



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 129

**An Act to amend various provisions
respecting supplemental pension plans,
particularly concerning payment options
in the event of an employer's insolvency**

Introduction

**Introduced by
Madam Julie Boulet
Minister of Employment and Social Solidarity**

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EXPLANATORY NOTES

This bill introduces various amendments to the Supplemental Pension Plans Act.

The application of the provisions relating to payment options in the event of insufficient assets, currently applicable in the event of the withdrawal of an employer from a multi-employer pension plan or the termination of a plan, is extended to cases where the employer who is a party to a plan is subject to an order or judgment under the Companies' Creditors Arrangement Act, Part III of the Bankruptcy and Insolvency Act or the Winding-up Act.

Also, the option of receiving benefits as a pension paid out of the assets administered by the Régie des rentes du Québec is made available even where the plan is not terminated or the employer has not withdrawn, provided the requirements of the law are met and a government regulation is made to that effect.

The Régie is given the power to extend by a maximum of five fiscal years the period of administration of any pension it pays, if it considers that circumstances justify it. The Régie is also given the power to order the division of a pension plan governed both by the Supplemental Pension Plans Act and by an Act of a legislative body other than the Parliament of Québec if it considers it is necessary to protect the rights of Québec members or beneficiaries of the pension plan.

Moreover, an employer party to a multi-employer pension plan may avail itself of the provisions of the law relating to the use of a letter of credit.

In addition, the period of retroactive effect allowed under certain government regulations is extended by one year.

Also, a provision of the Charter of Ville de Montréal is amended in order to take into account the repeal of certain provisions of the Supplemental Pension Plans Act by chapter 42 of the statutes of 2006.

Lastly, the bill contains consequential amendments and transitional provisions.

LEGISLATION AMENDED BY THIS BILL:

- Charter of Ville de Montréal (R.S.Q., chapter C-11.4);
- Supplemental Pension Plans Act (R.S.Q., chapter R-15.1).

Bill 129

AN ACT TO AMEND VARIOUS PROVISIONS RESPECTING SUPPLEMENTAL PENSION PLANS, PARTICULARLY CONCERNING PAYMENT OPTIONS IN THE EVENT OF AN EMPLOYER'S INSOLVENCY

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

SUPPLEMENTAL PENSION PLANS ACT

1. Section 2 of the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1) is amended by replacing “the year preceding” in the third paragraph by “the penultimate year preceding”.

2. Section 42.1 of the Act is amended by striking out the second paragraph.

3. The Act is amended by inserting the following section after section 195:

“**195.1.** In addition, where a pension plan is governed both by this Act and by an Act of a legislative body other than the Parliament of Québec, the Régie may, if it considers it is necessary to protect the rights of the members and beneficiaries subject to this Act, order the division of the assets and liabilities of the plan, on the date, within the time and on the conditions it fixes, so that the assets pertaining to those members and beneficiaries are transferred to another pension plan.

The order is issued to the person or body who may amend the pension plan involved, to the person or body who administers the plan and to the person or body who may establish a pension plan for the members and beneficiaries mentioned in the first paragraph. The rights of those members and beneficiaries are established on the date of the division and according to the provisions of the plan that are registered and in force on that date.”

4. Section 230.0.0.1 of the Act is amended

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

“(1) the pension plan is amended to allow for the withdrawal of a participating employer or it is terminated;

“(1.1) the employer who is a party to the plan is bankrupt or subject to an order or judgment under the Companies’ Creditors Arrangement Act (Revised Statutes of Canada, 1985, chapter C-36), Part III of the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3) or the Winding-up Act (Revised Statutes of Canada, 1985, chapter W-11);”;

(2) by replacing “but prior to 1 January 2012” in paragraph 2 by “and the date of the employer’s bankruptcy or the date of the order or the judgment referred to in paragraph 1.1”;

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

“(2.1) the date the employer withdraws or the plan terminates is prior to 1 January 2012, or, if it is after 31 December 2011, the employer is still, on the date of the withdrawal or termination, subject to an order or judgment referred to in paragraph 1.1 dated prior to 1 January 2012;”;

(4) by adding the following paragraph after paragraph 3:

“(4) the assets necessary to pay the benefits are not likely to be recovered.”

5. The Act is amended by inserting the following section after section 230.0.0.11:

“230.0.0.12. The Régie may, before the expiry of the time limit set under the first paragraph of section 230.0.0.9, extend its administration with respect to the pensions it pays to the members and beneficiaries referred to in section 230.0.0.4 if it considers that circumstances justify it, in particular if the volume of the pensions that must be guaranteed by an insurer cannot be absorbed by the market.

However, the administration by the Régie, after having been extended one or more times, may not be extended beyond the end of the tenth fiscal year of the pension plan that follows the fiscal year during which the Régie began exercising the powers of the pension committee with respect to those members and beneficiaries.

When it extends its administration, the Régie must inform the members and beneficiaries as well as the Government.”

CHARTER OF VILLE DE MONTRÉAL

6. Section 37.1 of Schedule C to the Charter of Ville de Montréal (R.S.Q., chapter C-11.4) is amended

(1) by replacing “the pension plans referred to in section 135.1 of that Act may have retroactive effect from any date that it determines” in the first

paragraph by “the following pension plans, registered with the Régie des rentes du Québec, may have retroactive effect to any date that it determines:

(1) the Régime de retraite des contremaîtres de la Ville de Montréal, registered under number 27693;

(2) the Régime de retraite des fonctionnaires de la Ville de Montréal, registered under number 27543;

(3) the Régime de retraite des professionnels de la Ville de Montréal, registered under number 28739;

(4) the Régime de retraite des cadres de la Ville de Montréal, registered under number 27542;

(5) the Régime de retraite des employés manuels de la Ville de Montréal, registered under number 27494;

(6) the Régime de retraite des pompiers de la Ville de Montréal, registered under number 22503”;

(2) by striking out “in sections 135.1 to 135.5 and 306.2 to 306.6 of the Supplemental Pension Plans Act and” in the second paragraph.

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

7. When it makes a regulation under section 2 of the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1) relating to a pension plan to which Chapter X of that Act applies and to which an employer in the pulp and paper sector is a party, the Government may provide by regulation that members and beneficiaries of the pension plan may request that they receive benefits as a pension paid out of the assets administered by the Régie des rentes du Québec under section 230.0.0.4 of that Act without there having been an amendment to the plan to allow for the withdrawal of the employer who is a party to the plan or without the plan having been terminated, if the following conditions are met:

(1) the employer who is a party to the plan has, as part of the restructuring of the employer’s enterprise, entered into an agreement with the Government to, among other things, maintain the plan;

(2) the employer is subject, on the date of the agreement, to an order or judgment, dated prior to 1 January 2012, under the Companies’ Creditors Arrangement Act (Revised Statutes of Canada, 1985, chapter C-36) or Part III of the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3); and

(3) if the plan terminated on the date of the agreement, the assets would not be sufficient to pay all the benefits of the members and beneficiaries.

In that case, subdivision 4.0.1 of Division II of Chapter XIII of the Supplemental Pension Plans Act applies to the extent and with the modifications provided by regulation. The regulation may concern only the members and beneficiaries to whom a pension is paid on the date it specifies or it may also concern those who, on the same date, would have been entitled to the payment of a pension if they had applied for it. The regulation may also provide rules that differ from those determined by the regulation made under section 230.0.0.11 of that Act, in particular with respect to the method for determining the value of the members' and beneficiaries' accrued benefits, the options available to them and the time limits that apply to the exercise of their options and the payment of their benefits.

A regulation made under this section or under section 2 of the Supplemental Pension Plans Act with respect to a plan to which this section applies is not subject to the publication requirement or the requirement as regards its date of coming into force set out in sections 8 and 17 of the Regulations Act (R.S.Q., chapter R-18.1) and may, if it so provides, have retroactive effect to a date that is prior to the date of its publication but not prior to 31 December 2008.

8. In the cases where, following an order issued by the Régie des rentes du Québec before (*insert the date of introduction of this bill*), an employer amends the notice of termination to move the date of termination of the plan to a date prior to the date initially set in the notice, subdivision 4.0.1 of Division II of Chapter XIII of the Supplemental Pension Plans Act applies with respect to the members who would have been entitled to the payment of a pension had the termination date not been changed, as though section 230.0.0.2 of that Act had applied to them on the termination date.

9. Subdivision 4.0.1 of Division II of Chapter XIII of the Supplemental Pension Plans Act does not apply to a plan referred to in section 230.0.0.1 of that Act, amended by section 4, if the date of the order or judgment under the Companies' Creditors Arrangement Act, Part III of the Bankruptcy and Insolvency Act or the Winding-up Act (Revised Statutes of Canada, 1985, chapter W-11) is prior to (*insert the date of assent to this Act*) and if the payment of the members' and beneficiaries' benefits has already begun on that date.

10. The Government may, by regulation, make any transitional and consequential provision necessary for the carrying out of this Act.

Such a regulation is not subject to the publication requirement or the requirement as regards its date of coming into force set out in sections 8 and 17 of the Regulations Act and may, if it so provides, have retroactive effect to a date that is prior to the date of its publication but not prior to 31 December 2008.

11. This Act comes into force on (*insert the date of assent to this Act*). However, section 6 has effect from 1 January 2010.