



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 75
(2016, chapter 13)

**An Act respecting the restructuring of
university-sector defined benefit pension
plans and amending various legislative
provisions**

**Introduced 11 November 2015
Passed in principle 12 April 2016
Passed 8 June 2016
Assented to 8 June 2016**

**Québec Official Publisher
2016**

EXPLANATORY NOTES

This Act provides that university-sector defined benefit pension plans must be restructured not later than 31 December 2017 in order to facilitate improved risk management and help redress the financial position of some of those plans to ensure their sustainability.

Under the Act, an actuarial valuation must be prepared for all pension plans as at 31 December 2015 in order, in particular, to determine the cost of each plan at that date.

General restructuring measures are set out for the equal sharing of the total contributions for service subsequent to 31 December 2015 by the employer and the active members, effective not later than 1 January 2018. They may also agree on sharing the contributions in a minimum proportion of 45% for the active participants, or on a different apportionment for the various types of contributions.

A stabilization fund must be established on 1 January 2016 for pension plans required to undergo special restructuring measures. Such a fund must be funded by a stabilization contribution, to be paid into the plan not later than 1 January 2018. For the other pension plans, such a contribution must be paid into the plan's general account instead.

Special restructuring measures are to be applied to any pension plan whose cost determined as at 31 December 2015 exceeds 21% of the overall payroll of the active members or that maximum, increased as provided. The Act makes it possible to amend the benefits of active members from 1 January 2016 to reduce the cost of the plan to a percentage equal to or less than 21% or equal to the increased maximum, for service subsequent to 31 December 2015 as well as for service prior to 1 January 2016. The Act also allows the parties to limit the reduction of active members' benefits to 7.5% of their liabilities. Special rules are established for amendments pertaining to the normal pension and to the automatic indexation of pensions at retirement for service prior to 1 January 2016.

An amendment pertaining to the retirement pension's automatic indexation formula may apply to retired members provided the retirement pension's automatic indexation formula with respect to active members is also amended and the value of the amendments is

equivalent. Also, the parties to a pension plan that is not subject to special restructuring measures may agree to amend the benefits of the active members in accordance with rules similar to those that apply in a plan subject to such measures. In addition, any surplus assets in a pension plan that is subject to special restructuring measures for service prior to 1 January 2016 must first be used to increase pensions to the level they would have reached if the automatic indexation formula had not been amended.

The Act provides for a one-year negotiation period for the plans concerned. In addition, the parties may turn to conciliation, and if negotiations fail, the dispute is to be submitted to an arbitrator. A plan whose amendments are not subject to negotiations with each employee association may be amended in accordance with the amendment process provided for in the plan. In the case of pension plans not subject to special restructuring measures, the Act provides that the active members must be consulted before an amendment to their benefits can become effective.

The Act also extends the funding relief measure until not later than 31 December 2017 for certain pension plans.

Lastly, the Supplemental Pension Plans Act is amended to allow, among other things, the payment of variable benefits, under the defined-benefit provisions of a municipal- or university-sector pension plan. Technical amendments are also made to the Regulation respecting the funding of pension plans of the municipal and university sectors.

LEGISLATION AMENDED BY THIS ACT:

- Supplemental Pension Plans Act (chapter R-15.1).

REGULATION AMENDED BY THIS ACT:

- Regulation respecting the funding of pension plans of the municipal and university sectors (chapter R-15.1, r. 2).

Bill 75

AN ACT RESPECTING THE RESTRUCTURING OF UNIVERSITY-SECTOR DEFINED BENEFIT PENSION PLANS AND AMENDING VARIOUS LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

PURPOSE AND APPLICATION

1. The purpose of this Act is the restructuring of the university-sector pension plans to which Chapter X of the Supplemental Pension Plans Act (chapter R-15.1) applies, in order to facilitate improved risk management and help redress the financial position of certain plans to ensure their sustainability.

The Act applies to pension plans where the employer is a university-level educational institution referred to in any of paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1).

2. This Act does not apply to pension plans that have certain defined contribution plan characteristics as well as certain defined benefit plan characteristics and that provide for a minimum retirement income established according to the characteristics of a defined benefit pension plan, including floor plans, nor to the defined contribution-type provisions of a defined benefit plan.

CHAPTER II

RESTRUCTURING OF PENSION PLANS

DIVISION I

GENERAL PROVISIONS

3. All university-sector pension plans must be restructured not later than 31 December 2017.

4. Before a pension plan is restructured, it must be the subject of a complete actuarial valuation as at 31 December 2015.

The report on the actuarial valuation must be sent to Retraite Québec not later than 30 June 2016.

5. For the actuarial valuation as at 31 December 2015, the demographic and economic assumptions from the last complete actuarial valuation of the plan at the end date of a fiscal year and for which the report has been sent to Retraite Québec must be used. The discount rate may however be modified up to a maximum of 6%.

6. The following rules apply with respect to the actuarial valuation as at 31 December 2015:

(1) the provision for adverse deviation referred to in the second paragraph of section 13 of the Regulation respecting the funding of pension plans of the municipal and university sectors (chapter R-15.1, r. 2) is established at zero;

(2) the monthly payments relating to funding deficiencies determined in an actuarial valuation prior to 31 December 2015 are eliminated;

(3) a single deficiency, to be known as a “technical actuarial funding deficiency”, is determined and corresponds to the amount by which the liabilities determined on a funding basis exceed the assets determined on a funding basis, to which the special amortization payment is added;

(4) the assets and liabilities relating to defined contribution-type provisions must not be taken into consideration in the assets and liabilities of the pension plan to determine the technical actuarial funding deficiency.

7. If the actuarial valuation as at 31 December 2015 shows that the cost of a pension plan established under section 19 is equal to or less than 21% of the overall payroll, sections 4, 5 and 6 do not apply for the purposes of its funding.

8. When a pension plan must be restructured to reduce its cost under section 19, the actuarial valuation as at 31 December 2015 must establish the portion of the technical actuarial funding deficiency attributable to retired members at that date.

To establish that portion, the assets of the pension plan must be distributed in proportion to the liabilities of the retired members and to those of the active members. For the purposes of this distribution, the special amortization payment made as payment for an amendment to the plan that applies only to active members within the meaning of section 36 of the Supplemental Pension Plans Act is not considered in the assets of the plan. The value of the obligations arising from that amendment considered for the first time in the actuarial valuation as at 31 December 2015 is not included in the liabilities of the plan.

9. For the purposes of this Act, the members and beneficiaries who are receiving a pension under the pension plan on 31 December 2014 are considered retired members. All other members are considered active members.

DIVISION II

GENERAL RESTRUCTURING MEASURES

§1. — Sharing contributions

10. The total contributions for service subsequent to 31 December 2015 must, beginning 1 January 2018, be assumed equally by the employer and the active members or, if both agree, in another proportion, provided it complies with the parameters set out in the second paragraph. In addition, the employer and the active members may agree to share contributions beginning on an earlier date. They may also agree on a different apportionment for the various types of contributions, provided the total contributions are shared equally or in a proportion that complies with the parameters set out in the second paragraph.

The employer and the active members may agree to share the total contributions in a minimum proportion of 45% for the active members. In no case may the active members assume more than 50% of the total contributions.

The contributions to be taken into consideration for the purposes of the first paragraph for a fiscal year of the pension plan are the current service contribution, the amortization payment relating to any unfunded actuarial liability determined for service subsequent to 31 December 2015 and the stabilization contribution provided for in the second paragraph of section 13.

11. If the active members contribute 35% or less of the total contributions for service subsequent to 31 December 2015, the pension plan may provide that the proportion they assume from 1 January 2018 or from an earlier date agreed on by them and the employer is at least equal to the proportion they assumed before that date increased by at least half of the difference between that proportion and 50% of the total required contributions or the proportion determined under the second paragraph of section 10.

The proportion provided for in the first or second paragraph, as applicable, of section 10 must be reached not later than 1 January 2021.

§2. — Stabilization fund

12. A stabilization fund, aimed at protecting the plan from adverse deviation likely to affect the plan in the future, must be established on 1 January 2016 for service subsequent to 31 December 2015.

13. The stabilization fund is to be funded by

- (1) a stabilization contribution;
- (2) actuarial gains; and
- (3) interest accrued.

The stabilization contribution that must be paid into the plan must represent 10% of the current service contribution, or a higher proportion of that contribution if the employer and the active members so agree. The amount of the stabilization contribution is determined without taking into account any margin for adverse deviation provided for by the Canadian Institute of Actuaries.

14. The stabilization contribution must be paid from 1 January 2018, or from an earlier date if the employer and the active members so agree.

15. The required value of the stabilization fund must be calculated in the same manner as the provision for adverse deviation established for service prior to 1 January 2016.

16. The employer and the active members may cease to pay the stabilization contribution once the stabilization fund reaches the value calculated under section 15.

17. The obligation under section 12 to establish a stabilization fund does not apply to a pension plan that does not have to be restructured under section 19.

A stabilization contribution established in accordance with the rules set out in the second paragraph of section 13 must nevertheless be paid into the general account of the pension plan from 1 January 2018, or from an earlier date if the employer and the active members so agree.

The employer and the active members may cease to pay the stabilization contribution once the provision for adverse deviation reaches the amount established under section 60.3 of the Regulation respecting supplemental pension plans (chapter R-15.1, r. 6).

§3. — *Additional pension benefit*

18. The additional pension benefit provided for in section 60.1 of the Supplemental Pension Plans Act is abolished on 1 January 2016 with respect to members who are active on that date.

DIVISION III

SPECIAL RESTRUCTURING MEASURES

19. Any pension plan whose cost determined in the actuarial valuation as at 31 December 2015 exceeds 21% of the overall payroll of the active members or that maximum increased in accordance with the third paragraph must be restructured to reduce its cost, at that date, to a percentage equal to or less than 21% or than the maximum thus increased. The overall payroll must be established using the same method as the one used to determine the current service contribution in the last complete actuarial valuation of the plan at the end date of a fiscal year and for which the report has been sent to Retraite Québec.

The cost of the plan at 31 December 2015 is equal to the sum of the current service contribution and the amortization payment relating to any technical actuarial funding deficiency identified in the actuarial valuation as at 31 December 2015. For the purpose of establishing the cost, the technical actuarial funding deficiency may, if the parties so agree, be reduced by the value of a stabilization fund established before 1 January 2016.

If the average age of the active members within the meaning of section 36 of the Supplemental Pension Plans Act is over 45 on 31 December 2015, the maximum established under the first paragraph can be increased by 0.6% for each full year of deviation. In addition, a maximum increase of 0.5% is allowed if women make up more than 50% of the active members on that date. In the latter case, the report required under the second paragraph of section 4 must show that the increase is necessary to allow the payment of benefits equivalent to those that would have been paid had it not been for that characteristic.

20. The restructuring of a pension plan may be carried out with respect to active members by amending, suspending or abolishing, from 1 January 2016, any benefits other than the normal pension payable under the pension plan in addition to the minimum benefits provided for by the Supplemental Pension Plans Act.

Amendments to the definition of the salary or wages on which the normal pension is based may pertain to service prior to 1 January 2016 and service subsequent to 31 December 2015. However, the accrual rate for the normal pension may only be amended for service subsequent to 31 December 2015.

Despite the first paragraph, amendments pertaining to the automatic indexation of the retirement pension for service prior to 1 January 2016 may only apply to the retirement pensions's automatic indexation formula. The indexation may be established at zero.

21. An amendment to the retirement pension's automatic indexation formula for service prior to 1 January 2016 may apply to members who are retired on 31 December 2015 if the retirement pension's automatic indexation formula with respect to active members is amended. Furthermore, the value of the

amendment must be equivalent to the value of the amendment concerning the automatic indexation of the retirement pension of the active members when calculated in proportion to the respective liabilities of each of the groups.

The employer and the active members may however agree to an additional reduction pertaining to the automatic indexation formula for the retirement pension of active members.

22. The active members may not assume more than 50% of the technical actuarial funding deficiency identified in the actuarial valuation as at 31 December 2015, reduced, if applicable, by the portion of that deficiency assumed by the retired members.

Members who are retired on 31 December 2015 may not assume more than 50% of the portion of the technical actuarial funding deficiency attributable to them at that date and established in accordance with section 8.

23. The part of the technical actuarial funding deficiency assumed by the employer and that corresponds to the lesser of the following amounts may not be consolidated:

(1) the amount of the deficiency assumed by the active members and retired members under sections 20 and 21; and

(2) the amount of the technical actuarial funding deficiency to be assumed by the employer under the first paragraph of section 22.

For the purposes of the first paragraph, the amount of the deficiency assumed by the active members under sections 20 and 21 must be determined without reference to the limit agreed on by the employer and the active members under section 25.

The employer must repay, over a maximum period of 15 years, the part of the technical actuarial funding deficiency that may not be consolidated.

The employer may, with respect to a fiscal year of the pension plan, pay an additional amount to accelerate repayment of that part of the technical actuarial funding deficiency.

24. The employer must inform the retired members of any planned amendment to the automatic indexation formula for their pension at least 60 days before the agreement to be made under Chapter V.

To that end, the pension committee must convene the retired members to an information meeting during which the employer must report on the pension plan's financial position set out in the actuarial valuation as at 31 December 2015, on the effort the retired members are being asked to make and on the reasons for the amendment. The pension committee must convene the retired members at least 30 days before the date of the information meeting and enclose with

the notice of meeting a copy of the planned amendment and the notice required under the first paragraph of section 113.1 of the Supplemental Pension Plans Act.

At that time, retired members must be allowed to present comments to the employer on the planned amendment and submit any proposal on their pension's automatic indexation formula.

The employer must send Retraite Québec the planned amendment and a summary of the meeting for information purposes.

25. When the amount of benefits amended, suspended or abolished under section 20 exceeds 7.5% of the liabilities of the active members established at 31 December 2015, the employer and the active members may agree to limit the restructuring of the plan with respect to those members to 7.5% of their liabilities or to a higher percentage agreed on by the parties.

26. If the portion of the technical actuarial funding deficiency assumed by the active members is limited to 7.5% of their liabilities or a higher percentage under section 25, the employer must assume the difference between the technical actuarial funding deficiency the active members would have assumed under sections 20 and 21 had it not been for that limit and the portion they assume.

The part of the deficiency assumed by the employer under the first paragraph must be repaid over a maximum period of 25 years and may be consolidated.

27. The parties to a pension plan that does not have to be restructured under section 19 may, before 1 January 2018, agree to amend the benefits of the active members in accordance with the rules set out in section 20.

28. Sections 20 and 21 of the Supplemental Pension Plans Act do not apply to an amendment made under this division.

CHAPTER III

FUNDING OF THE AMENDMENTS TO THE PENSION PLANS

29. For any amendment made on or after or effective from 1 January 2016, a special amortization payment must be paid in full into the pension fund on the day following the date of the actuarial valuation determining the value of the additional obligations arising from that amendment. This value is the higher of the value calculated on a solvency basis and that calculated on a funding basis. Any surplus assets of the pension plan may be allocated to the payment of such obligations.

30. The surplus assets correspond, for service subsequent to 31 December 2015, to the difference between the plan's assets determined on a funding basis and the sum of its liabilities determined on the same basis and the amount corresponding to the required value of the stabilization fund, reduced

by the value of the additional obligations arising from any amendment to the plan considered for the first time in the actuarial valuation.

The surplus assets correspond, for service prior to 1 January 2016, to the difference between the plan's assets determined on a funding basis and the sum of its liabilities determined on the same basis and the provision for adverse deviation, reduced by the value of the additional obligations arising from any amendment to the plan considered for the first time in the actuarial valuation.

The present value of amortization payments relating to the part of the technical funding deficiency assumed by the employer under the first paragraph of section 23 must be included in the plan's assets for service prior to 1 January 2016.

Despite paragraph 1 of section 6, the surplus assets as at 31 December 2015 must be determined without establishing the provision for adverse deviation at zero.

31. The surplus assets of a pension plan that does not have to be restructured under section 19 are determined in accordance with the rules set out in the second paragraph of section 30, regardless of the period of service.

CHAPTER IV

APPROPRIATION OF SURPLUS ASSETS

32. Surplus assets may not be appropriated to the payment of contributions, unless a fiscal rule so requires.

The surplus assets identified in the actuarial valuation as at 31 December 2015 or in an actuarial valuation subsequent to that date must be appropriated to the purposes and in the order agreed on by the employer and the active members. The surplus assets may be used to reimburse the debts contracted by the pension plan toward the employer.

33. When a pension plan must be restructured under section 19, the surplus assets for service prior to 1 January 2016 and those for service subsequent to 31 December 2015 must be used in relation to the service to which they relate.

The surplus assets for service prior to 1 January 2016 that are identified in an actuarial valuation subsequent to 31 December 2015 must first be appropriated, in the year following the actuarial valuation, to resuming, if applicable, indexation of the pensions accrued at 31 December 2015 and that are in payment on the date of the indexation provided for in the pension plan.

A pension referred to in the second paragraph must be increased to the level it would have reached, since the last actuarial valuation, had it not been for the amendment to the retirement pension's automatic indexation formula under the first paragraph of section 21. If the surplus assets are insufficient to cover

the whole increase, the indexation is to be made on the basis of the surplus available to finance the increase.

If any surplus assets remain, the pension re-established under the third paragraph must be increased to the level it would have reached, since the last actuarial valuation, had it not been for the additional reduction in the retirement pension's automatic indexation formula under the second paragraph of section 21.

Furthermore, if the pension plan has surplus assets after the third and fourth paragraphs, as applicable, have been applied and unless the employer and the active members have agreed on a different apportionment and a different order, the surplus assets must be used for the following purposes in the following order:

- (1) reimbursing the debts contracted by the pension plan toward the employer;
- (2) funding improvements to the pension plan.

In no case may the increased pensions be higher than the pensions that would have been paid under the plan had the retirement pension's automatic indexation formula not been amended.

34. However, despite the second paragraph of section 33, the text of the plan may provide that the surplus assets identified in an actuarial valuation subsequent to 31 December 2015 and established in accordance with the second paragraph of section 30 may not be appropriated unless the plan's assets on a funding basis are equal to or greater than its liabilities, increased by the provision for adverse deviation plus an amount that corresponds to a rate of not more than 3% of the total solvency liabilities, reduced by the value of the additional obligations arising from any amendment to the plan considered for the first time on the date of the actuarial valuation.

35. In the case of a pension plan that must be restructured under section 19, the surplus assets for service subsequent to 31 December 2015 must be appropriated for the purposes and in the order agreed on by the employer and the active members.

CHAPTER V

RESTRUCTURING PROCESS FOR PENSION PLANS

DIVISION I

NEGOTIATIONS

36. When a pension plan must be restructured under section 19, negotiations between the employer and the active members must be undertaken not later

than 30 June 2016 for the purpose of entering into an agreement to amend the pension plan in accordance with this Act.

Not later than 15 June 2016, the employer sends every association representing active members who are covered by the plan a written notice not less than eight days beforehand stating the date, time and place its representatives will be ready to meet the association's representatives.

A copy of the notice must be sent to the Minister. Failing such a notice, negotiations are deemed to have begun on 30 June 2016.

37. If the active members of a plan are represented by more than one association, negotiations are conducted separately or jointly by those associations in accordance with the usual rules.

38. Negotiations must begin and continue diligently and in good faith in order for an agreement to be reached not later than 31 March 2017.

39. If the parties reach an agreement, they send the Minister a notice of agreement.

Likewise, the parties inform the Minister if they are unable to reach an agreement, unless a conciliator has been appointed, in which case the notice must be sent to the conciliator.

DIVISION II

CONCILIATION

40. Either of the parties may, at any time during the negotiation period, ask the Minister to designate a conciliator to help them reach an agreement.

Notice of such a request must be given to the other party on the same day.

The Minister designates the conciliator on receiving the parties' request.

41. The conciliation process does not alter the negotiation period.

42. The parties are required to attend all meetings to which they are convened by the conciliator.

43. If an agreement is reached on all the matters submitted to the conciliator, the conciliator reports on the agreement to the Minister and to the parties.

44. At the expiry of the negotiation period or as soon as it is clear to the conciliator that conciliation will not enable the parties to reach an agreement, the conciliator submits to the parties a report stating the matters on which they agree, those still in dispute and any recommendation the parties failed to implement.

At the same time, the conciliator forwards a copy of the report to the Minister.

DIVISION III

ARBITRATION

45. At the expiry of the negotiation period, an arbitrator is appointed to settle the dispute if no agreement has been sent to the Minister.

An arbitrator may also be appointed before the end of such a period at the joint request of the parties or as soon as they receive the conciliator's report provided for in section 44.

46. The Minister notifies the parties that the Minister is referring the dispute to arbitration. Within 10 days after the notice, the parties must jointly choose the arbitrator from the list drawn up under section 77 of the Labour Code (chapter C-27). If the parties cannot agree, the Minister appoints the arbitrator from that list.

The Minister determines the arbitrators' costs and fees, which are borne by the parties.

An arbitrator must not have any pecuniary interest in the dispute submitted to him or her or have acted as an attorney, adviser or representative of any of the parties.

47. The arbitrator is assisted by assessors unless the parties reach an agreement to the contrary within 15 days of the arbitrator's appointment.

Within 15 days of the arbitrator's appointment, each party designates an assessor to assist it. If a party does not designate an assessor within the prescribed time, the arbitrator may proceed in the absence of that party's assessor.

The arbitrator may proceed in the absence of an assessor who does not attend after having been convened.

48. Each party pays its assessor's costs and fees.

49. Each party pays the costs and fees of its expert witnesses.

The costs and fees of expert witnesses summoned on the initiative of the arbitrator are borne by the parties.

50. The arbitrator must render a decision not later than 31 December 2017.

51. No legal proceedings may be brought against an arbitrator for an act performed in good faith while carrying out the functions of office.

52. The parties may come to an agreement at any time on any of the matters in dispute.

The agreement is recorded in the arbitration award, which may not amend it.

53. The arbitrator renders a decision in accordance with the rules of law.

The arbitrator must take into account, among other considerations, intergenerational equity, the sustainability of the pension plan, compliance with cost-sharing principles and the objectives set out in this Act, contribution holidays and any improvements made to the plan.

In addition, the arbitrator must take into account the past concessions granted by the members with respect to other elements of the overall remuneration.

The arbitrator's decision is binding on the parties from the time it is rendered. No appeal lies from the arbitrator's decision.

54. The arbitrator sends a copy of the decision to the Minister.

55. Chapters III and V of Title II of Book VII of the Code of Civil Procedure (chapter C-25.01), except the third and fourth paragraphs of article 632, the third paragraph of article 642, the second and third paragraphs of article 643, and articles 282, 283 and 289 apply, with the necessary modifications, to arbitration under this Act.

56. Except on a question of jurisdiction, no application for judicial review under the Code of Civil Procedure may be filed nor any injunction granted against an arbitrator acting in his or her official capacity.

DIVISION IV

MISCELLANEOUS PROVISIONS

57. The existence of a collective agreement or any other valid agreement does not preclude the application of this Act.

58. The signing of an agreement may take place only after being authorized by secret ballot by a majority vote of the members of the association representing the active members who exercise their right to vote.

If the negotiations are conducted jointly by two or more associations, the ballot is held in accordance with the usual rules. In the absence of such rules, the signing must be authorized, by secret ballot, by a vote in which the majority is calculated taking into account all the active members, regardless of which group they belong to.

59. The employer must take measures to allow active members who are covered by a pension plan established by a collective agreement, but who are

not represented by an association, as well as active members who are covered by a plan established otherwise than by a collective agreement, to submit observations on the proposed amendments to the plan.

If 30% or more of those active members object to the amendments, the amendments cannot be applied, unless a decision of the arbitrator so authorizes.

60. If a collective agreement is in force, any agreement reached or any decision made by the arbitrator under Chapter V that amends the terms of the collective agreement has the effect of amending the collective agreement. If negotiations are in progress to renew the collective agreement, the agreement or the decision is, from the date it becomes effective, deemed to be part of the most recent collective agreement.

61. When the rules set out in a pension plan before 11 November 2015 do not require that the amendments to the plan be negotiated with each association representing active members, the amendments to a pension plan to which this chapter applies are decided on by the authority that has the power to do so and under the conditions set out in the pension plan.

Divisions I to III of this chapter apply, with the necessary modifications. The amendments decided on in accordance with the rules set out in the pension plan are considered to be an agreement made under this chapter.

62. As soon as an agreement that provides for amending the automatic indexation formula of the retired members' pension is entered into or as soon as a decision is rendered by an arbitrator under this chapter, the pension committee must notify each retired member and each beneficiary in writing that the automatic indexation of their pension is amended from the date of the agreement or the arbitrator's decision.

Such a notice replaces the notice required under section 26 of the Supplemental Pension Plans Act with respect to retired members. A copy of the notice must be sent to Retraite Québec with the application to register the amendment to the pension plan resulting from the agreement or the arbitrator's decision.

63. To make possible an amendment to restructure a pension plan that does not have to be restructured under section 19, the employer must take measures to allow active members who are covered by a pension plan established by a collective agreement, but who are not represented by an association, as well as active members who are covered by a plan established otherwise than by a collective agreement, to submit observations. If 30% or more of those members object to the amendment, it cannot be applied.

Section 58 applies with respect to active members represented by an association.

If the active members do not agree to the amendment regarding the sharing of contributions and the establishment of the contribution to the stabilization fund before 1 January 2018, the rules set out in the first paragraph of section 10 and the second paragraph of section 13 apply.

CHAPTER VI

REGISTRATION OF AMENDMENTS

64. The provisions of every pension plan must be amended to set out

- (1) the rules governing the sharing of contributions;
- (2) the rate of the contribution to the stabilization fund; and
- (3) any benefits that have been amended.

65. The amendments resulting from the restructuring of a pension plan described in section 19 must be communicated to Retraite Québec as soon as a notice of agreement is sent to the minister responsible for the administration of the Labour Code under the first paragraph of section 39 or as soon as an arbitrator's decision is sent to that minister under section 54. The amendments to a pension plan not described in section 19 must be submitted to Retraite Québec not later than 31 January 2018.

66. The application to register the amendments must be filed with a complete actuarial valuation of the pension plan as at 31 December 2015 that takes the amendments to the plan into account.

The actuarial valuation must be established on the basis of the same demographic and economic assumptions and the same discount rate as those used in the actuarial valuation referred to in section 5. However, the demographic assumption with respect to retirement may be adjusted to take the amendments to the pension plan into account.

67. If Retraite Québec is unable to register an amendment to the plan because of its non-compliance with this Act or the Supplemental Pension Plans Act, Retraite Québec must inform the pension committee.

If the amendment results from an agreement under Chapter V, the pension committee notifies the parties to the agreement of Retraite Québec's decision and asks them to amend the agreement within 30 days. If the parties fail to come to an agreement, the minister responsible for the administration of the Labour Code appoints an arbitrator whose name appears on the list drawn up under the first paragraph of section 46. The arbitrator must render a decision within three months after being seized of the matter. The second and third paragraphs of section 46 and sections 48, 51 to 54 and 56 apply.

If the amendment results from an arbitrator's decision under Chapter V, the pension committee notifies the arbitrator who rendered the decision of Retraite Québec's decision and asks the arbitrator to amend his or her decision within 30 days.

CHAPTER VII

AMENDING PROVISIONS

SUPPLEMENTAL PENSION PLANS ACT

68. Section 128 of the Supplemental Pension Plans Act (chapter R-15.1) is amended by replacing “by adding the plan stabilization provision target level less five percentage points” in the second paragraph by “taking into account the plan stabilization provision target level less five percentage points”.

69. Section 318.5 of the Act is amended by replacing the second paragraph by the following paragraphs:

“Sections 90.1, 142.5 and 237 apply, however, to a plan referred to in the first paragraph.

Sections 60, 119.1, 143 and 146 apply to pension plans that are subject to the Regulation respecting the funding of pension plans of the municipal and university sectors (chapter R-15.1, r. 2). Those sections do not apply, however, to a pension plan referred to in Division I or I.1 of the Regulation respecting the exemption of certain pension plans from the application of provisions of the Supplemental Pension Plans Act (chapter R-15.1, r. 8).

For the purposes of section 119.1, the actuarial valuation required is the one referred to in subparagraph 2 of section 118, as replaced by section 7 of the Regulation respecting the funding of pension plans of the municipal and university sectors.”

REGULATION RESPECTING THE FUNDING OF PENSION PLANS OF THE MUNICIPAL AND UNIVERSITY SECTORS

70. The Regulation respecting the funding of pension plans of the municipal and university sectors (chapter R-15.1, r. 2) is amended by inserting the following section after section 6:

“6.1. For the purposes of the first paragraph of section 60 of the Act, the member contributions paid by a member are the current service contribution described in section 38 of the Act, as it read before 1 January 2016, and the stabilization contribution the member is required to pay under the Act to foster the financial health and sustainability of municipal defined benefit pension plans (chapter S-2.1.1) or the Act respecting the restructuring of university-sector defined benefit pension plans and amending various legislative provisions (2016, chapter 13).”

71. The Regulation is amended by replacing section 38.2 by the following section:

“38.2. The components of the plan are governed by the Act and this Regulation with regard to funding, asset investment, appropriation of any surplus assets, division and merger, and payment of members’ and beneficiaries’ benefits, as though they were two separate pension plans.

However, for the purposes of section 60 of the Act, the plan must be considered as a single pension plan.

Member contributions above the limit set by section 60 of the Act must be apportioned in proportion to the value of the benefits accrued in each component of the pension plan.”

72. The Regulation is amended by striking out sections 38.11 and 38.12.

73. Section 38.13 of the Regulation is amended by striking out “once the payment referred to in section 38.11 has been made and” in the second paragraph.

74. Section 38.14 of the Regulation is amended by striking out the second paragraph.

75. Section 38.15 of the Regulation is amended by striking out subparagraph 2 of the first paragraph.

76. The Regulation is amended by inserting the following section after section 58:

“58.1. Excluding the amount that must be recorded as an actuarial gain in the reserve under section 14 of the Act to foster the financial health and sustainability of municipal defined benefit pension plans (chapter S-2.1.1), the amount determined under the first paragraph of section 15 of this Regulation must not be transferred from the general account to the reserve for the purposes of the actuarial valuation as at 31 December 2013 referred to in section 51 of that Act nor for the purposes of any actuarial valuation as at a date subsequent to that valuation but prior to 1 January 2016. The balance of actuarial gains that is referred to in the second paragraph of that section 15 must be determined assuming that the gains referred to in the first paragraph of that section have been transferred to the reserve.

Section 53.1 of this Regulation does not apply to an actuarial valuation referred to in the first paragraph. However, if an amount was appropriated under that section 53.1 in an actuarial valuation referred to in section 4 or 26 of the Act to foster the financial health and sustainability of municipal defined benefit pension plans, the same appropriation must be made in the actuarial valuation referred to in section 51 of that Act.”

CHAPTER VIII

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

77. In the case of a pension plan that must be restructured under section 19, if the pension committee was instructed to reduce the monthly payments due by 50% before 11 November 2015 under section 39.2 of the Regulation respecting the funding of pension plans of the municipal and university sectors (chapter R-15.1, r. 2), the funding relief measure set out in that section is extended until the date of the agreement or the arbitrator's decision under Chapter V, but not later than 31 December 2017.

In the case of a pension plan that does not have to be restructured under section 19 and in order for the funding relief measure referred to in the first paragraph to apply, the employer must post, in a conspicuous place within the establishment and in an area usually frequented by the active members, a notice indicating that the parties that have the power to amend the plan have agreed to restructure the benefits of the active members for service prior to 1 January 2016 and service subsequent to 31 December 2015 and that, consequently, the funding relief measure set out in section 39.2 of the Regulation respecting the funding of pension plans of the municipal and university sectors continues to apply until the date of the agreement on the amendments, but not later than 31 December 2017.

The provisions of the Regulation apply with the necessary modifications.

The pension committee must immediately inform Retraite Québec if the funding relief measure referred to in the first paragraph ceases to apply before 31 December 2017.

78. Only the provisions of a pension plan that concern the appropriation of the plan's surplus assets and are effective before 11 November 2015 are to be taken into account for the reimbursement, under the second paragraph of section 32 and subparagraph 1 of the fifth paragraph of section 33, of the debts contracted by the pension plan toward the employer.

79. For the purposes of this Act, members and beneficiaries who began receiving a pension during the period beginning after 31 December 2014 and ending before 11 November 2015 and members who entered into a retirement agreement with their employer before the latter date providing for the payment of their pension within 12 months after that date are considered members who are retired on 31 December 2014.

Active members who entered into a phased departure agreement with their employer before 11 November 2015 that has a maximum term of five years after that date and provides for the reduction of their work time by at least 20% for the duration of the agreement and their retirement at the end of the agreement are also considered members who are retired on 31 December 2014.

However, members referred to in subparagraph 2 of the first paragraph of section 67.3 of the Supplemental Pension Plans Act (chapter R-15.1) who, on 31 December 2014, are receiving phased retirement benefits under subdivision 0.1 of Division III of Chapter VI of that Act are not considered members who are retired on that date unless the agreement to that effect entered into with the employer before 11 November 2015 includes the conditions set out in the second paragraph.

80. A member's benefits that were transferred or refunded before 11 November 2015 or for which an application for transfer or refund was filed before that date are established without taking the pension plan's restructuring measures into account.

Likewise, the death benefit provided for in section 86 of the Supplemental Pension Plans Act to which the spouse or successors of a deceased member are entitled before 11 November 2015 must be established without taking the pension plan's restructuring measures into account.

81. When sections 19 and 27 apply, only part of the benefits the payment of which began on or after 11 November 2015 may be paid by the pension committee during the restructuring period.

Subject to the first paragraph of section 80, when sections 19 and 27 apply, only part of the member's benefits that were paid on or after 11 November 2015 and of the death benefits to which the spouse or successors of a member deceased on or after 11 November 2015 may be paid by the pension plan during the restructuring period.

82. Contributions paid into the pension plan by the employer and the active members and established in the actuarial valuation referred to in section 4 are deemed to have been validly paid despite the pension plan restructuring measures that apply from 1 January 2016.

83. Contributions paid by the employer in addition to the contributions required under the Supplemental Pension Plans Act for service subsequent to 31 December 2015 are not taken into consideration in the sharing of total contributions under section 10.

84. When a stabilization fund is established in a pension plan under section 38.6 of the Regulation respecting the funding of pension plans of the municipal and university sectors, the stabilization fund referred to in section 13 is deemed to be established. The provisions of this Act apply with respect to the fund from 1 January 2018 or from any earlier date agreed on by the employer and active members.

Service prior to the establishment of the fund is deemed to be the service prior to the plan for the purposes of this Act.

85. The indexation of pensions paid after 31 December 2014 to members who are retired on that date and until the date of an agreement or an arbitrator's decision under Chapter V, using the indexation formula set out in the pension plan before an amendment to the plan under the first paragraph of section 21, is deemed to have been validly paid.

86. This Act does not prohibit the sharing, by the employer and the active members, of the deficiencies identified in an actuarial valuation subsequent to 31 December 2015 for service prior to 1 January 2016 in a maximum proportion of 50% for the active members.

When a pension plan must be restructured under section 19, contributions may be paid by the active members after 31 December 2015 for service prior to the date the stabilization fund referred to in section 13 is established.

87. Any redemption of service on or after 1 January 2016 that is entirely paid by the member must be revised by the pension committee following the date of the agreement or the arbitrator's decision under Chapter V in order to ensure that the member benefits from the conditions set at the time of the transaction. The same applies to any agreement for a transfer of service entered into during the same period.

The first paragraph also applies when the benefits of active members are amended under section 27.

88. Any new pension plan established by an employer referred to in the second paragraph of section 1 must comply with Division II of Chapter II.

89. Any pension plan that is the object of a division or merger under Chapter XII of the Supplemental Pension Plans Act is subject to this Act.

90. Retraite Québec may issue technical directives relating to the administration of this Act.

91. For the exercise of the functions assigned to it under this Act, Retraite Québec may, in addition to the other powers conferred on it by this Act, the Act respecting the Québec Pension Plan (chapter R-9) and the Supplemental Pension Plans Act, require any document or information it considers necessary for the purposes of this Act from a pension committee or an employer.

In addition, sections 183 to 193, 246, 247 and 248 of the Supplemental Pension Plans Act apply to this Act, with the necessary modifications.

92. When a pension plan's fiscal year ends on a date other than 31 December, an actuarial valuation under section 4 is required.

Despite section 142 of the Supplemental Pension Plans Act, the amortization period for the part of the technical actuarial funding deficiency assumed by the employer that may not be consolidated under the first paragraph of section 23

may expire on a date other than the date corresponding to the end of the fiscal year of the pension plan.

93. Except in the case of a pension plan to which section 7 applies, the report on the actuarial valuation required under section 4 is deemed to be the report mentioned in section 8 of the Regulation respecting the funding of pension plans of the municipal and university sectors, when such a report on an actuarial valuation of the plan as at 31 December 2015 is required. If the latter report was sent to Retraite Québec, an amended version of it must be sent to Retraite Québec not later than 30 June 2016.

94. In a case of failure to produce the report required under section 4 and the amended report provided for in section 93, fees equal to 20% of the fees calculated in the manner prescribed by section 13.0.1 of the Regulation respecting supplemental pension plans (chapter R-15.1, r. 6), taking into account the number of members and beneficiaries indicated in the annual information return for the last fiscal year of the plan ended on the date of the actuarial valuation, must be paid to Retraite Québec for each full month of delay, up to the amount of those fees.

95. For the calculation of the technical actuarial deficiency, the value of the amortization payments yet to be paid by the employer with respect to the part of the technical actuarial funding deficiency that may not be consolidated under the first paragraph of section 23 must, for the purposes of actuarial valuations subsequent to 31 December 2015, be included in the general account.

96. This Act applies despite any provision to the contrary.

97. The minister responsible for the administration of the Supplemental Pension Plans Act is responsible for the administration of this Act, except Divisions I, II and III of Chapter V, which are administered by the minister responsible for the administration of the Labour Code.

98. Section 38.2 of the Regulation respecting the funding of pension plans of the municipal and university sectors, enacted by section 71 of this Act, has effect from 31 December 2015 with regard to any actuarial valuation of university sector plans as at a date subsequent to 30 December 2015. With regard to municipal sector pension plans, section 38.2 applies to any actuarial valuation as at a date subsequent to 31 December 2013 and to the actuarial valuation established as at that date under section 51 of the Act to foster the financial health and sustainability of municipal defined benefit pension plans (chapter S-2.1.1).

99. Section 77 has effect from 1 January 2016.

100. This Act comes into force on 8 June 2016.