

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SIXTH LEGISLATURE

Bill 102

An Act to amend the Supplemental Pension Plans Act

Introduction

Introduced by
Mr André Boisclair
Minister of Social Solidarity

Québec Official Publisher
2000

EXPLANATORY NOTES

This bill amending the Supplemental Pension Plans Act updates and simplifies the legislative framework applicable to supplemental pension plans.

First, provisions are included in the bill concerning the appropriation by the employer of all or part of the surplus assets of a pension plan to the payment of employer contributions.

Members will be granted full entitlement to a deferred pension upon joining a pension plan and in respect of all years of service recognized under the plan. As a result of this change, all provisions pertaining to the partial termination of a pension plan can be removed from the Act.

Moreover, improved benefits will be paid to employees who cease to be members of a pension plan more than ten years before normal retirement age, that is, before being eligible for an early retirement pension. Such benefits will be calculated on the basis of a pension annually adjusted at the rate of 50% of the Consumer Price Index, with an annual 2% adjustment ceiling, until the member reaches the age that is ten years under normal retirement age.

To simplify the administration of pension plans existing solely for the benefit of a few employees connected with the employer, such plans are excluded from the application of practically all the provisions of the Act. As well, the termination procedure applicable to pension plans is greatly simplified to prevent unnecessary delays. In addition, it will be possible to replace the annual meeting by the sending of financial documentation to pension plan members.

The restrictions imposed on the investment of pension fund assets are lifted, with the emphasis being placed rather on portfolio diversification and the obligation to act prudently. In the same line of thought, the restrictions on the pension committee's power to give the plan assets as security for a debt of the pension plan are eliminated.

Plan members and their spouses who resort to pre-hearing mediation concerning a family matter will be able to obtain a statement of benefits accrued under a pension plan.

Finally, various deficiencies and imprecisions in the Act that have been identified over the years are corrected by this bill.

Bill 102

AN ACT TO AMEND THE SUPPLEMENTAL PENSION PLANS ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 2 of the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1), amended by section 254 of chapter 40 of the statutes of 1999, is again amended by replacing the second and third paragraphs by the following paragraph:

"The Government may, by regulation and on the conditions it determines, exempt any pension plan or category of pension plan it designates from the application of all or part of this Act, particularly by reason of the special characteristics of the plan or category or by reason of the complexity of the Act in relation to the number of members in the plan. The Government may also prescribe special rules applicable to the plan or category."

2. The said Act is amended by inserting the following section after section 2:

"2.1. This Act, except sections 6 and 107 and the first paragraph of section 110, which apply with the necessary modifications, does not apply to a pension plan if

(1) all the members of the pension plan are persons connected with the employer within the meaning of subsection 3 of section 8500 of the Income Tax Regulations (Consolidated Regulations of Canada, 1978, chapter 945) and membership in the plan is optional and is restricted to those persons;

(2) only employees described in section 1 may become members of the pension plan; and

(3) active membership in the plan ceases when the member ceases to be a person connected with the employer.

A pension plan to which the first paragraph applies becomes subject to this Act upon being amended to allow other persons to become members."

3. Section 11 of the said Act is amended by adding the following paragraph after the second paragraph:

"The employers party to a plan to which the second paragraph applies are solidarily liable for the obligations incumbent upon each employer under the plan or under this Act."

4. Section 14 of the said Act is amended

(1) by replacing ", in the case of a plan in which membership is optional, the withdrawal requirements" in subparagraph 3 of the second paragraph by "withdrawal";

(2) by inserting "or a defined benefit-defined contribution pension plan" after "plan" in the first line of subparagraph 10 of the second paragraph;

(3) by striking out "total" in the third line of subparagraph 16 of the second paragraph;

(4) by adding the following subparagraph after subparagraph 16 of the second paragraph:

"(17) in the case of a pension plan to which section 146.4 does not apply and if applicable, the employer's right to appropriate all or part of the surplus assets to the payment of employer contributions and the conditions subject to which such right may be exercised."

5. Section 17 of the said Act is repealed.

6. Section 18 of the said Act is replaced by the following section:

"18. A pension plan whose registration is revoked by the Régie under section 32 shall cease to be effective on the date of revocation.

A pension plan which is not registered or whose registration is deemed to be revoked under section 32.1 shall cease to be effective as soon as

(1) the plan is terminated and has no assets; and

(2) no member or beneficiary has any rights or benefits remaining under the plan or under this Act."

7. Section 19 of the said Act is amended

(1) by replacing "multi-employer" in the second line of paragraph 1 by "pension";

(2) by inserting the following paragraph after paragraph 1:

"(1.1) where the object of the amendment is the withdrawal of a bankrupt employer from the multi-employer pension plan, in which case the amendment becomes effective on the date of the bankruptcy;".

8. Section 20 of the said Act is amended

(1) by inserting “and where the effective date of the amendment is the date of the bankruptcy pursuant to subparagraph 1.1 of the first paragraph of section 19” after “amendment” in the second line of subparagraph 2 of the second paragraph;

(2) by replacing the third paragraph by the following paragraph:

“If an amendment reducing pension benefits pertains to the normal pension, the method used for calculating the normal pension or any other pension benefit established on the basis of such pension or method, it may only apply to the service that is subsequent to the effective date of the amendment and if such an amendment pertains to the assumptions referred to in the second paragraph of section 61, it may only apply to the determination of the benefits accrued to a member at a date that is subsequent to the effective date of the amendment. These restrictions are not applicable, however, in the cases mentioned in the second paragraph.”

9. The said Act is amended by inserting the following sections after section 21:

“21.1. No amendment to a pension plan to which subparagraph 17 of the second paragraph of section 14 applies may pertain to the right referred to in that subparagraph, unless all requirements imposed by subparagraph 1 of the first paragraph of section 146.5 and section 146.6 are satisfied.

“21.2. No amendment to a pension plan may pertain to the allocation of surplus assets in the event of termination.”

10. Section 22 of the said Act is amended

(1) by striking out “partially” in the eighth line of the second paragraph;

(2) by adding the following sentence at the end of the second paragraph: “However, the latter value shall be established without taking into account the rights which may result from the application of subdivision 4.1 of Division II of Chapter XIII.”

11. Section 23 of the said Act is replaced by the following section:

“23. The remuneration received or, as the case may be, the hours of work completed prior to an amendment mentioned in section 22 shall be taken into account for the application of section 34.”

12. Section 24 of the said Act is amended, in the second paragraph,

(1) by replacing “refunds or pension benefits are guaranteed” in the second line of subparagraph 1 by “the plan is insured”;

(2) by inserting “where the application is for the registration of the plan,” at the beginning of subparagraph 2;

(3) by replacing subparagraph 3 by the following subparagraph:

“(3) the employer’s written acknowledgment of the obligations incumbent upon the employer under the plan or amendment, unless

(*a*) the committee attests that it has obtained such acknowledgment from the employer and that the acknowledgment may, on request, be filed with the Régie;

(*b*) the amendment has been made mandatory by a new legislative or regulatory provision giving no latitude to the employer; or

(*c*) the amendment is being made pursuant to Chapter X.1 or results from the application of section 199;”;

(4) by striking out subparagraph 5.

13. Section 25 of the said Act is amended by striking out “multi-employer” in the fifth line.

14. Section 26 of the said Act is amended

(1) by striking out “active” in the second line and in the first line of subparagraph 1 of the first paragraph;

(2) by inserting “and its effective date,” after “proposed amendment” in the second line of subparagraph 1 of the first paragraph;

(3) by replacing “with the authorization of the Régie” in the first line of subparagraph 2 of the first paragraph by “as concerns the active members”;

(4) by inserting “daily” before “newspaper” in the fourth line of subparagraph 2 of the first paragraph;

(5) by replacing “if the object of the proposed amendment is” in the sixth and seventh lines of subparagraph 2 of the first paragraph by “to inform non-active members or for amendments respecting”;

(6) by striking out the eleventh and twelfth lines of subparagraph 2 of the first paragraph;

(7) by striking out the fifteenth line of subparagraph 2 of the first paragraph;

(8) by replacing “or is rendered compulsory by an order or decree” in the second and third lines of the third paragraph by “has been made mandatory by an order or a decree or results from the application of Chapter X.1”.

15. Section 29 of the said Act is replaced by the following section:

"29. Upon registering a pension plan or an amendment, the Régie shall notify the applicant. The Régie shall assign a number to each plan it registers."

16. Section 30 of the said Act is amended by replacing "certificate" in the fifth line by "notice".

17. Section 32 of the said Act is amended by replacing "transfer resulting from a conversion under section 22 or a division or merger under Chapter XII or by reason of the total termination of the plan in accordance with Chapter XIII" in the first three lines of subparagraph 1 of the first paragraph by "merger under Chapter XII".

18. The said Act is amended by inserting the following section after section 32:

"32.1. The registration of a terminated pension plan is deemed to be revoked 60 days after the later of

(1) the date of expiry of the time limits provided for in sections 210 and 210.1 or determined by the Régie for the satisfaction of the rights of the employer, the members and the beneficiaries under the plan and under this Act; and

(2) the date on which the orders of the Régie concerning the plan are complied with."

19. Section 33 of the said Act is amended

(1) by striking out the last sentence of the second paragraph;

(2) by adding the following paragraph after the second paragraph:

"The holder of an insured annuity purchased directly from an insurer, otherwise than pursuant to section 98, using benefits accrued under the plan shall remain a member of the plan."

20. Section 34 of the said Act is amended

(1) by replacing " — and is required to do so in the case of a compulsory plan —" in the third and fourth lines of the first paragraph by ", on the same conditions as those applicable to other members,";

(2) by inserting the following paragraph after the first paragraph:

"The optional or compulsory nature of the membership does not constitute a requirement for the purposes of the first paragraph."

21. Section 36 of the said Act, amended by section 254 of chapter 40 of the statutes of 1999, is again amended by replacing "requirements for membership" in the second line of subparagraph 1 of the first paragraph by "eligibility requirements fixed by the plan".

22. The said Act is amended by inserting the following section after section 39:

"39.1. Notwithstanding sections 39 and 140, the Régie may authorize an employer, to the extent and for the period determined by the Régie, to pay a lesser contribution into the pension fund than would otherwise be required if

(1) the pension plan is a designated plan within the meaning of section 8515 of the Income Tax Regulations on the date on which the amount of contribution to be paid is determined;

(2) the said Regulations exclude the payment as an eligible contribution of all or part of the contribution that should be paid by the employer pursuant to sections 39 and 140; and

(3) all members and beneficiaries agree thereto."

23. Section 41 of the said Act is amended by inserting "an hourly rate or" after "represent" in the third line of the second paragraph.

24. Section 44 of the said Act is amended

(1) by striking out ", or, if the plan so provides, at the monthly rate of return on personal five-year term deposits with chartered banks, as compiled by the Bank of Canada" in the third, fourth and fifth lines of subparagraph 1 of the first paragraph;

(2) by replacing "monthly rate referred to in subparagraph 1" in the first and second lines of subparagraph 3 of the first paragraph by "monthly rate of return on personal five-year term deposits with chartered banks, as compiled by the Bank of Canada";

(3) by replacing the second paragraph by the following paragraph:

"However, if the plan provides that the members may direct what investments are made with all or part of the contributions credited to their accounts or if additional voluntary contributions are invested into a separate uninsured plan, all such investments shall be excluded from the plan assets for the purposes of subparagraphs 1 and 2 of the first paragraph, and the contributions so invested shall bear interest at the rate of return on such investments."

25. Section 46 of the said Act is amended by replacing the first paragraph by the following paragraph:

"46. Unless provided in the plan, the method used for calculating the rates of return shall, for the purposes of sections 44 and 45, be determined by the actuary or the accountant selected by the pension committee; in the case of an insured plan, that method and the method used for applying the monthly rate of interest shall be determined by the insurer."

26. Section 47 of the said Act is amended by striking out "or 100" in the eleventh line.

27. Section 48 of the said Act is amended by replacing "date of default, at the rate prescribed by section 44 or 45" in the third and fourth lines by "last day of the month following the month for which it should have been paid or, as the case may be, the last day of the month following the month in which it was collected, at the rate prescribed by section 44 or 45 or, in the case of the employer contribution under a defined benefit plan, at the rate of return of the pension fund".

28. Section 51 of the said Act is amended

(1) by replacing "and" in the first line by "or";

(2) by replacing "doivent" in the second line of the French text by "doit".

29. Section 56 of the said Act is repealed.

30. Section 58 of the said Act is amended by inserting "the bridging benefit representing" after "and" in the fifth line of the first paragraph.

31. Section 59 of the said Act is amended by replacing paragraphs 2 and 3 by the following paragraphs:

"(2) each payable amount is uniformly increased by reason of the application, in determining the pension, of an index or rate specified in the plan, by reason of options authorized by section 91.1 or by subparagraphs 2 to 4 and 6 of the first paragraph of section 93 or by reason of the partition of benefits between the member and the member's spouse in accordance with Chapter VIII;

"(3) the pension is replaced by a lump sum payment or by a series of payments made pursuant to subparagraph 4 or 6 of the first paragraph of section 93; or

"(4) the pension is increased by reason of the termination of a disability pension under the Act respecting the Québec Pension Plan when the member reaches 65 years of age."

32. Section 60 of the said Act is amended

(1) by inserting ", even a transfer other than a transfer" after "assets" in the first line of subparagraph 3 of the second paragraph;

(2) by replacing "are to be borne by the member" in the last two lines of subparagraph 5 of the second paragraph by ", as estimated at the date the election is exercised, are to be borne by the member. In such a case, the value of the obligations, determined on the basis of the assumptions referred to in section 61, must be equal, at that date, to the amount paid by the member".

33. The said Act is amended by inserting the following section after section 60:

"60.1. A member who ceases to be an active member is entitled to an additional pension benefit determined as prescribed by regulation and equal to or greater than the amount by which A exceeds B, where

"A" is the value of the pension determined pursuant to the last paragraph, increased by the member contributions which, assuming the member had been entitled to such a pension under the plan, would be above the limit set in section 60; and

"B" is equal to the value of the pension benefit to which the member would be entitled without reference to the last paragraph, increased by the member contributions which are above the limit set in section 60.

For the purpose of calculating the additional pension benefit, the value of a pension having the same characteristics as the normal pension, except the pension supplement provided by the pension plan for the payment of a minimum pension, shall be determined, allowing for adjustment of the pension between the date the member ceases to be an active member until the date the member reaches the age that is ten years under normal retirement age. The adjustment shall be the percentage corresponding to 50% of the change in the seasonally unadjusted All-Items Consumer Price Index for Canada published by Statistics Canada between the month the member ceases to be an active member and the month the adjustment ceases; however, the annualized adjustment rate cannot be less than 0% or greater than 2%."

34. Section 61 of the said Act, amended by section 254 of chapter 40 of the statutes of 1999, is replaced by the following section:

"61. The value of a pension benefit to which section 60 applies shall be determined at the date of vesting on the basis of the actuarial assumptions determined by regulation.

However, with the authorization of the Régie and on the conditions it fixes, the value may be determined on the basis of the actuarial assumptions determined by the plan, provided the resulting value is always equal to or greater than the value that would result from the application of the first paragraph."

35. Section 63.1 of the said Act is replaced by the following section:

"63.1. Where a pension plan cannot continue to be a registered pension plan as defined in section 1 of the Taxation Act, either because the value of the benefits accrued to a member or a beneficiary under defined-benefit provisions exceeds the amount which may be transferred directly to another plan or because the amount of contributions paid each year into the pension fund under defined-contribution provisions exceeds the limits imposed, the pension committee must refund the excess to the member or beneficiary concerned."

36. Section 64 of the said Act, amended by section 254 of chapter 40 of the statutes of 1999, is again amended by replacing "2460" in the second line by "2459".

37. Section 65 of the said Act is amended by inserting "63.1," after "63," in the first line.

38. Section 66 of the said Act is replaced by the following section:

"66. A member who ceases to be an active member is entitled to a refund of the value of the benefits accrued to the member if less than 10% of the Maximum Pensionable Earnings established pursuant to the Act respecting the Québec Pension Plan for the year in which the member ceases to be an active member. This right may be exercised, before a pension commences to be paid to the member under the plan, by applying within 90 days after receiving the statement provided for in section 113 and, subsequently, every five years, within 90 days after the date of expiry of the fifth year.

Where the requirements set out in the first paragraph are met, the pension committee may refund the value of the member's pension to the member in satisfaction of the member's rights under the plan. The committee must first send a notice to the member requesting instructions as to the refund formula; where no reply is received within 30 days of the sending of the notice, the committee may make the refund, which possibility shall be mentioned in the notice."

39. Section 67 of the said Act is amended

(1) by replacing "if they result from the conversion of member or employer contributions transferred under section 98 or 100" in the fourth and fifth lines of the first paragraph by ", subject to section 102, if the amounts come from a transfer, even otherwise than under section 98";

(2) by replacing the second paragraph by the following paragraph:

"The right to withdraw contributions may be exercised by applying within 90 days after receiving the statement provided for in section 113 and, subsequently, every five years, within 90 days after the date of expiry of the fifth year."

40. The said Act is amended by inserting the following section after section 67:

"67.1. Notwithstanding the second paragraph of section 5, no pension plan may provide for refunds contrary to the provisions of this Act.

However, this section does not prevent a plan from allowing more time for the exercise of the right to a refund."

41. Section 69 of the said Act is replaced by the following section:

"69. Every member who ceases to be an active member is entitled to a deferred pension equal to or greater than the normal pension."

42. Section 69.1 of the said Act is amended

(1) by replacing "ou" in the fifth line of the first paragraph of the French text by "au";

(2) by striking out "or, where applicable, a part of that amount proportional to the number of months in the year covered by the agreement" in the second, third and fourth lines of subparagraph 2 of the first paragraph.

43. Section 71 of the said Act is amended by replacing the first paragraph by the following paragraph:

"71. Every member whose period of continuous employment is terminated within ten years of the date on which the member will attain normal retirement age is entitled to an early retirement pension."

44. Section 78 of the said Act is amended by adding the following sentence at the end: "The additional pension must also meet the requirements set out in section 84."

45. Section 81 of the said Act is amended by replacing "actuarial assumptions identical to those which were transmitted to the Régie" in the second line of the second paragraph by "the assumptions referred to in section 61".

46. Section 82.1 of the said Act is amended by replacing "according to actuarial assumptions and methods identical to those transmitted to the Régie" in the second and third lines of the third paragraph by "on the basis of the assumptions referred to in section 61".

47. Section 84 of the said Act is amended by replacing "according to actuarial assumptions and methods identical to those which were transmitted to the Régie" in the first, second and third lines of the first paragraph by "on the basis of the assumptions referred to in section 61".

48. Section 85 of the said Act, amended by section 26 of chapter 14 of the statutes of 1999, is again amended

(1) by adding the following sentence at the end of the second paragraph: "However, where the member dies without having received any refund or pension benefit under the pension plan other than the benefit provided for in section 69.1, spousal status shall be established as of the day preceding the death.";

(2) by adding the following paragraphs after the second paragraph:

"For the purposes of subparagraph 2 of the first paragraph, the birth or adoption of a child during a marriage or a period of conjugal relationship prior to the period of conjugal relationship existing on the day as of which spousal status is established may qualify a person as a spouse.

Notwithstanding subparagraph 1 of the first paragraph, a person who is legally separated from bed and board on the day as of which spousal status is established is not entitled to any benefit under this subdivision unless the person is the member's successor or was named in a notice sent by the member under section 89."

49. Section 86 of the said Act, amended by section 254 of chapter 40 of the statutes of 1999, is replaced by the following section:

"86. Where a member dies without having received any refund or pension benefit under the pension plan other than the benefit provided for in section 69.1, the member's spouse or, if there is no spouse, the member's successors shall be entitled to a lump sum benefit equal to or greater than

(1) the value of any pension to which the member was entitled prior to death; or

(2) if the member was not entitled to a pension prior to death, the value of the deferred pension to which the member would have been entitled had the member ceased to be an active member on that day and not died.

The value of the benefit provided for in the first paragraph shall be determined without reference to the assumptions as to survival or mortality for the period prior to the first payment of the pension. Moreover, the following shall be added, where applicable, to the value of the benefit:

(1) any voluntary additional contribution credited to the account of the member and any member contribution paid in excess of the limit set in section 60, with accrued interest, as well as any amounts previously transferred, even otherwise than under section 98, with accrued interest, or the value of the pension purchased with those amounts; and

(2) any interest accrued between the date of death and the date of payment of the lump sum benefit, at the rate used for determining the value thereof.

This section does not apply if the surviving spouse of the member is entitled, upon the member's death, to a pension equal to or greater than the benefit provided for in this section."

50. Section 87 of the said Act is amended

(1) by replacing " or under subparagraph 2" in the first line of subparagraph 1 of the first paragraph by ", under section 92.1 or under subparagraph 2 or 3";

(2) by adding the following subparagraph after subparagraph 3 of the first paragraph:

"(4) a bridging benefit referred to in the first paragraph of section 58.";

(3) by striking out the second paragraph;

(4) by adding "and, until the date on which the member would have attained 65 years of age, the amount of the bridging benefit" at the end of the third paragraph.

51. The said Act is amended by inserting the following section after section 88:

"88.1. The spouse of a member may waive the rights conferred by this subdivision by transmitting to the pension committee a statement containing the information prescribed by regulation. The spouse may also revoke the waiver provided the committee is notified in writing before the member's death or, in the case of the pension referred to in the second paragraph of section 87, before the first payment of the member's pension.

A waiver under this section does not entail a waiver of the rights which may devolve upon the spouse as the member's successor. In addition, notwithstanding such a waiver, the pension plan is deemed, for the purposes of article 415 of the Civil Code of Québec, to be governed by an Act which grants a right to death benefits to the surviving spouse."

52. Section 89 of the said Act, amended by section 254 of chapter 40 of the statutes of 1999, is replaced by the following sections:

"89. The right of a member's spouse to benefits under this subdivision is terminated by separation from bed and board, divorce or annulment of marriage or cessation of conjugal relationship except if the member has notified the pension committee in writing to pay the pension to the spouse notwithstanding the dissolution, separation from bed and board or cessation of conjugal relationship.

"89.1. Where a member's pension has been reduced by reason of the right of the member's spouse to a pension under section 87 and the spouse's right is terminated pursuant to section 89, the member is entitled, on request to the pension committee, to an adjustment to the pension to make it equivalent to the pension the member would have received were it not for the right granted to the spouse. The adjustment shall be made as of the effective date of the judgment granting separation from bed and board, the divorce or the annulment of marriage, or as of the date of cessation of conjugal relationship, on the basis of the assumptions as to survival or mortality between the date of the first payment of the pension and that date.

Unless the pension committee has received the notice provided for in section 89, it must also make the adjustment if the benefits accrued to the member under the plan are partitioned, pursuant to section 107 or 110, subsequent to the first payment to the member of a pension reduced by reason of the spouse's right to a pension under section 87."

53. Section 91 of the said Act is repealed.

54. Section 91.1 of the said Act is amended

(1) by striking out "and whose age is ten years or less under normal retirement age or who has attained or exceeded that age" in the second and third lines of the first paragraph;

(2) by replacing subparagraph 2 of the first paragraph by the following subparagraph:

"(2) payment of the temporary pension must not begin more than ten years before the member or spouse attains normal retirement age, and must end no later than the last day of the month following the month in which the member or spouse attains 65 years of age.

Notwithstanding subparagraph 2 of the first paragraph, the pension plan may allow a member or spouse who is more than ten years under normal retirement age and who has become entitled to a pension to elect, before payment of the pension begins, to replace it by a pension the amount of which is adjusted by reference to the benefits determined under the Old Age Security Act, the Act respecting the Québec Pension Plan or a similar plan within the meaning of paragraph *u* of section 1 of the latter Act. In such a case, the annual amount of the replacement pension increased, where applicable, by the annual amount of any other temporary benefit to which the member or the spouse is entitled under the plan shall not exceed the lesser of

(1) 40% of the Maximum Pensionable Earnings established pursuant to the Act respecting the Québec Pension Plan for the year in which payment of the pension begins; and

(2) the amount of the temporary benefit to which the member or spouse would be entitled if the entire life pension were converted into a temporary pension ceasing on the last day of the month following the month in which the member or the spouse attains 65 years of age.

Upon attaining the age which is ten years under normal retirement age, a member or spouse who is receiving a pension under the second paragraph is entitled to elect to replace it by a temporary pension which meets the conditions set out in the first paragraph.";

(3) by replacing "the first paragraph" at the end of the second paragraph by "this section".

55. The said Act is amended by inserting the following section after section 92:

"92.1. Unless payment of the pension is guaranteed for a longer period, a member who has become entitled to a pension under a pension plan is entitled to elect, before payment of the pension begins, to replace it by a pension the payment of which is guaranteed for ten years. The related pension payable to the spouse shall not, unless the spouse consents thereto, be less than the pension to which the spouse would have been entitled were it not for the election."

56. Section 93 of the said Act is amended

(1) by striking out ", before payment of the pension begins," in the second line of the first paragraph;

(2) by replacing "adjusted" in the first line of subparagraph 2 of the first paragraph by "increased";

(3) by striking out subparagraph 5 of the first paragraph.

57. Section 94 of the said Act is amended by replacing the last paragraph by the following paragraph:

"No reduction other than the reduction made by reference to the retirement benefit payable under the public plan may be made in determining the normal pension."

58. Section 95 of the said Act is amended by adding "and without reference to any reduction of that benefit subsequent to a partition of benefits between spouses" at the end of the first paragraph.

59. Section 96 of the said Act is amended

(1) by striking out "accrued under the pension plan" in the third line;

(2) by replacing “accrued in respect of” in the second and third lines of paragraph 2 by “relating to”;

(3) by replacing “accrued under the pension plan” in the first line of paragraph 3 by “concerned”.

60. Section 98 of the said Act is amended

(1) by striking out “the member contributions paid by him into the plan, if he is not entitled to the payment of a pension benefit, and” in the first and second lines of subparagraph 1 of the first paragraph;

(2) by replacing “is applied for within the time limit set out in subparagraph 2 or 3 of the second paragraph of section 99” in the first and second lines of subparagraph *b* of subparagraph 2 of the first paragraph by “is not applied for within that time limit”;

(3) by replacing “according to actuarial assumptions and methods identical to those which were transmitted to the Régie and” in the fourth and fifth lines of subparagraph *b* of subparagraph 2 of the first paragraph by “on the basis of the assumptions referred to in section 61”;

(4) by replacing subparagraph 4 of the first paragraph by the following subparagraph:

“(4) the amounts previously transferred, even otherwise than under this chapter, with accrued interest, or the amount corresponding to the value of the pension purchased with the amounts transferred; that value must be determined on the basis of the assumptions referred to in section 61 which are used, at the date of vesting of the pension if the transfer is applied for within the time limit set out in subparagraph 1 of the second paragraph of section 99 or at the date the transfer is applied for in other cases, to determine the value of other pension benefits to which section 60 applies and which are vested on that date;”;

(5) by striking out “or, where such values have been determined on the basis of an insurance proposal, at the monthly rate of return on personal five-year term deposits with chartered banks, as compiled by the Bank of Canada,” in the second, third, fourth and fifth lines of the second paragraph.

61. Section 99 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph:

“99. The right to a transfer under section 98 may be exercised by a member who is at least ten years under the normal retirement age set by the plan. However, a pension plan may prohibit members who, upon termination of continuous employment, would be entitled to an early retirement pension equal to or greater than the normal pension from making transfers to another pension plan.”;

(2) by striking out “only” in the first line of the second paragraph;

(3) by replacing subparagraph 1 of the second paragraph by the following subparagraph:

“(1) within 90 days from receipt of a statement pursuant to section 113;”;

(4) by replacing “180” in subparagraphs 2 and 3 of the second paragraph by “90”;

(5) by adding the following sentence at the end of the third paragraph: “A member who is less than ten years under normal retirement age or who has attained or exceeded normal retirement age is entitled to transfer those amounts at all times, insofar as payment of the pension has not begun.”;

(6) by adding the following paragraph after the third paragraph:

“The pension committee has 60 days from the receipt of a transfer application to effect the transfer.”

62. The said Act is amended by inserting the following section after section 99:

“99.1. Where an amount in excess of $60,000 is credited to the account of an active member of a defined contribution plan, either in respect of investments made with an insurer under a contract guaranteed in whole or in part by the Canadian Life and Health Insurance Compensation Corporation, or in respect of deposits insured in whole or in part by the Régie de l’assurance-dépôts du Québec or a similar body, the member is entitled to transfer all or part of the amount by which those investments or deposits exceed $60,000.

The right under the first paragraph may be exercised by applying within 90 days after receiving an annual statement containing the information referred to in subparagraph 1 of the first paragraph of section 112 which, for the first time, shows such an excess and, subsequently, every three years, within 90 days after the date of expiry of the third year. The transfer shall be made into a pension plan within the meaning of the third paragraph of section 98, as selected by the member.

This section also applies to contributions paid under terms in a defined benefit plan that are identical to those of a defined contribution plan.”

63. Section 100 of the said Act is repealed.

64. Section 102 of the said Act is replaced by the following section:

“102. Unless the pension plan provides that the amount must be used for the purchase of a pension, a member who ceases to be an active member is entitled to the refund of any amount transferred, even otherwise than under

this chapter, which would have been refundable under the pension plan from which it was transferred."

65. Section 103 of the said Act is amended

(1) by inserting ", even otherwise than under this chapter," after "transferred" in the second line;

(2) by inserting "or such amount is refunded under section 102" after "amount" in the third line.

66. Section 104 of the said Act is replaced by the following section:

"104. A member is entitled, from the date payment of a pension begins, to the pension purchased with amounts transferred, even otherwise than under this chapter, which were not refunded pursuant to section 102."

67. Section 105 of the said Act is amended

(1) by replacing "transferred amounts" in the second line of the first paragraph by "amounts transferred, even otherwise than under this chapter,";

(2) by replacing "according to actuarial assumptions and methods identical to those which were transmitted to the Régie and" in the third and fourth lines of the first paragraph by "on the basis of the assumptions referred to in section 61".

68. Section 106 of the said Act is amended

(1) by replacing "according to actuarial assumptions and methods identical to those which were transmitted to the Régie and" in the fifth and sixth lines of the first paragraph by "on the basis of the assumptions referred to in section 61";

(2) by striking out the second paragraph.

69. Section 108 of the said Act is amended by adding the following paragraph after the second paragraph:

"The member and the member's spouse are also entitled to receive a statement of benefits, upon an application in writing to the pension committee, for the purposes of pre-hearing mediation concerning a family matter. The statement shall contain the information determined by regulation."

70. Section 109 of the said Act is amended by adding the following paragraph at the end:

"However, the benefits awarded to the spouse following a seizure for non-payment of support in accordance with the last paragraph of article 553 of the

Code of Civil Procedure shall be paid in a lump sum, subject to the terms and conditions prescribed by regulation."

71. Section 110 of the said Act is amended by inserting the following paragraph after the second paragraph:

"An agreement under the first paragraph may also apply to the amounts transferred to another pension plan pursuant to section 98."

72. Section 111 of the said Act is amended

(1) by inserting " including each of the particulars referred to in the second paragraph of section 14," after "pension plan," in the second line of the first paragraph;

(2) by striking out the last sentence of the first paragraph;

(3) by striking out "or of the amendment" in subparagraph 2 of the second paragraph;

(4) by striking out the third paragraph.

73. The said Act is amended by inserting the following section after section 111:

"111.1. If a pension plan provides that the pension paid to members is reduced by direct or indirect reference to the benefits payable under a public plan referred to in section 94, any document provided to a member, a beneficiary or an eligible employee concerning the benefits payable under the pension plan or the manner of calculating them must mention the reduction and the manner of calculating it."

74. Section 112 of the said Act is replaced by the following section:

"112. Within six months after the end of every fiscal year, the pension committee shall transmit to each member and beneficiary a document containing a summary of the provisions of the pension plan that were amended during the last fiscal year and a brief description of the rights and obligations arising therefrom, together with an annual statement containing the information prescribed by regulation in particular with respect to

(1) the benefits accrued to the member during the last fiscal year and from the beginning of membership in the plan until the end of the last fiscal year; and

(2) the financial position of the pension plan.

However, the pension committee is not required to send an annual statement to members to whom a statement was sent under section 113 indicating their accrued benefits as of a more recent date."

75. Section 113 of the said Act is amended by striking out the last sentence of the first paragraph.

76. Section 114 of the said Act is amended

(1) by replacing "an active member" in the last line of the first paragraph by "a member";

(2) by replacing the second paragraph by the following paragraph:

"The examination shall take place either at the office of the pension committee or at the establishment of the employer designated by the committee, whichever is closer to the applicant's residence."

77. Section 116 of the said Act is replaced by the following section:

"116. This chapter does not apply

(1) to an insured pension plan in respect of which the insurer has undertaken to pay all costs and satisfy all rights arising from the termination of the plan;

(2) to an uninsured pension plan under which the benefits to which the members and beneficiaries are entitled derive only and at all times from amounts credited to them; or

(3) to an uninsured pension plan under which the benefits to which the members and beneficiaries are entitled are either pension benefits and refunds that are insured at all times or benefits described in paragraph 2."

78. Section 119 of the said Act is amended

(1) by replacing "plan" in the fourth line of the first paragraph of the English text by "actuarial valuation";

(2) by replacing the second paragraph by the following paragraphs:

"Unless the Régie grants an extension, the pension committee shall transmit every actuarial valuation report to the Régie

(1) within six months after the date of the actuarial valuation in the case of an actuarial valuation required under paragraph 3 of section 118 or an actuarial valuation other than an actuarial valuation required under section 118; and

(2) within the time fixed by the Régie, which shall be at least 60 days, in the case of an actuarial valuation required under paragraph 4 of section 118.

The funding of a pension plan cannot be based on an actuarial valuation report until such time as the report has been transmitted to the Régie. In addition, a report that has been transmitted to the Régie can only be amended or replaced at the request or with the authorization of and subject to the conditions fixed by the Régie."

79. Section 130 of the said Act is replaced by the following section:

"130. The actuarial valuation required under paragraph 2 of section 118 may be limited to the determination on a funding basis of the value of the additional obligations arising from an amendment to the pension plan or may only concern the variation in the current service contribution arising from the amendment. The value or the variation shall be determined on the basis of the same assumptions and methods as were used for the preceding actuarial valuation, unless they are not appropriate in view of the nature of the amendment made to the pension plan.

However, where the amendment to the pension plan increases the pensions already in payment and the additional obligations arising from the amendment are insured at the date on which the actuarial valuation report is prepared, the value of the obligations may be assumed to correspond to the premium paid to the insurer, discounted at the date of actuarial valuation according to the rate of return of the pension fund.

Where the amendment increases the obligations arising from the pension plan, an improvement unfunded actuarial liability equal to the value of the additional obligations shall be determined unless

(1) the actuary certifies that the pension plan would be funded and solvent or partially solvent if an actuarial valuation of the whole pension plan were made on the effective date of the amendment; and

(2) the value of the additional obligations is less than or equal to the value of the surplus assets determined at the time of the last actuarial valuation of the whole plan, less any portion of the surplus assets used pursuant to Chapter X.1 and the value of the obligations arising from any other amendment to the pension plan which, after being the subject of an actuarial valuation subsequent to the last valuation of the whole plan, was certified pursuant to subparagraph 1.

The period of amortization of the unfunded liability cannot exceed five years unless the actuary certifies that the pension plan is solvent or partially solvent at the valuation date.

Unless the actuary certifies that the degree of solvency of the pension plan at the valuation date is or exceeds 100%, the actuary shall estimate the degree of solvency of the plan at the valuation date and indicate it in the actuary's report. In addition, the estimated degree of solvency applies from the date the valuation report is transmitted to the Régie for the purpose of paying out the value of benefits to members and beneficiaries under section 142.

Every certification required under this section shall reflect the financial position of the plan at the date of the actuarial valuation, estimated on the basis, in particular, of the actual rate of return of the pension fund and the contributions actually paid into the pension fund since the last actuarial valuation of the whole plan."

80. Section 133 of the said Act is replaced by the following section:

"133. Where the employer pays a contribution which exceeds the contribution required under sections 39 and 140, the excess paid since the date of the last actuarial valuation of the whole pension plan may serve to reduce, in the following order, the amounts remaining to be paid in connection with

(1) any amount determined pursuant to subparagraph 4 of the second paragraph of section 137;

(2) any technical actuarial deficiency;

(3) any initial unfunded actuarial liability;

(4) any improvement unfunded actuarial liability.

The reduction must, where applicable, be effected at the time of the first actuarial valuation of the whole pension plan subsequent to the excess payment of contribution.

If the excess is insufficient to eliminate an unfunded liability or an amount determined pursuant to subparagraph 4 of the second paragraph of section 137, the reduction shall be applied proportionately to each amount remaining to be paid. In addition, if there is more than one unfunded liability or deficiency of the same nature or more than one amount determined pursuant to the said subparagraph, the reduction shall be applied from the earliest to the most recent."

81. Section 134 of the said Act is amended

(1) by adding the following sentence at the end of the second paragraph: "This paragraph may not operate to prevent the reduction of the amortization amounts which, in relation to an improvement unfunded actuarial liability, remain to be paid after the fifth year following the date of the actuarial valuation.";

(2) by adding the following paragraph after the second paragraph:

"If the reduction option under section 133 is exercised, no reduction under this section may be made before that reduction. Moreover, if an improvement unfunded actuarial liability is determined at the date of the actuarial valuation, a reduction under this section can only be made before the determination of the unfunded liability. In such a case and for the sole purposes of the second

paragraph, the liabilities of the plan on a solvency basis may be determined without reference to the related amendment to the plan."

82. Section 138 of the said Act is replaced by the following section:

"138. For the purpose of determining the solvency of a pension plan, the assets of the plan shall be established according to their liquidation value or an estimate thereof and be reduced by the estimated amount of the administration costs to be paid out of the pension fund assuming that the pension plan is terminated on the valuation date.

The liabilities of the pension plan shall be equal to the value of the obligations arising from the plan assuming that the plan is terminated on that date in such circumstances that the benefits accrued to the members must be estimated at their maximum value. For the purposes of this section, that value shall be determined on the basis of the assumptions referred to in section 61. However, the value of pensions already in payment, inasmuch as they are not insured at the valuation date, shall be determined according to an estimation of the premium that an insurer would charge to insure the pensions in the thirty-day period following the valuation date.

Where, at the valuation date, the liabilities of the pension plan on a funding basis include obligations arising from an amendment whose effective date is subsequent to the date of the actuarial valuation but prior to the date referred to in paragraph 3 of section 118, the liabilities on a solvency basis shall be computed on the assumption that the effective date of the amendment is the valuation date. In addition, the degree of solvency determined on the basis of the liabilities so calculated shall apply, for the purpose of paying out the value of benefits to members and beneficiaries under section 142, from the effective date of the amendment or, where there is more than one effective date, from the first thereof."

83. Section 140 of the said Act is amended by replacing "from the date of default, at the rate prescribed by section 44 or 45" in the fifth and sixth lines of the second paragraph by "from the last day of the month following that for which it should have been paid, at the rate of return of the pension fund".

84. Section 145 of the said Act is amended by replacing "under section 98 or 100" in the fourth line by ", even other than a transfer under section 98".

85. The said Act is amended by inserting the following chapter after section 146:

“**CHAPTER X.1**

“APPROPRIATION OF SURPLUS ASSETS TO PAYMENT OF EMPLOYER CONTRIBUTIONS

“DIVISION I

“GENERAL PROVISIONS

“146.1. The surplus assets of a pension plan may only be appropriated to the payment of employer contributions if, at the date of the last actuarial valuation of the whole plan, no amount remained to be paid in connection with an unfunded actuarial liability or an amount determined under subparagraph 4 of the second paragraph of section 137 and if that valuation determined a surplus of assets both on a funding basis and on a solvency basis.

“146.2. The maximum amount of surplus assets that may be appropriated to the payment of employer contributions shall be the lesser of the surplus assets of the pension plan as determined on a funding basis and the surplus assets as determined on a solvency basis in the last actuarial valuation of the whole plan, reduced to take into account the value of the additional obligations arising from any amendment to the plan which, having been made after the last actuarial valuation of the whole plan, has not entailed the determination of an improvement unfunded actuarial liability.

In the case of a pension plan to which Chapter X does not apply, the maximum amount shall be limited to the portion of the assets which exceeds the value of the obligations arising from the plan, assuming that the plan is terminated.

“146.3. The appropriation of surplus assets to the payment of employer contributions must cease on the date of any actuarial valuation showing that there are no surplus assets or that surplus assets are below the levels required for the purposes of section 146.2.

“DIVISION II

“CONFIRMATION OF EMPLOYER’S RIGHT TO APPROPRIATE SURPLUS ASSETS TO PAYMENT OF CONTRIBUTIONS

“146.4. The employer’s right to appropriate to the payment of employer contributions all or part of the surplus assets of a pension plan that is effective on 31 December 2000 or of a pension plan resulting from the division after that date of a pension plan that was effective on that date may be confirmed by an amendment made to the plan in accordance with section 146.5. However, no such amendment may be made while an application for union certification involving members of the plan is pending; if the application is granted, the prohibition is extended to the date of signature of the first collective agreement.

"146.5. An amendment to a pension plan confirming the employer's right to appropriate surplus assets to the payment of employer contributions may be made either

(1) in order to give effect to a proposal of the employer which not only has received the consent required from all parties and satisfies the requirements imposed by law and the pension plan for the amendment of the plan, but also has received the concurrence of each employee association, if any, representing plan members and, in the case of a multi-employer pension plan, even not considered as such under section 11, the concurrence of all employers who are parties to the plan at the date of the proposal; or

(2) notwithstanding any provision to the contrary in the pension plan but subject to the last paragraph, in order to give effect to a unilateral decision of the employer, or of all the employers party to a multi-employer pension plan even not considered as such under section 11, in which case the amendment must, in respect of all members and beneficiaries at the effective date of the amendment, provide for the prior appropriation of all or some of the surplus assets to either of the following improvements, if applicable:

(*a*) the application of section 60 to all pension benefits to which members or beneficiaries are entitled in respect of all periods of service credited under the pension plan on the basis of the assumptions referred to in section 61 that are in force at the date of cessation of active membership; or

(*b*) the application, for the purpose of calculating any refund or pension benefit, of an interest rate equal to or greater than the rate of return obtained on pension fund investments to all member contributions and additional voluntary contributions paid into the plan; if the rate of return cannot be determined, the rate estimated by an actuary shall be used; the actuarial valuation report that must be submitted with the application for registration of the amendment shall specify the method used for the estimation and the results obtained.

Where there is disagreement concerning a proposal under subparagraph 1 of the first paragraph, the parties may, if all agree, refer the matter to a mediator-arbitrator. The decision of the mediator-arbitrator is binding on all interested persons and the required consent to the amendment is deemed to have been obtained from all the parties.

No amendment may be made under subparagraph 2 of the first paragraph if the pension plan contains a provision expressly prohibiting the appropriation of surplus assets to the payment of employer contributions. Moreover, no amendment under that subparagraph may allow the appropriation of surplus assets to the payment of employer contributions if such appropriation would be inconsistent with an express provision of the plan which requires a specified minimum contribution by the employer, such as the payment of an employer contribution in a pre-determined amount or at a pre-determined rate, or a pre-established minimum level of employer contribution. Furthermore, no

amendment to the plan under that subparagraph may operate to reduce the value of the benefits accrued to members and beneficiaries.

"146.6. Where a pension committee is planning to apply for the registration of an amendment under section 146.5, it shall, not less than 60 days before the intended effective date of the amendment, inform every member and beneficiary and every employee association representing members by way of a notice containing the following information:

(1) for each of the last four completed fiscal years, the amount of any surplus assets appropriated to the payment of employer contributions;

(2) any provisions of the pension plan in force on the date of the notice which concern the appropriation of surplus assets and their effective date;

(3) the text of the provisions resulting from the amendment and their effective date; and

(4) any other information determined by regulation.

A copy of the notice shall be provided to the Régie according to the same timeframe.

An application for registration of an amendment under subparagraph 1 of the first paragraph of section 146.5 must be submitted with all that is required under section 24 as well as an attestation of the pension committee that the consent required by the pension plan and by law has been obtained from all parties and that documents evidencing such consent can be provided to the Régie by the committee on request.

"146.7. From the date on which they are confirmed, the provisions of the pension plan concerning the employer's right to appropriate all or part of the surplus assets to the payment of employer contributions prevail over any other provision of the plan or of an agreement and are binding on every person having rights or obligations under the plan.

"146.8. Any amendment to a pension plan provision amended pursuant to section 146.5 requires the consent referred to in subparagraph 1 of the first paragraph of that section and cannot be registered unless the notice provided for in section 146.6 is sent as and when provided therein.

"146.9. The employer may, in writing and for a specified period, undertake not to seek confirmation of the employer's right pursuant to subparagraph 2 of the first paragraph of section 146.5. A copy of the undertaking must be sent to the pension committee, to every employee association representing members and to the Régie. The undertaking may only be revoked with the consent of every employee association.

"146.10. An amendment under section 146.5 and the related application for registration must indicate pursuant to which subparagraph of the first paragraph of that section the amendment is made and the effective date of the amendment. The amendment cannot determine a date of expiry for the right confirmed.

All provisions concerning the appropriation of surplus assets to the payment of employer contributions must be grouped in an easily identifiable section of the pension plan.

"DIVISION III

"SPECIAL CASE

"146.11. Notwithstanding any inconsistent provision of the pension plan and, where applicable, of Division II of this chapter, the employer may appropriate surplus assets to the payment of employer contributions up to the amount by which the maximum amount determined under section 146.2 exceeds the amount representing double the estimated current service contribution for the 12 months following the date of the last actuarial valuation. The latter amount cannot however be under 10% or over 20% of the value of the obligations arising from the plan as determined on a funding basis.

This section shall not operate to set aside provisions of a pension plan or of an agreement pertaining specifically to the appropriation of the portion of the surplus assets referred to in the first paragraph."

86. Section 147 of the said Act is amended

(1) by inserting "and beneficiaries" after "non-active members" in the fifth line of paragraph 1;

(2) by replacing "either group of plan members" in the sixth line of paragraph 1 by "either of those groups";

(3) by adding the following paragraph at the end:

"Furthermore, if they so decide at the meeting held pursuant to section 166, the active plan members as a group can designate a pension committee member in addition to those designated under the first paragraph."

87. Section 152 of the said Act is amended by inserting ", except those conferred by sections 243.3 and 243.7," after "powers" in the second line of the first paragraph.

88. Section 155 of the said Act is amended by replacing "The pension committee shall, within 30 days after the date on which the member designated by the plan members takes office," in the first and second lines of the first paragraph by "Except in the case of the renewal of a designation or the

designation of a new member under section 167, the pension committee shall, within 30 days after a member takes office,".

89. Section 157 of the said Act is repealed.

90. Section 161 of the said Act is amended by replacing ", transmit to the Régie" in the second line of the first paragraph by "or, in the case of the first fiscal year of the plan, within any additional period granted by the Régie, transmit to the Régie".

91. Section 161.1 of the said Act is amended by adding the following sentence at the end of the third paragraph: "In so doing, an accountant acting in good faith incurs no civil liability."

92. Section 161.2 of the said Act is repealed.

93. The said Act is amended by inserting the following section after section 163:

"163.1. The pension committee may, in the course of the general administration of the pension plan, offset a debt of a member or beneficiary toward the pension fund against a pension benefit or refund payable to the member or beneficiary up to the greater of

(1) 25% of the pension benefit or refund; and

(2) 1/12 of the amount to be recovered, without exceeding 50% of the pension benefit or refund.

However, the offset may be applied against up to 100% of a pension benefit or refund if the debtor consents thereto in writing.

As well, a debt of a deceased member may be offset by the committee against the total amount of the death benefit payable to the member's successors."

94. Section 165 of the said Act is amended by replacing "total or partial termination of a pension plan" in the fourth line of the first paragraph by "withdrawal of an employer from a multi-employer pension plan or the termination of a pension plan".

95. Section 165.1 of the said Act is replaced by the following section:

"165.1. As soon as it is informed thereof, the pension committee shall notify the Régie in writing of any effective or proposed division or merger of the pension plan."

96. Section 166 of the said Act is amended

(1) by inserting " beneficiary and" after "member and" in the third line of the first paragraph;

(2) by replacing "each group of active members and non-active members, to decide whether or not it" in the eighth and ninth lines of the first paragraph by "the active members as a group and the non-active members and beneficiaries as group to decide whether or not they" and by replacing "it so decides" in the ninth and tenth lines of that paragraph by "they so decide";

(3) by inserting "or beneficiaries" after "members" in the last line of the first paragraph;

(4) by adding the following paragraph after the third paragraph:

"The pension committee is exempted from calling a meeting if it sends every member and beneficiary, within six months of the end of the fiscal year, a statement containing the information referred to in subparagraph 2 of the first paragraph of section 112, together with a notice indicating that no meeting will be held unless 10% or more of the members and beneficiaries request within 60 days that a meeting be held. However, the pension committee may only be exempted insofar as an alternate procedure for the designation of committee members pursuant to the first paragraph has been adopted at a meeting by the members and beneficiaries."

97. Section 167 of the said Act, amended by section 254 of chapter 40 of the statutes of 1999, is replaced by the following section:

"167. If a member of the pension committee designated pursuant to section 166 is absent or unable to act or if such a seat on the committee is vacant, the other members of the committee shall designate a new member to fill the seat until the next meeting held pursuant to that section or until the new member is replaced or reappointed according to the alternate procedure referred to in that section.

The committee may act likewise in case of a delay in replacing any other member that must be designated as and when provided for in the pension plan."

98. Section 168 of the said Act is amended by adding the following sentence at the end of the first paragraph: "Where the plan authorizes members to distribute all or part of the amounts credited to them among various investments, the distribution permitted must be among one or more equity funds, income funds and money market funds."

99. Section 171 of the said Act is amended by adding the following paragraph at the end:

"Moreover, the assets of the plan may not serve to secure any obligations other than those of the plan."

100. The said Act is amended by inserting the following section after section 171:

"171.1. Unless it is reasonable in the circumstances to act otherwise, the pension committee must endeavour to constitute a diversified portfolio so as to minimize the risk of major losses."

101. Section 172 of the said Act is replaced by the following section:

"172. The assets of the pension plan may not be invested, directly or indirectly, in securities controlled by the employer in a proportion greater than 10% of their book value.

For the purposes of this section, a security is controlled by the employer in particular if it is issued by the employer or by a partnership or legal person more than 50% of the voting rights of which are held by the employer."

102. Section 173 of the said Act is repealed.

103. Section 183 of the said Act is amended by adding the following paragraph after paragraph 3:

"(4) where the Régie becomes aware that the pension committee or a person to whom it has delegated powers has failed to comply with an order issued by the Régie."

104. Section 185 of the said Act is amended by replacing "or, in the case of a plan established under a collective agreement or an arbitration award in lieu thereof, to the employees' association representing the members" in the fifth, sixth and seventh lines by " and to every employees' association representing members".

105. Section 188 of the said Act is amended

(1) by striking out ", in the case of a plan established under a collective agreement or an arbitration award in lieu thereof," in the second and third lines of the second paragraph;

(2) by replacing "and, in the case of a plan established under a collective agreement or an arbitration award in lieu thereof," in the fourth and fifth lines of the third paragraph by ", to the beneficiaries and".

106. Section 190 of the said Act is amended

(1) by inserting "or, where two or more employers are parties to the plan, amend the plan to allow for the withdrawal of an employer" after "plan" in the third line of the first paragraph;

(2) by replacing the second paragraph by the following paragraph:

"Notice of the date of termination or of the effective date of the amendment with an indication of the members affected shall be given to the pension committee, to the employer, to the members affected and to every employees' association representing members."

107. Section 195 of the said Act is amended

(1) by replacing the first paragraph by the following paragraphs:

"195. The Régie shall not authorize a division of the assets and liabilities of a pension plan unless the value of the assets to be transferred is equal to the sum of

(1) the market value of the assets which, assuming that the plan is terminated on the effective date of the proposed division, should be allocated, pursuant to sections 220 to 225, to the group of benefits to which the members or beneficiaries affected are entitled; and

(2) the market value of the additional share of assets that would be allocated to that group of benefits if the surplus remaining after the distribution of assets were itself distributed between the groups of benefits constituted pursuant to subdivision 3 of Division II of Chapter XIII, in such manner that the assets of the plan were distributed among the groups proportionately to the value of the obligations arising from the plan from which the benefits in each of the groups derive.

The value of the obligations referred to in subparagraph 2 of the first paragraph must be determined as provided in subdivision 1 of Division II of Chapter X and be reduced by the value of the obligations arising from the plan with respect to any portion of an initial or improvement unfunded actuarial liability remaining to be paid at the date of division.

Any contribution which, at the date of division, an employer that is a party to a multi-employer pension plan has failed to pay into the pension fund or, as the case may be, to the insurer must be deducted from the share of the assets which is allocated to the group of benefits pertaining to that employer pursuant to the first paragraph. Moreover, the amount determined under the first paragraph must be adjusted to take into account the return on the investment of the plan assets, calculated according to the change in the market value of the assets from the effective date of the division to the date of the transfer, and the contributions paid in respect of and the pension benefits paid to the members and beneficiaries affected during that period.";

(2) by replacing "The Régie" in the first line of the second paragraph by "Furthermore, the Régie".

108. Section 196 of the said Act is amended

(1) by inserting “or unless the applicable terms of the absorbing plan are more advantageous for the members and beneficiaries than the applicable terms of the absorbed plan” after “effects” in the fourth line of the first paragraph;

(2) by replacing “whether the effects are identical” in the fourth line of the first paragraph by “the effects of the applicable terms”;

(3) by replacing “However, where the effects of the terms are not identical” in the first line of the second paragraph by “In other cases”;

(4) by replacing “of the effects thereof — in particular those effects which result from the application of the last paragraph —” in the third and fourth lines of the second paragraph by “by the pension committee by means of a notice in writing only containing the information prescribed by regulation”;

(5) by replacing “230.4 to 230.6” in the sixth line of the second paragraph by “230.4 and 230.6”;

(6) by replacing the fourth paragraph by the following paragraphs:

“Furthermore, if the absorbing plan has been amended pursuant to section 146.5 in order to confirm the employer’s right to appropriate all or part of the surplus assets to the payment of employer contributions, the merger may only be authorized if every employees’ association representing members of the absorbed plan consents thereto.

If the merger is authorized, only the terms of the absorbing plan shall, as far as the allocation of surplus assets in case of termination is concerned, be applicable to the members and beneficiaries of the absorbed plan who are affected by the merger.”

109. Section 197 of the said Act is replaced by the following section:

“197. Any remuneration received or, as the case may be, any hours of employment completed before a division or merger must be taken into account for the purposes of section 34.”

110. The heading of Chapter XIII of the said Act is replaced by the following heading:

“ RIGHTS OF MEMBERS AND BENEFICIARIES ON WINDING-UP”.

111. Division I of Chapter XIII of the said Act is replaced by the following division:

“DIVISION I

“WITHDRAWAL FROM MULTI-EMPLOYER PLAN
AND TERMINATION OF PLAN

“§ 1. — *Withdrawal from multi-employer pension plan*

“198. The withdrawal of an employer from a multi-employer pension plan is conditional upon the amendment of the plan to that effect. The amendment of the plan is subject to authorization by the Régie.

The date of withdrawal is the effective date of the amendment. If the amendment is made following the bankruptcy of the employer, the effective date of the amendment is the date of the bankruptcy.

The persons affected by the withdrawal are

(1) the active members in the employ of the employer at the date of withdrawal;

(2) the non-active members at that date whose active membership ended while they were in the employ of the employer; and

(3) the beneficiaries at that date of a pension benefit that derives from the benefit of a member whose active membership ended while the member was in the employ of the employer.

“199. If an employer that is a party to a multi-employer pension plan is bankrupt or becomes insolvent, within the meaning of the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3), the plan must be amended to allow for the withdrawal of the employer and, where applicable, for substitution of another employer. If the person authorized under the plan to make such an amendment fails to do so within 30 days after the pension committee is informed of the insolvency or bankruptcy, the pension committee shall proceed with the amendment.

“200. Before applying for the registration of an amendment allowing for the withdrawal of an employer from a multi-employer pension plan, the pension committee shall, in addition to informing the members as required by section 26, send to every member and beneficiary affected by the withdrawal a notice informing them

(1) of the degree of solvency of the plan as established in the last actuarial valuation;

(2) of the effect of full payment of benefits under the plan, particularly as concerns the application of the second paragraph of section 230.1 and section 240.2;

(3) of the right of non-active members and beneficiaries affected by the withdrawal whose pension is in payment at the date of withdrawal to request, within the following 30 days, that payment of the pension be henceforth assumed by an insurer selected by the pension committee, according to the conditions prescribed by regulation, and that their rights under the plan be thus satisfied; and

(4) of the option available to members and beneficiaries affected by the withdrawal, other than those to whom paragraph 3 applies, to elect either not to require payment in full of their benefits under the plan or to require payment in full by means of a transfer under section 98, which applies with the necessary modifications, or, where applicable, by means of the payment in a lump sum or the transfer into a registered retirement savings plan of the portion of their accrued benefits that is refundable.

"201. An application for registration of an amendment allowing for the withdrawal of an employer from a multi-employer pension plan must include, in addition to what is required by section 24,

(1) the name of the withdrawing employer and the effective date of the amendment;

(2) the names of the members and beneficiaries affected, with the status of each, at the date referred to in paragraph 1, as an active member, a non-active member whose pension is not in payment, a non-active member whose pension is in payment or a beneficiary; and

(3) a copy of the notice provided for in section 200, together with a declaration of the pension committee certifying that the notice has been sent to every member and beneficiary affected.

"202. Within 60 days after the application for registration is filed with the Régie, the pension committee shall require the withdrawing employer to pay any contribution the employer has failed to pay into the pension fund or, as the case may be, to the insurer.

Within the same time or within such additional time as the Régie may grant, the pension committee shall file with the Régie a report establishing the benefits accrued to each member and beneficiary affected and the value thereof, and containing the information prescribed by regulation. The report must be prepared by an actuary; in the case of a plan referred to in paragraph 2 of section 116, it can be prepared by the pension committee. The value of the benefits accrued to the members and beneficiaries must be determined at the effective date of the amendment allowing for the withdrawal of the employer or, with the authorization of and subject to the conditions determined by the Régie, at the date of the next full actuarial valuation of the plan.

If, within the time prescribed in the second paragraph, the pension committee sends a notice to the Régie certifying that the employer has paid all unpaid

contributions in full and, where Chapter X applies to the pension plan, a declaration of an actuary attesting that the plan is solvent at the effective date of the amendment, the pension committee is dispensed from filing the report provided for in the second paragraph.

"203. The Régie may not authorize the amendment of a multi-employer pension plan to allow for the withdrawal of an employer, unless

(1) the report or, as the case may be, the notice and declaration sent to the Régie pursuant to section 202 are in conformity with this Act; and

(2) the pension committee attests that the contributions referred to in the first paragraph of section 202 have been paid into the pension fund or to the insurer or will not likely be recovered, despite the pension committee's demands, by reason of the bankruptcy or insolvency of the employer.

"§ 2. — *Termination of pension plan*

"204. Except if termination is precluded by agreement or the pension plan is a plan rendered compulsory by an order or decree which does not authorize termination, an employer — or, in the case of a multi-employer pension plan, even not considered as such under section 11, the employers jointly, — may terminate the plan by means of a written notice of termination to the members and beneficiaries affected, to every employees' association representing members, to the pension committee and, where applicable, to the insurer.

The notice shall indicate the date of termination and the names of the members and beneficiaries affected. The date of termination may in no case be subsequent to the day preceding the day on which the benefits of the last member or beneficiary under the plan have been paid in full. Moreover, unless every member whose active membership in the plan is to cease upon or after the termination of the plan consents thereto in writing, the date of termination may not precede the date on which member contributions cease to be collected or the date occurring 30 days before the date on which the notice of termination is given to the active members.

"205. The Régie may terminate a pension plan

(1) if, without having transmitted a notice of termination, the employer — or, in the case of a multi-employer pension plan, even not considered as such under section 11, every employer — fails to collect member contributions or to pay employer contributions or the member contributions collected into the pension fund or to the insurer;

(2) where the pension committee, a person or body to whom powers have been delegated or any party to the plan fails to comply with an order issued by the Régie under this Act; or

(3) where the plan has no more active members.

Before terminating the plan, the Régie must allow the pension committee at least ten days to present observations.

"206. A decision of the Régie terminating a pension plan shall indicate the date of termination and the names of the members and beneficiaries affected.

The decision shall be communicated to the pension committee, which shall forthwith transmit it to every member and beneficiary affected, to every employees' association representing members affected, to the employer and, where applicable, to the insurer.

"207. In addition to the members and beneficiaries whose benefits under the plan have not been paid in full before the date of termination, the members referred to in the second paragraph of section 211 are persons affected by the termination of a pension plan.

"207.1. Within 15 days after receipt of a notice of termination from the employer or a decision of the Régie terminating the pension plan, the pension committee shall transmit to the Régie, to the employer and to every association of employees representing members a declaration of termination containing the information prescribed by regulation, together with the attestations and documents prescribed by regulation.

"207.2. Within 90 days after receipt of a notice of termination or a decision terminating the pension plan, the pension committee shall transmit to the Régie a termination report establishing the benefits accrued to each member and beneficiary affected and the value thereof, and containing the information prescribed by regulation. The report must be prepared by an actuary; in the case of a plan referred to in paragraph 2 of section 116, the report can be prepared by the pension committee. The Régie shall forthwith send an acknowledgment of receipt to the pension committee, indicating the date on which it received the report.

The pension committee shall also provide a copy of the report to the employer and to every employees' association representing members, informing them that they may present written observations to the committee within the time limit set out in the first paragraph. The committee must send the report in a timely manner so as to allow the employer and the employees' associations at least ten days to present observations.

Where applicable, the copy of the report sent to the employer must be accompanied with a notice, a copy of which must be sent to the Régie, indicating

(1) that any amount due by the employer according to the report must be paid into the pension fund or to the insurer, as the case may be; and

(2) if the employer intends to make an agreement with the other interested parties as to the allocation of the surplus assets determined in the termination report, the date before which the declaration, the agreement or the draft

agreement, as the case may be, provided for in sections 230.1 and 230.2 must be transmitted by the employer to the Régie and to the pension committee.

The date referred to in subparagraph 2 is the date occurring 150 days after the date on which the pension committee receives the notice of termination or the decision of the Régie terminating the pension plan.

"207.3. The pension committee shall transmit to each member and beneficiary affected a copy of the termination declaration, a statement of benefits and of the value thereof, together with the following information:

(1) the various methods for full payment of benefits, including, where applicable, an indication of the pension fund to which benefits could be transferred, and the other options available to the member or beneficiary;

(2) the procedure for choosing a method, including, where applicable, that applicable to a share of the surplus assets;

(3) the indication that the termination report and the data used to establish the benefits and the value thereof can be consulted, free of charge, either at the office of the pension committee or at the employer's establishment designated by the committee, whichever is closer to the applicant's residence;

(4) the indication that the member or beneficiary must make choices and exercise options among those referred to in subparagraphs 1 and 2 before the expiry of the time limit set out in the first paragraph of section 207.2 and may present written observations to the pension committee; and

(5) any other information determined by regulation.

The committee must transmit the statements in a timely manner so as to allow the members and beneficiaries at least ten days to make choices, exercise options and present observations to the pension committee pursuant to subparagraph 4 of the first paragraph.

"207.4. Unless all members and beneficiaries who may have rights under the pension plan or under this Act have been personally advised, the pension committee shall publish in a daily newspaper circulated in the region in Québec where the greatest number of active members reside at the date of termination a notice inviting all persons who, though they did not receive the statement provided for in section 207.3, believe they have rights under the plan or under this Act to present their claim to the pension committee before the expiry of the time limit set out in the first paragraph of section 207.2.

The committee must make sure that the notice is published in a timely manner so as to allow interested persons at least ten days to present their claim pursuant to the first paragraph. In the case of a multi-employer pension plan, even not considered as such under section 11, the notice must be published with respect to each employer that is a party to the plan in the region in

Québec where the greatest number of members in the employ of the employer reside at the date of termination.

"207.5. Each time the provisions of subdivision 4.1 of Division II of Chapter XIII are applied to determine to whom surplus assets are to be allocated, the pension committee shall, within 30 days after the date of receipt of a declaration or an agreement provided for in subparagraphs *a* and *b* of paragraph 2 of section 230.1, respectively, or of an arbitration decision under section 243.15, the date from which the employer is in default for failure to transmit a draft agreement in accordance with section 230.2 or the date of an agreement made pursuant to section 230.6, as the case may be, submit to the Régie a supplement to the termination report setting out how the surplus is to be distributed and the share, if any, to be allocated to each of the members and beneficiaries. The supplement must be prepared by an actuary; in the case of a plan referred to in paragraph 2 of section 116 or where no surplus assets are to be allocated to the members and beneficiaries, the report can be prepared by the pension committee.

"207.6. A pension plan may not be amended after the date of termination, except to allow any increase in pension benefits resulting from an act to which the allocation of surplus assets is subject, in particular an agreement or an arbitration award referred to in section 230.1.

This section shall not operate to prevent the Régie from registering an amendment to the plan made before the date of termination after that date."

112. The heading of Division II of Chapter XIII of the said Act is replaced by the following heading:

"WINDING-UP".

113. Subdivision 1 of Division II of Chapter XIII of the said Act is replaced by the following subdivision:

"§ 1. — *Interpretation and scope*

"208. In this division, the term "date of termination", where used in relation to a multi-employer pension plan that is amended to allow for the withdrawal of an employer, means the date at which the value of the benefits accrued to the members and beneficiaries affected is determined.

"209. Sections 216 and 218 do not apply to the payment in full of the benefits of members or beneficiaries affected by the withdrawal of an employer from a multi-employer pension plan or by the termination of a pension plan where the value of the plan assets is equal to or greater than the value of its liabilities, both values being established in accordance with this chapter at the date of termination. If the plan assets nevertheless do not permit payment in full of the benefits of the members and beneficiaries affected, the payment shall be proportional to the value of their accrued benefits."

114. The said Act is amended by inserting the following section after the heading of subdivision 2 of Division II of Chapter XIII:

"209.1. Within 30 days after the Régie authorizes an amendment allowing for the withdrawal of an employer from a multi-employer pension plan, the pension committee shall pay in full the benefits of each member and beneficiary affected who has applied therefor, in accordance with the terms of the report transmitted pursuant to the second paragraph of section 202, if any."

115. Section 210 of the said Act is amended

(1) by replacing the first paragraph by the following paragraphs:

"210. No earlier than 30 and no later than 60 days after the date on which the termination report is received by the Régie, unless additional time is granted by the Régie, the pension committee shall pay in full the benefits of each member and beneficiary affected in accordance with the termination report and this Act.

However, the committee may not proceed under the first paragraph if, within 30 days after receipt of the termination report, the Régie orders the pension committee to postpone the operation for the period determined by the Régie or if the Régie orders pursuant to section 240.4 that an irregularity found in the report be remedied within a specified time. In the latter case, the pension committee shall submit a revised termination report to the Régie, which shall acknowledge receipt thereof. The committee shall proceed to make full payment within 30 days after the expiry of the postponement period or within 30 days after the date on which the Régie receives the revised report.

Notwithstanding the first paragraph, the payment in full of the benefits of a member or beneficiary in accordance with the termination report may be deferred to the date of the satisfaction of the entitlement to surplus assets where, given the method chosen by the member or beneficiary, the Taxation Act prescribes that all benefits under the plan be paid in a lump sum. Moreover, where the Régie permits the employer to spread the payment of an amount due by the employer over a period of time pursuant to section 229, the Régie may determine terms and conditions whereby benefits may be paid in full when payment by the employer is completed.";

(2) by replacing "The pension committee or the insurer" in the first line of the second paragraph by "The pension committee";

(3) by inserting "an early retirement benefit provided for in section 69.1, in whole or in part and subject to the conditions it fixes, as well as" after "pay" in the third line of the second paragraph.

116. The said Act is amended by inserting the following section after section 210:

"210.1. No earlier than 10 and no later than 30 days after the expiry of the 30-day time limit set out in section 207.5, unless additional time is granted by the Régie, the pension committee shall satisfy the rights of the employer and the members and the beneficiaries affected, in accordance with the supplement to the termination report and this Act.

The share of the surplus assets to which a member or beneficiary is entitled may be paid in a lump sum or, to the extent permitted by the Taxation Act, be transferred as provided for in section 98, which applies with the necessary modifications, or be used for the purchase of an annuity or another benefit, according to the option specified by the member or beneficiary to the pension committee.

No portion of the assets of the pension plan may be paid to the employer except pursuant to the first paragraph."

117. Section 211 of the said Act is amended

(1) by replacing "Every member affected by partial termination of a pension plan and every member affected by the total termination of a plan" in the first and second lines of the first paragraph by "Every member affected by the termination of a pension plan";

(2) by replacing the second paragraph by the following paragraph:

"Where the termination of the plan is brought about by the division, merger, alienation or closing down of an enterprise or part of an enterprise, the same applies to every member whose active membership in the plan ceased during the period extending from the date the members were informed of the event and the date of termination.";

(3) by replacing "a date not prior to the date of termination" in the fourth line of the third paragraph by "the date of termination, unless the plan provides expressly that it must be taken into account beyond the date of termination".

118. Section 212 of the said Act is replaced by the following section:

"212. The value of the benefits accrued to the members and beneficiaries affected by the withdrawal of an employer from a multi-employer pension plan or by the termination of a pension plan shall be determined at either of the following dates, on the basis of the assumptions referred to in section 61 that were used at that date to determine the value of the pension benefits to which section 60 applies that were vested at that date:

(1) the date the member ceased to be an active member, if the benefits whose value is being determined are those accrued to

(*a*) a member whose active membership ended before the withdrawal or termination and who, at the date of termination, had already opted, within the time limit set out in subparagraph 1 of the second paragraph of section 99, for the satisfaction of his or her rights under the plan or still had time to exercise such an option, or a beneficiary whose rights under the plan derive from the service credited to such a member; or

(*b*) a member to whom the second paragraph of section 211 applies; or

(2) the date of termination, if the benefits whose value is being determined are those accrued to any other member or beneficiary affected by the withdrawal or termination.

The benefits accrued to the members and beneficiaries referred to in subparagraph 1 of the first paragraph shall bear interest, from the date their value is determined to the date of termination, at the rate used for the purposes of the determination.

The first paragraph does not apply to a pension that must be insured pursuant to section 237 or to a pension referred to in paragraph 3 of section 200."

119. The said Act is amended by inserting the following section after section 212:

"212.1. The value of the assets of a terminated pension plan at the date of termination shall be established according to their liquidation value or an estimate thereof, reduced by the estimated amount of the costs to be paid out of the pension fund upon termination.

The liabilities of a terminated pension plan at the date of termination shall comprise, in addition to the value of the benefits determined under section 212, the value of any pension that must be insured pursuant to section 237, such value being determined

(1) in cases where the pension was insured before the date of termination, on the basis of the assumptions referred to in section 61 that were used at that date;

(2) in cases where the pension was insured after the date of termination but before the preparation of the termination report, by discounting at the date of termination the premium paid to the insurer, according to the estimated rate of return of the pension fund from the date of termination to the date on which the pension was insured; and

(3) in all other cases, by adding a margin to the premium payable to insure the pension at the date of termination in order to allow for variation in the cost of purchasing the pension before the probable date of purchase."

120. Sections 214 and 215 of the said Act are repealed.

121. Section 216 of the said Act is amended

(1) by striking out ", other than a benefit referred to in section 215," in the first line of the first paragraph;

(2) by replacing "of cessation of contribution payments is less than one year or if the effective date of the amendment is subsequent to the date of cessation of contribution payments" in the second, third and fourth lines of subparagraph 1 of the first paragraph by "of termination is less than one year";

(3) by striking out the second and third paragraphs.

122. Section 217 of the said Act is amended

(1) by replacing "the total or partial termination of " in the third line by "the withdrawal of an employer from a multi-employer pension plan or the termination of ";

(2) by replacing "either at the rate used to determine the value of his benefits or, where that value has been determined on the basis of an insurance proposal, at the monthly rate of return on personal five-year term deposits with chartered banks, as compiled by the Bank of Canada" in the fourth, fifth, sixth, seventh and eighth lines by "at the rate used to determine the value of the person's accrued benefits".

123. Section 218 of the said Act is replaced by the following section:

"218. Where an employer withdraws from a multi-employer pension plan or a pension plan is terminated, the amounts to which the members and beneficiaries affected are entitled shall be paid out in the following order:

(1) concurrently, amounts representing

(*a*) the value of benefits accrued under the plan, other than those referred to in subparagraph 4, up to the date of termination;

(*b*) the value of additional voluntary contributions paid into the pension fund or to the insurer, as the case may be, up to the date of termination, with interest accrued to that date; and

(*c*) the value of amounts received by the pension plan following a transfer, even a transfer other than a transfer under Chapter VII, with interest accrued to the date of termination;

(2) the amount representing the value of any benefit reduction pursuant to section 216;

(3) the interest on the amounts referred to in subparagraphs 1 and 2, calculated in accordance with section 217;

(4) the value of benefits payable to members, at the date of termination, under pension plan terms granting them compensation for cessation of their continuous employment due to technological or economic changes in the employer's enterprise or to the division, merger, alienation or closing down of the enterprise, with interest calculated in accordance with section 217.

If the assets are insufficient for the full satisfaction of the rights of the members and beneficiaries affected that are collocated in the same rank, payment shall be made proportionately to the value of their accrued benefits."

124. Section 220 of the said Act is amended

(1) by replacing "The assets of any pension plan that is partially terminated or of a multi-employer pension plan that is totally terminated shall be" in the first and second lines of the first paragraph by "Where an employer withdraws from a multi-employer pension plan or a multi-employer pension plan is terminated, the assets of the plan shall be";

(2) by replacing "a multi-employer pension plan that is terminated in whole or in part" in the first and second lines of the second paragraph by "the plan".

125. Section 221 of the said Act is amended

(1) by replacing "the partial termination of the pension plan" in the first and second lines by "the withdrawal of an employer from a multi-employer pension plan";

(2) by replacing "cette" in the second line of the French text by "la".

126. Section 222 of the said Act is amended

(1) by replacing "In the event of partial termination of a pension plan" in the first line of the first paragraph by "Where an employer withdraws from a multi-employer pension plan";

(2) by replacing "the termination" in the fourth line of the first paragraph by "the withdrawal";

(3) by replacing "Where more than one employer is involved in the partial termination of a multi-employer pension plan" in the first and second lines of the second paragraph by "Where two or more employers withdraw simultaneously from a multi-employer pension plan";

(4) by replacing "the termination" in the third line of the second paragraph by "the withdrawal".

127. Section 224 of the said Act is amended

(1) by striking out "that is totally or partially terminated" in the second and third lines of the first paragraph;

(2) by inserting ", upon the withdrawal of one of the employers or upon the termination of the plan," after "shall" in the third line of the first paragraph.

128. Sections 225 and 226 of the said Act are replaced by the following sections:

"225. Upon the withdrawal of an employer from a multi-employer pension plan or upon the termination of a multi-employer pension plan, the remainder of the benefits accrued to the members and beneficiaries affected by the previous withdrawal of an employer shall form a separate group of benefits.

"226. Upon the termination of a pension plan, if a surplus remains after distribution of the assets, the surplus shall be distributed between the groups of benefits formed under this subdivision in such a manner that the total assets are distributed among all groups proportionately to the value of the obligations arising from the plan from which the benefits in each group derive."

129. Section 227 of the said Act is amended by striking out "total or partial" in the first line.

130. Section 228 of the said Act is amended

(1) by replacing "the total termination of a pension plan or partial termination of a multi-employer pension plan due to the withdrawal of an employer that was a party to the plan shall constitute a debt of the employer" in the second, third and fourth lines of the first paragraph by "the withdrawal of an employer from a multi-employer pension plan or the termination of a pension plan shall constitute a debt of the employer. The amount to be funded shall be established at the date of termination.";

(2) by striking out the second paragraph;

(3) by replacing "the termination" in the third and fourth lines of the fourth paragraph by "the withdrawal or termination".

131. Section 229 of the said Act is amended by replacing "at the monthly rate of return on personal five-year term deposits with chartered banks, as compiled by the Bank of Canada" in the second and third lines of the second paragraph by "at the rate determined pursuant to section 61 that was applicable at the date of termination".

132. Section 230 of the said Act is amended by inserting ", including any amount recovered after the date of termination, particularly in respect of

contributions outstanding and unpaid at the date of termination," after "subdivision" in the first line.

133. The said Act is amended by inserting the following section after the heading of subdivision 4.1 of Division II of Chapter XIII:

"230.0.1. The surplus assets of a terminated pension plan shall be equal to the amount by which the value of its assets as determined in accordance with section 212.1 exceeds the value of its liabilities as determined in accordance with that section.

In the case of a multi-employer pension plan, even not considered as such under section 11, or of a multi-employer pension plan that has already been amended to allow for the withdrawal of an employer, the surplus assets must be determined in respect of each employer as provided in subdivision 3."

134. Section 230.1 of the said Act is amended

(1) by striking out "totally" in the second line and "total" in the third line of subparagraph *a* of paragraph 2;

(2) by inserting "and to the Régie" after "pension committee" in the fifth line of subparagraph *a* of paragraph 2;

(3) by adding the following sentence at the end of subparagraph *b* of paragraph 2: "The parties shall send a copy of the agreement to the pension committee and to the Régie.";

(4) by adding the following paragraphs at the end:

"However, where members or beneficiaries who have been previously affected by the withdrawal of an employer are affected by the termination, the share of the surplus assets allocated to the group formed of such members and beneficiaries pursuant to subdivision 3 shall be allocated by operation of law to the members and beneficiaries who are part of that group and distributed among them proportionately to the value of their accrued benefits.

Moreover, the first paragraph does not apply if the employer transmits to the pension committee and to the Régie, before the date indicated in the notice sent by the pension committee pursuant to section 207.2, a declaration certifying that the employer consents to all surplus assets being allocated to the members and beneficiaries and distributed proportionately to the value of their accrued benefits. The declaration has the same value and effect as an agreement concluded pursuant to section 230.6."

135. The said Act is amended by inserting the following section after section 230.1:

"230.1.1. Where the value of the assets of a pension plan at the date of termination does not exceed the value of its liabilities at that date, any surplus assets that develop after that date shall, notwithstanding section 230.1, be allocated by operation of law to the members and beneficiaries and distributed among them proportionately to the value of their accrued benefits."

136. Section 230.2 of the said Act is amended

(1) by replacing "within six months after transmission to the pension committee of the decision of the Régie which fixes the date of termination of the plan, send to the pension committee a draft agreement indicating" in the second, third, fourth and fifth lines of the first paragraph by "before the date indicated in the notice sent to the employer by the pension committee pursuant to section 207.2, send to the pension committee and to the Régie a draft agreement only containing the following particulars:";

(2) by inserting the following paragraph after the first paragraph:

"Each employer that is a party to a multi-employer pension plan, even not considered as such under section 11, must fulfil the obligation set out in the first paragraph as regards the surplus assets determined in respect of the employer and in respect of the members and beneficiaries whose benefits are included in the group of benefits relating to the employer. However, two or more employers that are parties to the same pension plan may agree to send a joint draft agreement to the pension committee."

137. Section 230.3 of the said Act is replaced by the following section:

"230.3. If the employer fails to send a draft agreement to the pension committee and to the Régie in accordance with section 230.2, the employer is deemed to have waived entitlement to surplus assets. The surplus assets hence accrue to the members and beneficiaries and shall be distributed among them proportionately to the value of their accrued benefits.

This section does not apply if the members and beneficiaries agreed to arbitration before the date referred to in the first paragraph of section 230.2 or if the pension plan was established pursuant to a collective agreement, an arbitration award in lieu thereof or an order or decree which rendered such an agreement compulsory."

138. Section 230.4 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph:

"230.4. Within 15 days after receiving the draft agreement, the pension committee shall send a copy to every member and beneficiary affected, together with a copy of the provisions of the pension plan pertaining to the allocation of surplus assets in the event of termination and a notice only containing the information prescribed by regulation and informing them that

they may inform the pension committee in writing of their opposition to the draft agreement within 60 days after receiving the notice or after the publication of the notice provided for in the second paragraph, whichever occurs later.";

(2) by replacing the first sentence of the second paragraph by the following sentence: "Unless all members and beneficiaries who may have rights under the pension plan or under this Act have been personally advised, the pension committee shall also, within the time limit set out in the first paragraph, publish in a daily newspaper circulated in the region in Québec where the greatest number of active members at the date of termination reside a notice of the termination of the pension plan, indicating that there are surplus assets and that a draft agreement has been submitted by the employer regarding the distribution of the surplus assets.";

(3) by replacing "begins to run only from" in the second line of the third paragraph by "expires 60 days after";

(4) by replacing "203" in the third line of the third paragraph by "207.3";

(5) by striking out "the draft agreement," in the second line of the fourth paragraph.

139. Section 230.5 of the said Act is repealed.

140. Section 230.7 of the said Act is amended

(1) by inserting ", being a party to a pension plan established pursuant to a collective agreement, an arbitration award in lieu thereof or an order or decree rendering such an agreement compulsory," after "the employer" in the seventh line of the first paragraph;

(2) by replacing "first paragraph of section 230.5" in the ninth line of the first paragraph by "second paragraph of section 240.4";

(3) by replacing "at least six months have elapsed since the decision of the Régie fixing the date of termination of the plan was transmitted to the pension committee" in the tenth and eleventh lines of the first paragraph by "the date indicated in the notice sent to the employer by the pension committee pursuant to section 207.2 has been reached";

(4) by striking out the eighteenth and nineteenth lines of the first paragraph;

(5) by replacing "230.5" in the twenty-first line of the first paragraph by " 230.4 or in section 240.4";

(6) by inserting the following paragraph after the first paragraph:

"As soon as the pension committee becomes aware of one of the situations authorizing the employer, the employees' association and, where applicable, a member or beneficiary to have recourse to arbitration, it shall advise each such party. If no party applies for arbitration within 60 days after the occurrence of the situation, the pension committee shall prepare an application requesting an arbitrator to determine the allocation and, where applicable, the distribution of the surplus assets and to proceed in accordance with section 243.7; moreover, in that case, the employer is deemed to have waived entitlement to any portion of surplus assets whose allocation has not been determined by an agreement or a declaration made under section 230.1.";

(7) by replacing the second paragraph by the following paragraph:

"The interested parties referred to in the first paragraph or the pension committee may have recourse to arbitration in order to obtain a determination on any difficulty in interpreting or implementing an agreement or a declaration made under in section 230.1.";

(8) by inserting " or declaration" after "agreement" in the third line of the third paragraph;

(9) by inserting "or declaration" after "agreement" in the fifth, seventh and ninth lines of the third paragraph.

141. Sections 231 to 235 of the said Act are repealed.

142. Section 236 of the said Act is replaced by the following section:

"236. The right to benefits, other than a pension referred to in section 237, accrued under a pension plan to a member affected by the termination of the plan, shall be satisfied by means of a transfer under section 98, which applies with the necessary modifications. However, if a member whose pension was not in payment at the date of termination dies before the transfer is effected, the member's rights, except any entitlement to surplus assets, shall instead be satisfied by the payment of a lump sum benefit to the member's spouse or, if there is no spouse, to the member's successors.

For the purposes of this section, a member's spouse is the person who meets the requirements set out in section 85."

143. Section 237 of the said Act is amended

(1) by inserting ", according to the conditions prescribed by regulation" after "insurer" in the third line of the first paragraph;

(2) by striking out "total" in the first line of the first paragraph;

(3) by inserting ", subject to the exceptions prescribed by regulation," after "shall" in the first line of the second paragraph;

(4) by adding the following paragraph after the second paragraph:

"However, the requirement whereby the pension must be insured does not apply if no pension of the type paid to the member under the pension plan is available on the market. In such a case, the residual value of the pension shall be transferred pursuant to section 98, which shall apply with the necessary modifications."

144. Section 239 of the said Act is amended

(1) by replacing "in whole or in part" in the second and third lines by "or, in the case of a multi-employer pension plan, where an employer withdraws,";

(2) by inserting "withdrawal or" before "termination" in the fifth line.

145. Section 240 of the said Act is amended by replacing the first paragraph by the following paragraph:

"240. If, in the case referred to in section 239, the value of the insured benefits accrued to the members or beneficiaries affected by a withdrawal from or the termination of a pension plan which the insurer would have to assume were it not for the withdrawal or termination exceeds the value of such benefits as established pursuant to this chapter, the insurer, at the request of the pension committee, must reduce its obligations towards those members and beneficiaries accordingly and insure the uninsured benefits of the members or beneficiaries, up to the amount of the excess."

146. Section 240.1 of the said Act is repealed.

147. Section 240.2 of the said Act is amended

(1) by replacing "affected by the partial termination of a pension plan whose benefits were paid in full on that occasion or subsequently" in the first and second lines of the first paragraph by "whose active membership ended five years or less before the date of termination of the plan and whose rights were satisfied before that date";

(2) by striking out the second paragraph;

(3) by replacing "second" in the first line of the third paragraph by "first";

(4) by adding ", unless all members and beneficiaries who may have rights under the pension plan or under this Act have been personally advised" at the end of the first sentence of the third paragraph;

(5) by replacing "newspaper" in the sixth line of the third paragraph by "daily newspaper";

(6) by striking out the fourth paragraph.

148. Section 240.3 of the said Act is replaced by the following section:

"240.3. The Régie may, where it considers it in the best interests of the members and beneficiaries, exempt a terminated pension plan from the application of any provision of this chapter, subject to the specified conditions."

149. The said Act is amended by inserting the following section after section 240.3:

"240.4. If the content, transmission or publication of a document provided for in this chapter is not in conformity with the prescriptions of this Act or the regulations, the Régie may order the application, within the time and on the conditions it fixes, of any remedial measure it indicates. The order extends the time allotted by this chapter for responding to the document until the date fixed by the Régie or, if no date is fixed, until such time as the Régie has certified to the person or body having received the order that the order has been complied with.

If an order relating to the content of the draft agreement provided for in section 230.2 is not complied with within the time fixed in the order, the Régie shall invalidate the draft agreement unless it is satisfied that it was impossible for the employer to act sooner or that the employer was unable to correct the irregularity for a reason beyond the employer's control or is of the opinion that an extension is likely to serve the interests of all parties to the plan, in which cases the Régie may grant a 30-day extension."

150. Section 243.3 of the said Act is amended

(1) by replacing paragraph 2 by the following paragraph:

"(2) to one arbitrator or, if all members of the pension committee present at the meeting referred to in the second paragraph of section 243.7 agree thereto, to three arbitrators, where the value involved exceeds $100,000 without exceeding $1,000,000 or where the purpose of the arbitration is to obtain a determination on a difficulty in interpreting or implementing an agreement or a declaration;";

(2) by striking out paragraph 3;

(3) by replacing "the representatives mentioned above" in the first and second lines of paragraph 4 by "all the members of the pension committee present at the meeting referred to in the second paragraph of section 243.7".

151. Section 243.6 of the said Act is repealed.

152. Section 243.7 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph:

"243.7. Upon receiving an application for arbitration, the pension committee shall select, from among the arbitration bodies accredited by the Government, the body that will be responsible for organizing the arbitration.";

(2) by replacing the second paragraph by the following paragraph:

"The pension committee shall also designate the arbitrator or arbitrators and inform the arbitration body. The designation shall be made upon a unanimous decision of the members of the committee present at a meeting convened for such purpose, which meeting cannot be held unless at least one member designated under subparagraph 1 of the first paragraph of section 147 is present. If the pension committee members cannot agree on the designation of the arbitrator or arbitrators, it shall be the duty of the arbitration body to complete the designations from among the arbitrators whose names appear on the list drawn up pursuant to section 243.17. The same applies if the pension plan is not administered by a pension committee that meets the requirements of section 147 or if the Régie has placed the pension plan under provisional administration."

153. Section 243.8 of the said Act is amended by striking out ", together with the accompanying documents or information," in the first and second lines of the second paragraph.

154. Section 243.14 of the said Act is amended by adding the following paragraph after the third paragraph:

"Unless the arbitration decision rules only on a difficulty in interpreting or implementing an agreement or a declaration, the arbitration decision must specify, in particular,

(1) who is entitled to the surplus assets as determined at the date of termination of the plan, whether the employer alone, the members and beneficiaries alone or both the employer and the members and beneficiaries and, in the latter case, the amount to be allocated to the members and beneficiaries as well as the method for adjusting that amount in the event of a variation in the surplus assets between the date of termination and the date of implementation of the decision; and

(2) insofar as some or all of the surplus assets are allocated to members and beneficiaries,

(*a*) the identity of each such member or beneficiary and, in the event that other names are added to the names appearing in the termination report, the method for determining the value of their accrued benefits; and

(*b*) the distribution method to be used to determine the share of each member or beneficiary."

155. Section 243.15 of the said Act is amended

(1) by inserting “to the Régie and” after “sent” in the first line of the third paragraph;

(2) by replacing “qui” in the second line of the third paragraph of the French text by “lequel”;

(3) by adding the following paragraphs after the third paragraph:

“Unless an application under article 945.6 of the Code of Civil Procedure has been submitted to the arbitrators for the same purpose, the pension committee or the Régie may, within 60 days after receiving a copy of the arbitration decision, apply to the arbitrators for

(1) the correction of a clerical error in the decision;

(2) the interpretation of a specific part of the decision; or

(3) a supplementary decision on a part of the application omitted in the decision.

An interpretation forms an integral part of the decision.”

156. Section 243.16 of the said Act is amended by striking out “, the committee formed pursuant to section 243.17” in the third and fourth lines of the first paragraph.

157. Section 243.17 of the said Act is replaced by the following section:

“243.17. After consultation with the Régie and the most representative employees’ associations and employers’ associations, the Minister shall draw up a list of names from which arbitrators may be designated by an arbitration body.”

158. Section 244 of the said Act is amended

(1) by inserting the following subparagraph after subparagraph 3 of the first paragraph:

“(3.0.1) determine, for the purposes of section 60.1, the rules applicable to the determination of an additional pension benefit;”;

(2) by striking out “or 100” in the first line of subparagraph 6 of the first paragraph;

(3) by inserting “, 109” after “108” in the first line of subparagraph 7 of the first paragraph;

(4) by inserting “, a seizure for non-payment of support” after “benefits” in the fourth line of subparagraph 7 of the first paragraph;

(5) by replacing “in the event of a partial termination of the plan or in the event of the total termination of a multi-employer pension plan” in the third, fourth and fifth lines of subparagraph 12 of the first paragraph by “in particular upon the withdrawal of an employer from or the termination of a multi-employer plan”;

(6) by inserting the following subparagraph after subparagraph 12 of the first paragraph:

“(12.0.1) determine the conditions to be met by a pension insured pursuant to paragraph 3 of section 200 or section 237;”.

159. Section 246 of the said Act is amended by replacing “a report respecting its termination or an actuarial valuation is in conformity with this Act” in the third and fourth lines of paragraph 6 by “an actuarial valuation or a document required under this Act or required by the Régie is in conformity with this Act or with the requirements of the Régie”.

160. Section 248 of the said Act is amended

(1) by striking out the third line of paragraph 2;

(2) by replacing “the termination report” in the fifth line of paragraph 2 by “a report”;

(3) by adding the following after paragraph 4:

“(5) the pension plan or its administration is not in compliance with this Act, for instance by reason of the fact that the plan is not being wound up in accordance with the provisions of Chapter XIII or Chapter XIV.1; or

“(6) the content of a document provided for in this Act or required by the Régie is not in compliance with the requirements of this Act or of the Régie.

In addition, if the Régie considers it necessary in the best interests of the members and beneficiaries, it may order any person who has custody, possession or control of funds, securities or other assets of a pension plan not to dispose of them without the authorization of the Régie or otherwise than in accordance with the conditions it fixes.”

161. Section 249 of the said Act is amended

(1) by adding “or any other Act applicable, in whole or in part, to pension plans” at the end of the first paragraph;

(2) by adding the following paragraph at the end:

“ For the purposes of such an agreement, the Régie may act as the mandatary of the department or agency with which the agreement has been made.”

162. Section 250 of the said Act is amended by replacing the first paragraph by the following paragraph:

"250. The Régie may delegate any of its powers under this Act to a member of its board of directors, to a member of its personnel or to a committee formed of board members or personnel members. The Régie may also, in the act of delegation, authorize the subdelegation of the powers enumerated therein. In that case, it shall identify the member of its board of directors or the member of its personnel to whom powers may be subdelegated. The act of delegation shall be published in the *Gazette officielle du Québec*."

163. Section 252 of the said Act is amended

(1) by replacing "newspaper" in the first line of subparagraph 2 of the first paragraph by "daily newspaper";

(2) by replacing subparagraph 3 of the first paragraph by the following subparagraph:

"(3) sent to the members of the pension committee who are either plan members or persons designated by the plan members and beneficiaries and to every employees' association representing plan members."

164. The said Act is amended by inserting the following section after section 256:

"256.1. The Régie may intervene before the Administrative Tribunal of Québec in any proceeding relating to this Act at any time until the end of the hearing.

If it wishes to intervene, the Régie shall send a notice to each of the parties and to the Tribunal; the Régie is thereupon considered to be a party to the proceeding."

165. Section 257 of the said Act is amended

(1) by replacing paragraphs 1 and 1.1 by the following paragraphs:

"(1) contravenes any provision of the first paragraph of section 14 or 16, sections 17, 25, 26, 39, 41 to 43, 51, 58, 119, 140, 158, 159, 161, 166, 168, 169, 171.1 to 176, 179 and 210, subparagraph 1 of the first paragraph of section 252 and section 307;

"(1.1) permits the allocation of all or part of the surplus assets determined upon termination of a pension plan otherwise than as provided in subdivision 4.1 of Division II of Chapter XIII;";

(2) by replacing "230.5" in the first line of paragraph 3 by "240.4".

166. Section 258 of the said Act is amended by replacing paragraph 1 by the following paragraph:

"(1) contravenes any provision of sections 111 to 114, 135, 142 to 144, 165.1, 182, 200, 202, 207.1 to 207.5, 209.1, 230.4, 230.6, 243.8, the second paragraph of section 310.1 and sections 313 and 314;".

167. Section 264 of the said Act is amended by adding the following paragraph at the end:

"Notwithstanding the first paragraph, any share of the surplus assets to which the employer, a member or a beneficiary is entitled upon termination of a pension plan is assignable and seizable."

168. Section 283 of the said Act is replaced by the following section:

"283. This Act replaces the Act respecting supplemental pension plans (chapter R-17)."

169. Section 286.1 of the said Act is amended by adding the following paragraph at the end:

"Likewise, applications for review before the Régie and contestations before the Administrative Tribunal of Québec pending on 31 December 2000 or introduced after that date but relating to decisions rendered before that date shall be decided according to the provisions of this Act as they read before that date."

170. The said Act is amended by inserting the following sections after section 288:

"288.0.1. The orders made by the Government under section 2 as it read before 1 July 2000 are deemed to be regulations.

"288.0.2. Section 2.1 only applies to a pension plan in force on 30 June 2000 if

(1) the pension committee has made a written application to that effect to the Régie;

(2) the pension plan has been amended, if necessary, to satisfy the requirements set out in the first paragraph of section 2.1;

(3) all members and beneficiaries at the date of the application under subparagraph 1 have been notified in writing that their pension plan would no longer be subject to this Act and have consented thereto;

(4) the fees prescribed by regulation have been fully paid to the Régie in respect of the last complete fiscal year of the plan; and

(5) the Régie has revoked the registration of the plan, after making sure that all the conditions of this section were fulfilled."

171. Section 288.2 of the said Act is repealed.

172. Section 289 of the said Act is amended by adding "or 45" at the end.

173. The said Act is amended by inserting the following section after section 289:

"289.0.1. Where, before 1 January 2001, an uninsured pension plan other than a defined contribution plan provided that interest would be credited to member contributions or additional voluntary contributions at the monthly rate of return on personal five-year term deposits with chartered banks, as compiled by the Bank of Canada, such contributions, with interest accrued, shall bear interest, from that date and notwithstanding section 20, at the rate of return obtained on the investment of the plan assets."

174. The said Act is amended by inserting the following section after section 289.1:

"289.2. Paragraph 4 of section 59 does not apply to a member whose pension was in payment before 1 January 2001."

175. The said Act is amended by inserting the following section after section 290:

"290.1. Unless otherwise stipulated, section 60.1 does not apply to the pension benefit to which a member or beneficiary is entitled in respect of service credited under the plan for a period of employment prior to 1 January 2001."

176. The said Act is amended by inserting the following section after section 291:

"291.1. Section 61, as it read before 1 January 2001, continues to apply to the determination of the value of the benefits accrued to members or beneficiaries made on the basis of an earlier date."

177. Section 292 of the said Act, amended by section 254 of chapter 40 of the statutes of 1999, is again amended by replacing "2460" in the first line by "2459".

178. Sections 293 to 296 of the said Act are repealed.

179. Section 299 of the said Act, amended by section 254 of chapter 40 of the statutes of 1999, is again amended

(1) by replacing “after 31 December 1989” in the first line of the second paragraph by “between 31 December 1989 and 1 January 2001”;

(2) by inserting “lump sum” before “benefit” in the second line of the second paragraph;

(3) by inserting “and additional voluntary contributions” after “member contributions” in the second line of the second paragraph;

(4) by adding the following paragraphs after the second paragraph:

“Where the death occurs after 31 December 2000, the benefit provided for in the second paragraph shall be made to the member’s spouse or, if there is no surviving spouse, to the member’s successors. However, the spouse may waive entitlement to such benefit, in which case section 88.1 applies, with the necessary modifications. Moreover, this paragraph does not apply if the surviving spouse is entitled, as of the member’s death, to a pension the value of which is equal to or greater than the benefit provided for in the second paragraph.

For the purposes of this section, a member’s spouse is the person who meets the requirements set out in section 85.”

180. The said Act is amended by inserting the following section after section 299:

“299.1. A lump sum benefit payable under section 86 in respect of a death having occurred before 1 January 2001 shall bear interest, from that date until the date of payment, at the rate used to determine the amount of the benefit.”

181. The said Act is amended by inserting the following sections after section 300.1:

“300.2. Section 89, as it read before 1 January 2001, continues to apply to the exceptions provided for therein where the court judgment became effective or, as the case may be, the conjugal relationship ended after 31 August 1990 but before 1 January 2001.

“300.3. The last paragraph of section 85 applies to a person separated from bed and board from a member who dies or whose pension begins to be paid, as the case may be, after 31 December 2000 regardless of the date on which the judgment granting separation from bed and board was rendered or became effective.

“300.4. Section 89.1 only applies to divorces, marriage annulments, separations from bed and board and cessations of conjugal relationship having become effective after 31 December 2000. However, whether or not benefits

have been partitioned, an application for an adjustment may be submitted by a member whose divorce, marriage annulment, separation from bed and board or cessation of conjugal relationship became effective before that date; the member's pension is adjusted as of the date of the application and not as of the effective date of the judgment or cessation of conjugal relationship."

182. Section 303 of the said Act is amended

(1) by striking out the first paragraph;

(2) by replacing "the said section" in the first line of the second paragraph by "section 98".

183. Section 304 of the said Act, amended by section 254 of chapter 40 of the statutes of 1999, is repealed.

184. Section 305 of the said Act is amended

(1) by replacing "an uninsured" in the third line of the first paragraph by "a";

(2) by striking out "or 100" in the fourth line of the first paragraph.

185. The said Act is amended by inserting the following sections after section 306.6:

"306.7. Sections 130, 133, 134 and 138, as they read before 1 January 2001, continue to apply to actuarial valuations dated prior to 15 December 2000.

"306.8. Where an agreement or an arbitration award pursuant to the Act respecting the negotiation of agreements concerning the reduction of labour costs in the municipal sector (1998, chapter 2) provides for the appropriation of the surplus assets of a pension plan to the payment of employer contributions, Chapter X.1 only applies to the pension plan as of the expiry of the agreement or award.

"306.9. For the purposes of subparagraph *a* of subparagraph 2 of the first paragraph of section 146.5, the assumptions in force on 1 January 2001 shall be used to determine the value of the benefits accrued to members whose active membership ended before 1 January 1990 and the benefits accrued to the beneficiaries who are their successors, with the necessary modifications.

"306.10. Except in the case of a pension plan resulting from the division of a pension plan that was not amended pursuant to section 146.5, the provisions of a pension plan that comes into force after 31 December 2000 pertaining to the employer's right to appropriate all or part of the surplus assets to the payment of employer contributions prevail over any other provision

of the plan or of an agreement and are binding on every party having rights or obligations under the plan.

"306.11. Only refunds and pension benefits that become payable after 31 December 2000 are subject to offsetting pursuant to section 163.1.

"306.12. Sections 18, 32, 56, 165, 190, Chapter XIII except section 240.2 and paragraphs 1 and 3 of section 240.3, paragraph 12 of section 244, paragraph 6 of section 246 and sections 309 to 311.1, as they read on 31 December 2000, continue to apply

(1) to matters pending before the Régie on 31 December 2000;

(2) to total terminations having occurred before 1 January 2001 and partial terminations affecting members whose active membership ended before that date, whether or not the termination results from the withdrawal of an employer from a multi-employer pension plan, provided that

(*a*) if the employer decided to terminate the plan, the members were duly advised in writing, as provided by law; and

(*b*) if the Régie decided to terminate the plan by reason of the employer's failure to collect member contributions or to pay employer contributions or the member contributions collected into the pension fund or to the insurer, or by reason of a decrease in the number of active members, the event that warranted the Régie's decision occurred between 31 December 1999 and 1 January 2001.

Notwithstanding any provision to the contrary, a partial termination can only affect members whose active membership ended before 1 January 2001.

Section 32.1 does not apply to terminations to which this section applies.

"306.13. Section 230.1.1 applies to any pension plan whose assets are not entirely liquidated on 1 January 2001 insofar as the employer did not transmit a draft agreement before that date to the pension committee concerning the allocation of surplus assets in accordance with section 230.2 as it read before that date.

"306.14. Section 240.2 only applies to members whose active membership ended after 31 December 2000.

"306.15. Section 240.3 applies even to terminations having occurred before 1 January 2001 and to terminations pending before the Régie on that date, except partial terminations referred to in section 306.12, in whose respect paragraph 2 of section 240.3, as it read before 1 January 2001, continues to apply."

186. Section 307.1 of the said Act is repealed.

187. Section 308.3 of the said Act is amended

(1) by inserting ", and in cases where the Régie rendered a decision relating to a notice of termination or a decision partially terminating a pension plan, provided its decision approving the draft termination report or the termination report itself was rendered after 31 December 1992" after "surplus assets" in the fourth line;

(2) by striking out "between 1 January 1990 and 1 January 1993" in the fifth and sixth lines;

(3) by striking out "total" in the second last line;

(4) by adding the following paragraphs at the end:

"However, if the date of the partial termination precedes the date of the total termination of the plan by seven years or more, members whose rights were thus satisfied shall only retain their status as members for the said purpose if they present their claim to the pension committee within the prescribed time.

Whenever the provisions of the second paragraph are to be applied, the notice required to be published under the second paragraph of section 230.4 must set out the rules established by this section. However, where a case has been referred to arbitration under section 230.7 without publication of the notice, the pension committee shall, upon being informed of the referral to arbitration, cause to be published in a daily newspaper circulated in the region in Québec where the greatest number of members who were active at the date of termination reside, a notice of the application for arbitration setting out the rules established by this section, and informing interested parties that, until the matter is taken under advisement, they may present their claim to the pension committee. A copy of the public notice must be sent without delay to the Régie.

The pension committee is exempted from the obligation to publish the notice if all members and beneficiaries who may have rights under the pension plan or under this Act have been personally advised."

188. Sections 309 and 310 of the said Act are repealed.

189. Section 310.1 of the said Act, amended by section 254 of chapter 40 of the statutes of 1999, is again amended

(1) by striking out "and of section 311.3" in the second line of the first paragraph;

(2) by striking out "or 311.3" in the fifth line of the second paragraph;

(3) by replacing “newspaper” in the eighth line of the second paragraph by “daily newspaper”;

(4) by replacing “However, the Régie may exempt the pension committee from the obligation to publish where it is attested in writing that” in the first and second lines of the third paragraph by “The pension committee is exempted from the obligation to publish the notice if”.

190. Section 310.2 of the said Act is replaced by the following section:

“310.2. An employer that is required to send to the members the notice provided for in the first paragraph of section 230.4 or to publish the notice provided for in the second paragraph of that section must, except where exercising powers delegated by the pension committee, indicate therein that any opposition to the draft agreement on the part of the members and beneficiaries concerned must be filed in writing with the Régie.

Section 230.6 shall apply in such cases having regard to any opposition communicated to the Régie under this section.”

191. Section 311 of the said Act is repealed.

192. Section 311.1 of the said Act is amended

(1) by striking out “and of section 311.3” in the first and second lines of the first paragraph;

(2) by replacing “the statement required by section 203” in the third line of subparagraph 2 of the first paragraph by “a statement of benefits”;

(3) by striking out “or of section 311.3” in the second line of the second paragraph;

(4) by striking out “totally” in the third line of the second paragraph.

193. Sections 311.2, 311.3 and 311.4 of the said Act are repealed.

194. The said Act is amended by inserting the following sections after section 311.4:

“311.5. Except in cases to which section 266 applies, sections 243.3, 243.6 and 243.7, as they read before 1 January 2001, continue to apply to pension plans whose administrator is not a pension committee whose composition is in accordance with section 147.

“311.6. The first paragraph of section 23, sections 56, 66, 69 and 71, paragraph 3 of section 86, paragraph 1 of section 98, the first paragraph of section 197 and sections 293 to 296 and 303, as they read before 1 January

2001, continue to apply to the rights and benefits of members whose active membership ended before that date.

Section 66, as it reads subsequent to 31 December 2000, also applies to the rights and benefits referred to in the first paragraph."

195. Section 312 of the said Act is amended by adding the following paragraph at the end:

"The Régie may, by regulation and before 1 January 2003, adopt any transitional provision for the carrying out of this Act as it stands on 1 January 2001. Regulations made under this section shall be submitted to the Government for approval. They may have retroactive effect from a date not prior to 1 January 2001."

196. The said Act is amended by inserting the following section after section 317:

"317.1. Any unfunded actuarial liability resulting from an amendment to a pension plan for the purpose of bringing the pension plan into conformity with this Act as it stands on 1 January 2001 may be considered to be an initial unfunded actuarial liability.

The Régie may require that a pension committee submit to it, within a specified time, a report prepared by an actuary and containing the information and attestations the Régie considers necessary to ascertain that the determination of employer and member contributions is in conformity with the pension plan and with this Act as it stands on 1 January 2001.

For the purposes of this Act, the report provided for in the second paragraph is considered to be an actuarial valuation report of a pension plan prepared under section 119."

197. The said Act is amended by inserting the following section after section 318:

"318.1. The amendments needed to bring the provisions of a pension plan that is in force on 31 December 2000 into conformity with this Act as it stands on 1 January 2001 must be presented to the Régie for registration within 12 months after 31 December 2000 or within such additional time as the Régie may grant.

Amendments registered under this section have effect from 1 January 2001.

However, as concerns employees governed by a collective agreement, an arbitration award in lieu thereof or an order or decree making a collective agreement compulsory in force on 1 January 2001, the adjustment of pensions under section 60.1 has effect only as of the date of expiry of the collective agreement or arbitration award or as of the date of expiry, extension or renewal of the order or decree.

Moreover, subparagraph 2 of the first paragraph of section 146.5 only applies, in respect of a pension plan for the benefit of employees governed by a collective agreement in force on 1 January 2001, as of the date of the signature of the new agreement or, if there is more than one, as of the date of the signature of the last one."

198. The said Act is amended by striking out "total" and "totally" wherever they appear in

(1) section 223;

(2) the heading of subdivision 4.1 of Division II of Chapter XIII;

(3) section 238;

(4) section 243.2;

(5) the second paragraph of section 288.1;

(6) section 308.1; and

(7) section 318.

199. This Act comes into force on 1 January 2001, except sections 1, 2, 15, 16, 22, 103 and 155, paragraph 3 of section 160 and sections 162, 164 and 170, which come into force on 1 July 2000 and section 95, which comes into force on 1 January 2002.