 1, 2 and 4 of the first paragraph of section 68, a member is entitled at any time to the refund or transfer of all or part of the not locked-in account.

The administrator must make the refund or transfer within 60 days after the member's request.

## **DIVISION IV**

### **VARIABLE PAYMENTS**

**70.** The voluntary retirement savings plan may provide that a member who has reached the age of 55 or the member's spouse, as defined in section 71, may elect to receive variable payments from the funds in his or her accounts, on the conditions and within the time provided by regulation.

## **CHAPTER V**

### **DEATH OF MEMBER**

**71.** For the purposes of this chapter, the spouse of a member is the person who, on the day before the death of the member,

(1) is married to or in a civil union with the member; or

(2) has been living in a conjugal relationship with the member, who is neither married nor in a civil union, whether the person is of the opposite or the same sex, for a period of not less than three years, or for a period of not less than one year if

(a) at least one child is born, or to be born, of their union;

(b) they have adopted, jointly, at least one child while living together in a conjugal relationship; or

(c) one of them has adopted at least one child who is the child of the other, while living together in a conjugal relationship.

For the purposes of subparagraph 2 of the first paragraph, the birth or adoption of a child prior to the period of conjugal relationship existing on the day before the death occurs may qualify a person as a spouse.

Despite subparagraph 1 of the first paragraph, a person who is legally separated from bed and board with respect to the member on the day preceding the member's death is not entitled to any benefit under this chapter unless the person is the member's successor.

**72.** On the death of a member who was not receiving variable payments, his or her spouse or, if the member has no spouse, his or her successors are entitled to a benefit the amount of which is equal to the balance in the member's accounts, including interest accrued until the date of payment or the transfer of all or part of the amount to a pension plan determined by regulation and chosen by the member's spouse or, if the member has no spouse, by his or her successors, to the extent that fiscal rules allow it.

The member's spouse may however waive entitlement to the death benefit by notifying the plan administrator of the fact in writing. The spouse may revoke such a waiver by notifying the plan administrator of the revocation in writing before the member's death.

**73.** On the death of a member who was receiving variable payments, his or her spouse or, if the member has no spouse, his or her successors are entitled to a benefit, the details of which are determined by regulation.

**74.** The designation and the revocation of beneficiaries are governed by articles 2445 to 2459 of the Civil Code, with the necessary modifications.

## **CHAPTER VI**

### **TRANSFER OF BENEFITS BETWEEN SPOUSES**

**75.** In the event of separation from bed and board, divorce or marriage annulment, dissolution otherwise than by death of a civil union or annulment of a civil union, the benefits accumulated by a member under the voluntary retirement savings plan are, upon application in writing to the plan administrator, partitioned between the member and his or her spouse to the extent determined in the Civil Code or by a court judgment or a notarized declaration of dissolution of a civil union.

Where the court or the notarized declaration awards to the spouse of a member, in payment of a compensatory allowance, benefits accumulated by the member under a voluntary retirement savings plan, the benefits are, upon application in writing to the administrator, transferred to the spouse to the extent provided by the court judgment or by the notarized declaration.

**76.** Upon the introduction of an application for separation from bed and board, divorce, annulment of marriage, dissolution or annulment of a civil

union or payment of a compensatory allowance, the member and his or her spouse are entitled, upon application in writing to the plan administrator, to obtain a statement of the benefits accumulated by the member under the voluntary retirement savings plan and the value of the benefits on the date the proceedings are instituted; the statement also contains any other information determined by regulation. The benefits and their value are established according to the rules determined by regulation.

The member and the member's spouse are also entitled to receive a statement of benefits, upon application in writing to the administrator, for the purposes of pre-hearing mediation concerning a family matter or of a joint procedure before a notary for the dissolution of their civil union. The statement contains the information determined by regulation.

**77.** In the event of cessation of the conjugal relationship between a member of the plan and a spouse, within the meaning of subparagraph 2 of the first paragraph of section 71, the member and the spouse may, in the ensuing year, agree in writing to a partition of the benefits accumulated by the member under the plan; such an agreement cannot, however, confer on the spouse more than 50% of the value of the benefits.

For that purpose, the member and the spouse are entitled to obtain the statement described in section 76, established on the date of cessation of their conjugal relationship.

The plan administrator must partition the benefits under the plan to the extent provided for in the agreement referred to in the first paragraph and in the manner prescribed by regulation.

**78.** The rules governing the partition of the member's benefits from both the locked-in and the not locked-in accounts are determined by regulation.

In the case of the partition of the member's benefits or to pay a compensatory allowance,

(1) the benefits awarded to the spouse from the member's locked-in account must, except in the cases determined by regulation, remain locked in, even when the benefits are transferred to a pension plan determined by regulation; and

(2) the benefits awarded to the spouse from the member's not locked-in account may be transferred to a pension plan determined by regulation or refunded, in accordance with the conditions determined by regulation.

However, the benefits awarded to the spouse following a seizure for non-payment of support in accordance with the fourth paragraph of article 553 of the Code of Civil Procedure (chapter C-25) must be paid in a lump sum, in the manner determined by regulation.

**79.** The cost of producing the statement referred to in section 76 and the expenses incurred for effecting the transfer of benefits between spouses may be claimed from the spouses only up to the limit set by regulation.

The costs and expenses claimed from the spouses are divided equally between them, unless they decide to opt for another form of apportionment. Payment of the amount that must be borne by each spouse may be effected by the plan administrator through a reduction of the value of the spouse's benefits, unless that spouse chooses another method of payment.

## **CHAPTER VII**

### **WINDING-UP AND TERMINATION**

**80.** The Régie may decide to liquidate the assets of a voluntary retirement savings plan if the plan administrator fails to comply with an order issued by the Régie under this Act.

**81.** The liquidation of the plan assets is ordered by the Régie if the Autorité des marchés financiers has revoked or cancelled the authorization granted the administrator.

The Autorité des marchés financiers must notify the Régie without delay that such an authorization has been revoked or cancelled.

**82.** A plan administrator that wishes to terminate a plan must give the Régie prior written notice and obtain from the Régie a decision authorizing the administrator to liquidate the plan assets. The Régie must send the administrator an acknowledgement of receipt showing the date notice was received.

**83.** The plan administrator must liquidate the plan assets on the one hundred and twentieth day after receiving notice of the Régie's decision to liquidate the assets or to authorize the plan administrator to liquidate them.

**84.** The plan administrator, within 30 days after receiving the Régie's decision to liquidate the plan assets or to authorize the plan administrator to liquidate them, must notify the members and employers of the date on which the assets will be liquidated. The plan administrator must also transmit to the Régie, within that 30-day period, a copy of the notice transmitted to the members and a copy of the notice transmitted to the employers.

The notice required under the first paragraph must also contain

(1) in the case of a member for whom an employer is subscribed to a voluntary retirement savings plan on the date the notice required under the first paragraph is sent:

(a) the value of the sums accrued in the member's not locked-in and locked-in accounts on the date the notice required under the first paragraph is sent; and

(b) a note that the sums accrued in each of the accounts will be transferred to the voluntary retirement savings plan chosen by the employer or, if the employer fails to choose a plan at least 30 days before the date set for the liquidation of the plan assets, to the voluntary retirement savings plan chosen by the administrator;

(2) in the case of a member for whom no employer is subscribed to a voluntary retirement savings plan on the date the notice required under the first paragraph is sent:

(a) the value of the sums accrued in the member's accounts on the date the notice required under the first paragraph is sent;

(b) the options available to the member for the payment of his or her benefits under each of his or her accounts from among those determined by regulation; and

(c) a note that the member, at least 30 days before the date set for the liquidation of the plan assets, may request the administrator to pay the benefits in the manner the member specifies, failing which the sums accrued in the members' accounts will be transferred to the voluntary retirement savings plan chosen by the administrator;

(3) in the case of an employer who is subscribed to a voluntary retirement savings plan on the date the notice provided for in the first paragraph is sent:

(a) the value of the plan assets that corresponds to the aggregate of the accounts of that employer's employees on the date the notice required under the first paragraph is sent; and

(b) a note that the employer, at least 30 days before the date set for the liquidation of the plan assets, may request that the assets be transferred to a voluntary retirement savings plan chosen by the employer and that, if the employer fails to choose a plan within the time limit set, the assets will be transferred to the voluntary retirement savings plan chosen by the administrator; and

(4) any other information determined by regulation.

The administrator must, within 30 days following the member's or the employer's request submitted in accordance with subparagraph *c* of subparagraph 2 or subparagraph *b* of subparagraph 3, pay the benefits accrued to a member according to the option he or she has chosen or transfer the benefits accrued to the plan specified by the employer.

**85.** The plan administrator may obtain an extension from the Régie to liquidate the plan assets if the Régie is satisfied that it was impossible for the administrator to act within the time limit set in section 83, or if it is of the opinion that an extension is likely to serve the interests of the members.

**86.** The contributions an employer is required to remit to the plan under section 59 must be paid into the plan until the date the assets are transferred to the plan chosen by the employer, or if there is no such plan, to the plan the administrator will have chosen.

**87.** During the liquidation of the plan assets, the Régie may order the application, within the time and on the conditions it sets, of any remedial measure it specifies. The order interrupts the liquidation of the assets until such time as the Régie has certified to the person or body having received the order that the order has been complied with.

**88.** The plan administrator may continue to remit variable payments to the person entitled to them as they become due, until the date the person's benefits are paid in full.

The accounts of a person who receives variable payments must be reduced by the amount of the payments made until the date the person's benefits are paid in full.

**89.** In the case of the liquidation of the plan assets, the plan administrator pays all costs arising from the refund and transfer of the assets.

If the plan administrator is insolvent, these costs are paid out of the plan assets.

**90.** The plan is terminated when all the assets are liquidated.

**91.** After liquidating the plan assets, the plan administrator, within the following 60 days, must give the members of the plan and the employers who have not made the choice provided for in the second paragraph of section 84 the new administrator's contact information, and render an account to the Régie of the liquidation of the assets by filing

(1) a document signed by a person in authority attesting that the liquidated assets are those to which the members affected by the termination of the plan were entitled and that they were disposed of in keeping with the law;

(2) a wind-up report consisting of the annual statement and the financial report required under the first and second paragraphs of section 24; the wind-up report must cover the period between 1 January of the current year and the date of liquidation of the plan assets; and

(3) any other information determined by regulation.

**92.** Any amount due to a member who is untraceable and who is affected by the termination of the plan must, within the time set in section 83, be transferred to the Minister of Revenue. The transfer must be accompanied by a statement setting out the amount due and, where applicable, the name and last known address of the member.

The Unclaimed Property Act (chapter B-5.1) applies to the amount transferred to the Minister of Revenue.

**93.** The Régie revokes the registration of a terminated plan 60 days after the plan administrator renders an account to the Régie of the liquidation of the plan assets.

The Régie must notify the Autorité des marchés financiers without delay that the registration of the plan has been revoked.

**94.** For the purposes of this chapter, the administrator may be an administrator acting under section 104.

## **CHAPTER VIII**

### **OBLIGATION TO INFORM**

**95.** In addition to the other obligations to provide information under this Act, the administrator of a voluntary retirement savings plan must

(1) provide each member, within 45 days following the end of each fiscal year of the plan and in the manner determined by regulation, with a statement containing the information determined by regulation;

(2) provide the member concerned, within 30 days following receipt of the notice of termination of employment of the member, with a statement containing the information determined by regulation; and

(3) provide the spouse of a deceased member or his or her successors, within 30 days following the date the administrator receives notice of the member's death, with a statement containing the information determined by regulation.

## **CHAPTER IX**

### **FUNCTIONS AND POWERS OF THE RÉGIE**

**96.** In addition to the other functions conferred on it by this Act, the Régie must oversee voluntary retirement savings plans. To that end, it must ensure that they are administered and operated in conformity with this Act.

**97.** To exercise its functions, the Régie may, in addition to the other powers conferred on it by this Act and the Act respecting the Québec Pension Plan,

(1) provide information in the form of general or specific instructions regarding the administration of this Act;

(2) carry out inspections regarding the plans;

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

(4) require from a plan administrator or an employer, on the conditions and within the time set by the Régie, any document or information it considers necessary for the purposes of this Act; and

(5) require from a plan administrator the payment of the costs established by regulation and related to an inspection or an inquiry regarding a plan.

**98.** The Régie may make an order directing a plan administrator or an employer to take any remedial measure determined by the Régie within the time and on the conditions set in the order, if it is of the opinion that

(1) the action taken by the administrator or the employer is contrary to sound financial practices;

(2) the financial report prepared under the second paragraph of section 24 does not comply with generally accepted accounting principles;

(3) the plan or its administration is not in conformity with this Act, particularly with the goal of a low-cost plan; or

(4) the contents of a document provided for in this Act or required by the Régie are not in conformity with the requirements of this Act or the Régie.

**99.** No document relating to a matter covered by this Act is binding on the Régie or may be attributed to it unless it is signed by the chair of its board of directors, the president and chief executive officer of the Régie or a member of its board of directors or personnel but, in the latter case, only to the extent provided in the instrument under which powers are delegated to that member or in the internal by-laws of the Régie.

**100.** For the purposes of an inspection regarding a plan, an inspector appointed by the Régie may, at any reasonable time, enter any premises where the plan administrator or the employer keeps a document relating to the plan, examine the document, and take an extract from it or make a copy of it.

Whoever has custody, possession or control of the document must, on request, make it available to the inspector and facilitate examination of it.

On request, the inspector must produce identification and a certificate of authority issued by the Régie.

**101.** The Régie must periodically post a bulletin on its website containing the general instructions it provides under paragraph 1 of section 97 and any other information determined by regulation.

**102.** The Régie may apply by motion to a judge of the Superior Court to obtain an injunction in respect of any matter covered by this Act.

The motion for an injunction constitutes in itself an action.

The procedure prescribed in the Code of Civil Procedure applies, except that the Régie cannot be required to give security.

**103.** The Régie may, of its own initiative and without notice, intervene in any civil action or arbitration proceedings pertaining to this Act to participate in the proof and hearing.

**104.** The Régie may assume, for the period it determines, the provisional administration of all or part of a plan or entrust it to the person or body it designates, in the following cases:

(1) when the Régie or the investigator it has designated is making an inquiry into the plan's conformity with the law or into its administration;

(2) when, in the opinion of the Régie, the plan or the administration of the plan is not in conformity with this Act;

(3) when, in the opinion of the Régie, the plan administrator has committed a malversation, a breach of trust or other form of misconduct;

(4) when the Régie becomes aware that the plan administrator has failed to comply with an order issued by the Régie;

(5) when the plan administrator's authorization is suspended, revoked or cancelled by the Autorité des marchés financiers.

Sections 184 to 186, the first paragraph of section 188 and the second paragraph of section 192 of the Supplemental Pension Plans Act (chapter R-15.1) apply to this Act, with the necessary modifications, where the Régie requires the appointment of a provisional administrator.

**105.** The Régie determines the remuneration and any allowances and indemnities to be paid to the designated provisional administrator.

**106.** The expenses relating to the provisional administration of a plan are borne by the plan administrator or, if the plan administrator is insolvent, they are taken out of the plan assets.

## **CHAPTER X**

### **FUNCTIONS AND POWERS OF THE AUTORITÉ DES MARCHÉS FINANCIERS**

**107.** The functions and powers conferred on the Autorité des marchés financiers under the Acts it administers in compliance with section 7 of the Act respecting the Autorité des marchés financiers (chapter A-33.2), with respect to insurers, trust companies and investment fund managers, apply to administrators who have obtained authorization under this Act, with the necessary modifications.

Furthermore, sections 329 to 336 of the Act respecting trust companies and savings companies apply to any administrator referred to in subparagraph 1 of the second paragraph of section 14.

**108.** The Autorité des marchés financiers may prescribe the forms required for the purpose of exercising its functions and powers under this Act.

**109.** The Autorité des marchés financiers is responsible for the administration of sections 14, 28 to 44, 107, 108, 114, 115, subparagraph 6 of the first paragraph of section 117 in respect of information provided to the Autorité des marchés financiers, subparagraph 8 of the first paragraph of that section and sections 122, 139 and 143.

## **CHAPTER XI**

### **FUNCTIONS AND POWERS OF THE COMMISSION DES NORMES DU TRAVAIL**

**110.** The Commission des normes du travail supervises compliance with the obligations set out in the second paragraph of section 45, section 47 when the second paragraph of section 45 applies and section 48.

**111.** Sections 103 to 110 of the Act respecting labour standards apply to the inquiries the Commission may carry out for the purposes of the sections mentioned in section 110, with the necessary modifications.

## **CHAPTER XII**

### **PROCEEDINGS**

**112.** A person concerned may contest a decision or order of the Régie before the Administrative Tribunal of Québec within 30 days of notification of the decision or order.

## CHAPTER XIII

### REGULATIONS

**113.** The Government may, by regulation,

- (1) for the purposes of section 3, determine
  - (a) the manner of registering a voluntary retirement savings plan and its amendments;
  - (b) the documents and information the administrator must file with the Régie; and
  - (c) the fees the administrator must deposit with the Régie;
- (2) for the purposes of section 4, determine the information that must be included in the text of the plan;
- (3) for the purposes of section 8, determine the cases in which a plan and its amendments may become effective on a date before the date on which they are registered;
- (4) for the purposes of section 17, prescribe the information that must be included in a contract between the plan administrator and the employer or a member, as the case may be;
- (5) for the purposes of section 19, determine the information that may be contained in the summary the plan administrator transmits to each member whose employer is subscribed to a plan;
- (6) for the purposes of section 21, determine the grounds on which an administrator may refuse the application of an employer or an individual to subscribe to the plan;
- (7) for the purposes of section 23, determine the cases where a plan administrator may give, offer or agree to give or offer an employer an inducement to enter into a contract with the administrator in respect of a voluntary retirement savings plan, the conditions that apply and the type of inducement, if any;
- (8) for the purposes of section 24, prescribe the fees to be paid with the annual statement as well as the information to be presented in the statement of changes in the net assets available for the provision of benefits;
- (9) for the purposes of section 25, determine the criteria to be met by the default investment option as well as the conditions subject to which other investment options may be offered to a member by the plan administrator as a possible investment choice, and the other criteria to be met in determining the investment strategy of these other investment options;

(10) for the purposes of section 26, determine the circumstances in which the plan administrator may change a member's investment choices and how such a change is made;

(11) for the purposes of section 27, establish the criteria for determining if the plan is low cost, as well as the nature or amount of the fees that may be deducted from the return on assets and of the fees that a plan administrator may charge members;

(12) for the purposes of section 46, determine the information that the agreement must contain;

(13) for the purposes of section 47, determine the personal information concerning the employees with which the employer will provide the administrator and any other information that may be contained in the notice the employer sends the employees;

(14) for the purposes of section 50, prescribe the conditions for the payment of the costs related to the transfer of the employee accounts and for the transfer itself;

(15) for the purposes of section 54, provide the cases in which an employer may demand, accept or agree to accept an inducement from a plan administrator, or offer or agree to offer a plan administrator an inducement, with a view to entering into a contract with the administrator in respect of a voluntary retirement savings plan, the conditions that apply and the type of inducement, if any;

(16) for the purposes of section 55, set the default contribution rate;

(17) for the purposes of section 56, determine the conditions under which a member may set a contribution rate at 0%;

(18) for the purposes of section 60, determine the rate at which and the manner in which the contributions bear interest;

(19) for the purposes of section 65, determine the other amounts credited to the member's locked-in and not locked-in accounts;

(20) for the purposes of sections 67, 69, 72, 78 and 125, determine the pension plans to which the amounts from the locked-in and not locked-in accounts, as the case may be, may be transferred;

(21) for the purposes of section 68, set the conditions and a percentage other than 20%;

(22) for the purposes of section 70, regulate variable payments;

(23) for the purposes of section 73, determine the details of the benefit payable on the death of a member who was receiving variable payments;

(24) for the purposes of section 76, determine

(a) the other information contained in the statement the member and his or her spouse may apply for upon the introduction of an application for separation from bed and board, divorce, annulment of marriage, dissolution or annulment of a civil union or payment of a compensatory allowance;

(b) the rules according to which the benefits accumulated by the member and their value are established; and

(c) the information contained in the statement the member and his or her spouse are entitled to receive for the purposes of a pre-hearing mediation;

(25) for the purposes of section 77, prescribe the manner in which the member's benefits are partitioned;

(26) for the purposes of section 78, determine

(a) the rules governing the partition of the member's benefits from both the locked-in and the not locked-in accounts;

(b) the conditions in which the spouse may apply for a refund; and

(c) the manner in which the benefits awarded to the spouse following a seizure for non-payment of support must be paid;

(27) for the purposes of section 79, set the limit for the costs and expenses that may be claimed;

(28) for the purposes of section 84, determine the member's options for the payment of his or her benefits and the other information the notice may contain;

(29) for the purposes of section 91, determine the information a plan administrator must file with the Régie after liquidating the plan assets;

(30) for the purposes of section 95, determine the manner in which a plan administrator must provide members with statements, as well as the information the statements must contain;

(31) for the purposes of section 97, establish the costs related to an inspection or an inquiry that a plan administrator may charge;

(32) for the purposes of section 101, determine the information the Régie may post on its website; and

(33) prescribe any other measure required for the application of this Act.

**114.** The Autorité des marchés financiers may, by regulation,

(1) for the purposes of section 28, determine

(a) the fees that must accompany the application for authorization to act as administrator of a voluntary retirement savings plan;

(b) the amounts referred to in subparagraph 2 of the second paragraph of that section;

(c) the requirements for the liability insurance a plan administrator must hold; and

(d) the other documents that must accompany the application for authorization to act as administrator; and

(2) for the purposes of section 31, determine the requirements for the maintenance by a plan administrator of its liability insurance.

**115.** A regulation of the Autorité des marchés financiers under subparagraphs *b* to *d* of paragraph 1 or paragraph 2 of section 114 must be submitted for approval to the Minister of Finance and the Economy, who may approve it with or without amendment.

However, a regulation of the Autorité des marchés financiers under subparagraph *a* of paragraph 1 of section 114 must be submitted for approval to the Government, which may approve it with or without amendment.

A draft of a regulation referred to in the first paragraph may not be submitted for approval and the regulation may not be made before 30 days have elapsed since the publication of the draft in the bulletin of the Autorité des marchés financiers. The regulation comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified in the regulation. Sections 4 to 8, 11 and 17 to 19 of the Regulations Act (chapter R-18.1) do not apply to the regulation.

The Minister may make a regulation referred to in the first paragraph if the Autorité des marchés financiers fails to make such a regulation within the time determined by the Minister.

The Government may make a regulation referred to in the second paragraph if the Autorité des marchés financiers fails to make such a regulation within the time determined by the Government.

## CHAPTER XIV

### PENAL PROVISIONS

**116.** The following are guilty of an offence and liable to a fine of \$1,000 to \$75,000:

(1) a plan administrator that contravenes section 19, 21, 22, 23 or 24, the first paragraph of section 25, section 26, 61, 63, 64 or 66, the second paragraph of section 67 or 68, the third paragraph of section 69 or section 82, 83, 84, 89, 91 or 95;

(2) a plan administrator that neglects or refuses to provide a notice or statement provided for under this Act;

(3) a plan administrator that neglects or refuses to file with the Autorité des marchés financiers or the Régie a statement or report required under this Act; and

(4) a person, other than a plan administrator, who hinders or attempts to hinder a person acting as required or authorized by this Act.

In the case of a subsequent conviction, the fines prescribed in the first paragraph are doubled.

**117.** The following are guilty of an offence and liable to a minimum fine of \$5,000 and a maximum fine of \$75,000 in the case of a natural person and \$200,000 in other cases:

(1) a plan administrator that contravenes an order made under this Act;

(2) a plan administrator that contravenes section 27;

(3) a person who, with the intention of avoiding the application of this Act, destroys, alters, falsifies, secretes or otherwise disposes of a record or a written or other document;

(4) a person who acts as a plan administrator or suggests they are one without holding the authorization required under section 14;

(5) a person who offers a voluntary retirement savings plan that is not registered in compliance with this Act;

(6) a person who in any manner makes a misrepresentation to the Autorité des marchés financiers or the Régie, in the course of activities governed by this Act;

(7) a plan administrator that hinders or attempts to hinder a person acting as required or authorized by this Act; and

(8) a person who contravenes section 44.

In the case of a subsequent conviction, the fines prescribed in this section are doubled.

**118.** An employer who fails to remit contributions as required under section 59 or fails to comply with the obligations described in the second paragraph of section 45 is guilty of an offence and liable to a fine of \$500 to \$10,000.

In the case of a subsequent conviction, the fines prescribed in the first paragraph are doubled.

**119.** An employer is guilty of an offence and liable to a fine of \$600 to \$1,200 if the employer

(1) contravenes section 47, 48, 49, 50, 52, 53 or 54, the second paragraph of section 57 or section 58, 60 or 86; or

(2) contravenes an order made under this Act.

In the case of a subsequent conviction, the fines prescribed in the first paragraph are doubled.

**120.** A member who has engaged in misrepresentation for the purpose of obtaining the refund of the funds in his or her locked-in account is guilty of an offence and liable to a fine of \$250 to \$500.

In the case of a subsequent conviction, the amounts prescribed in the first paragraph are doubled.

**121.** A person who, by an act or omission, assists or, by encouragement, advice or consent or by an authorization or an order, induces another person to commit an offence under section 116 or 117 is guilty of the same offence.

**122.** Penal proceedings may be instituted by the Autorité des marchés financiers for an offence under subparagraph 6 of the first paragraph of section 117 in connection with a misrepresentation made to the Autorité des marchés financiers or for an offence described in subparagraph 8 of the first paragraph of that section.

The fine imposed by the court is remitted to the Autorité des marchés financiers if it has taken charge of the prosecution.

**123.** Penal proceedings for an offence under this Act are prescribed three years after the date the prosecutor is made aware of the commission of the offence. However, no proceedings may be instituted if more than five years have elapsed since the date of the offence.

## CHAPTER XV

### MISCELLANEOUS PROVISIONS

**124.** The fiscal year of a voluntary retirement savings plan ends on 31 December each year. The fiscal year may not exceed 12 months without the authorization of the Régie.

**125.** Unless otherwise provided by law, the following amounts, contributions and benefits are unassignable and unseizable:

(1) all contributions remitted or to be remitted to the plan, with accrued interest;

(2) all amounts refunded or benefits paid under this Act; and

(3) all amounts awarded to the spouse of a member following a transfer of benefits effected under Chapter VI, with accrued interest, and the benefits deriving from such amounts.

Except as far as they derive from members' not locked-in accounts, any of those amounts transferred to a pension plan determined by regulation, the accrued interest, and any refunds of such amounts are also unassignable and unseizable.

**126.** The funds in members' accounts may be pooled by the plan administrator for the purpose of investing the plan assets.

**127.** The Régie and the Autorité des marchés financiers may, in accordance with the law, enter into an agreement with a government in Canada other than the Gouvernement du Québec or with a department or body of that government in order to authorize

(1) a supervisory authority under a legislative authority other than the Parliament of Québec to exercise any of the powers conferred by this Act on the Régie or the Autorité des marchés financiers; or

(2) the Régie and the Autorité des marchés financiers to exercise any of the powers of such an authority.

Such agreements may, in particular,

(1) determine to what extent and on what conditions a voluntary retirement savings plan is subject to this Act and the legislation of a legislative authority other than the Parliament of Québec that is party to the agreement; and

(2) establish requirements concerning a voluntary retirement savings plan, a plan administrator or an employer, in addition to the other requirements imposed by this Act and the legislation of a legislative authority other than the Parliament of Québec that is party to the agreement.

An agreement must be published in the *Gazette officielle du Québec*. On the expiry of at least 45 days after the publication, it is submitted to the Government for approval, with or without amendment. The agreement comes into force after approval, on the date it is published again in the *Gazette officielle du Québec* or on any later dates stated in the agreement.

The provisions of the agreement have force of law for the period during which it remains in force.

## CHAPTER XVI

### AMENDING PROVISIONS

#### CIVIL CODE OF QUÉBEC

**128.** Article 415 of the Civil Code of Québec is amended by replacing the first point in the list in the fifth paragraph by:

“— a plan governed by the Supplemental Pension Plans Act (chapter R-15.1) or by the Voluntary Retirement Savings Plans Act (2013, chapter 26) or that would be governed by one of those Acts if one of them applied where the spouse works;”.

#### ACT RESPECTING THE AUTORITÉ DES MARCHÉS FINANCIERS

**129.** Section 19.1 of the Act respecting the Autorité des marchés financiers (chapter A-33.2) is amended by inserting “12 of this Act, section” after “under section” in subparagraph 4 of the first paragraph.

**130.** Schedule 1 to the Act is amended by adding the following at the end:

“SECTIONS 14, 28 TO 44, 107 TO 109, 114, 115, SUBPARAGRAPH 6 OF THE FIRST PARAGRAPH OF SECTION 117 IN RESPECT OF INFORMATION PROVIDED TO THE AUTORITÉ DES MARCHÉS FINANCIERS, SUBPARAGRAPH 8 OF THE FIRST PARAGRAPH OF THAT SECTION AND SECTIONS 122, 139 AND 143 OF THE VOLUNTARY RETIREMENT SAVINGS PLANS ACT (2013, chapter 26)”.

#### CODE OF CIVIL PROCEDURE

**131.** Article 553 of the Code of Civil Procedure (chapter C-25) is amended by inserting “or under a voluntary retirement savings plan governed by the Voluntary Retirement Savings Plans Act (2013, chapter 26)” after “on behalf of his employees” in subparagraph 7 of the first paragraph.

#### ACT RESPECTING ADMINISTRATIVE JUSTICE

**132.** Schedule IV to the Act respecting administrative justice (chapter J-3) is amended by inserting the following paragraph after paragraph 20.2:

“(20.2.1) section 112 of the Voluntary Retirement Savings Plans Act (2013, chapter 26);”.

#### ACT RESPECTING LABOUR STANDARDS

**133.** Section 5 of the Act respecting labour standards (chapter N-1.1) is amended by adding the following paragraph at the end:

“The Commission shall also supervise compliance with the obligations described in the second paragraph of section 45, section 47 when the second paragraph of section 45 applies and section 48 of the Voluntary Retirement Savings Plans Act (2013, chapter 26).”

**134.** Section 122 of the Act is amended by adding the following subparagraphs after subparagraph 7 of the first paragraph:

“(8) on the ground that such employee has exercised a right arising from the Voluntary Retirement Savings Plans Act (2013, chapter 26); or

“(9) for the purpose of evading the application of the Voluntary Retirement Savings Plans Act.”

#### SUPPLEMENTAL PENSION PLANS ACT

**135.** Section 2 of the Supplemental Pension Plans Act (chapter R-15.1) is amended by inserting the following subparagraph after subparagraph 5 of the first paragraph:

“(6) a voluntary retirement savings plan governed by the Voluntary Retirement Savings Plans Act (2013, chapter 26).”

#### REGULATION UNDER THE ACT RESPECTING INSURANCE

**136.** The Regulation under the Act respecting insurance (chapter A-32, r. 1) is amended by inserting the following section after section 60:

“**60.1.** A specified group of persons may be composed of members of a voluntary retirement savings plan registered in accordance with the Voluntary Retirement Savings Plans Act (2013, chapter 26), provided those members do not constitute a group under section 60.

The same applies to members of a pooled registered pension plan within the meaning of the Pooled Registered Pension Plans Act (Statutes of Canada, 2012, chapter 16).”

**137.** Section 61 of the regulation is amended by adding the following paragraph at the end:

“The first paragraph does not apply to the policyholder if the contract is a voluntary retirement savings plan registered in accordance with the Voluntary Retirement Savings Plans Act (2013, chapter 26) or a pooled registered pension plan within the meaning of the Pooled Registered Pension Plans Act (Statutes of Canada, 2012, chapter 16).”

## **CHAPTER XVII**

### **TRANSITIONAL AND FINAL PROVISIONS**

**138.** Despite the first paragraph of section 124, the first fiscal year of a plan that comes into force before 1 January 2015 ends on 31 December 2015.

**139.** Despite the second paragraph of section 42, until 1 January 2016 or until any later date determined by the Minister of Finance and the Economy, an insurer may provide a voluntary retirement savings plan to an employer through a group insurance representative only authorized to provide group insurance plans within the meaning of the Act respecting the distribution of financial products and services (chapter D-9.2) or through a representative in insurance of persons within the meaning of section 3 of that Act.

The first paragraph does not apply when a voluntary retirement savings plan is provided to an employer as a substitute for the voluntary retirement savings plan to which the employer is already subscribed.

**140.** Despite the second paragraph of section 45, an employer must subscribe to a voluntary retirement savings plan and automatically enroll eligible employees in the plan

(1) on or before 31 December 2016, if the employer has 20 eligible employees or more on 30 June 2016;

(2) on or before 31 December 2017, if the employer has from 10 to 19 eligible employees on 30 June 2017; and

(3) by a date set by the Government that may not be prior to 1 January 2018, if the employer has from five to nine eligible employees.

**141.** The third paragraph of section 48 is to be read as if both occurrences of “five” were replaced by “20” from 1 July 2016 to 30 June 2017 and by “10” from 1 July 2017 until the day before the date set by the Government under paragraph 3 of section 140.

**142.** Despite section 12, from a date set by the Government that may not be prior to 1 January 2018, an administrator may offer more than one voluntary retirement savings plan.

**143.** The first regulation made by the Autorité des marchés financiers under subparagraph *a* of paragraph 1 of section 114 may come into force on the date

of its publication in the *Gazette officielle du Québec* or on any later date specified in it. Sections 4 to 8, 11 and 17 to 19 of the Regulations Act (chapter R-18.1) do not apply to that regulation.

The first regulation made by the Autorité des marchés financiers under subparagraphs *b* to *d* of paragraph 1 or paragraph 2 of section 114 may come into force despite not being published in the bulletin of the Autorité des marchés financiers.

**144.** For the purposes of section 37 of the Act respecting the Québec Pension Plan (chapter R-9), the Minister of Employment and Social Solidarity requires that, for the initial 10 years after the date of coming into force of this Act, the report of activities of the Régie des rentes du Québec contain a statement of the total amount of refunds made by administrators in respect of not locked-in accounts of members under the age of 55.

**145.** The Minister of Employment and Social Solidarity is responsible for the administration of this Act, except sections 14, 28 to 44, 107 to 109, 114, 115, subparagraph 6 of the first paragraph of section 117 in respect of information provided to the Autorité des marchés financiers, subparagraph 8 of the first paragraph of that section and sections 122, 139 and 143, which are under the responsibility of the Minister of Finance and the Economy, and the second paragraph of section 45, section 47 when the second paragraph of section 45 applies and sections 48, 110 and 111, which are under the responsibility of the Minister of Labour.

**146.** This Act comes into force on 1 July 2014, except sections 14, 28, 29, 31, 39 to 41, Chapter X and sections 114, 115 and 143, which may come into force on any earlier date set by the Government.

