

DÉCISION DU BUREAU

Numéro : 1611-1

Date : 10 novembre 2011

CONCERNING the Regulation respecting the partition and assignment of benefits accrued under the pension plan of the Members of the National Assembly

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AS, under section 63 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly (R.S.Q., chapter C-52.1), the Office of the National Assembly may make regulations for the purposes of that Act;

AS, under subparagraphs 4 to 8 of the first paragraph of that section, the Office adopted, by Decision 757 dated 19 September 1995, the Règlement sur le partage et la cession des droits accumulés au titre du régime de retraite des membres de l'Assemblée nationale;

AS the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly was amended by chapter 10 of the statutes of 2006 to allow the retirement pension to be payable concurrently with the transition allowance;

AS that Act was amended at the same time to provide that the part of a pension relating to years of service subsequent to 31 December 1999 is to be indexed according to the more advantageous of the following two percentages: 50% of the rate of increase in the Pension Index determined under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) or the percentage by which the rate of increase in the Pension Index determined under the latter Act exceeds 3%;

AS that Act was also amended by the Act instituting civil unions and establishing new rules of filiation (2002, chapter 6) to provide that civil union spouses have the same rights and obligations as married couples and that family patrimony consequently applies to them as well;

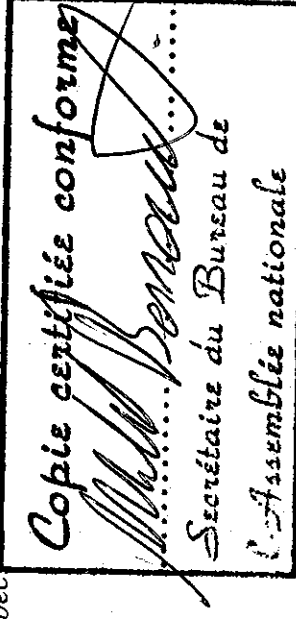
AS it is expedient that the Regulation respecting the partition and assignment of benefits accrued under the pension plan of the Members of the National Assembly be revised to take into account the 2002 and 2006 amendments to the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly;

AS it is expedient that that regulation be adopted in French and in English and be published in the *Gazette officielle du Québec* in order to make it available to everyone concerned.

IT IS THE DECISION OF THE OFFICE

To adopt the Regulation respecting the partition and assignment of benefits accrued under the pension plan of the Members of the National Assembly;

To publish the Regulation in the *Gazette officielle du Québec*



**REGULATION RESPECTING THE PARTITION AND ASSIGNMENT OF BENEFITS
ACCRUED UNDER THE PENSION PLAN OF THE MEMBERS OF THE NATIONAL
ASSEMBLY**

Act respecting the conditions of employment and the pension plan of the Members of the National Assembly
(R.S.Q., chapter C-52.1, s. 63, subpars. 4 to 8)

DIVISION I
STATEMENT OF MEMBER'S OR FORMER MEMBER'S BENEFITS
(s. 63, subpars. 4 and 5)

1. An application for the statement referred to in section 56 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly (R.S.Q., chapter C-52.1) must contain the following information and be accompanied by the following documents:

- (1) the name, address, social insurance number and date of birth of the Member or former Member and his or her spouse;
- (2) a marriage certificate and, where applicable, the date on which the spouses resumed living together, or a certificate of civil union; and
- (3) written confirmation from a certified mediator to the effect that he or she has been given a family mediation mandate or written confirmation from a notary to the effect that the spouses have undertaken a joint procedure for the dissolution of their civil union or, as the case may be, the joint declaration dissolving the civil union and the notarized transaction contract, or a copy of the judicial application for separation from bed and board, divorce, annulment of marriage, dissolution of civil union or payment of a compensatory allowance or, where applicable, a copy of the judgment disposing of such an application.

An application filed under this section is also valid for the supplementary benefits plan for Members of the National Assembly.

2. Within 90 days following the date of receipt of a duly completed application, the Office of the National Assembly provides the Member or former Member and his or her spouse with a statement containing the following information:

- (1) the date on which the Member or former Member began participating in the Pension Plan of the Members of the National Assembly and, where applicable, the date on which

the Member ceased to participate in the plan;

- (2) the benefits accrued to the Member or former Member, without regard to any reduction resulting from a prior partition or assignment of benefits, from the time the Member or former Member began participating in the plan until the date of assessment provided for in the second paragraph of section 57 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly, as well as the value of those benefits;
- (3) the benefits accrued during the marriage or civil union, as well as the value of those benefits;
- (4) where applicable, the value of the reduction of the benefits accrued resulting from any prior partition or assignment of benefits and applicable at the date of assessment;
- (5) the terms and conditions for payment of the sums awarded to the spouse under Division III.

The statement of benefits and values drawn up at the date of assessment on the basis of the data known to the Office on or before the date of that statement is presumed accurate.

DIVISION II

ESTABLISHMENT AND ASSESSMENT OF ACCRUED BENEFITS

(s. 63, subpar. 6)

§ 1 — *Establishment of benefits*

3. The benefits accrued under the Pension Plan of the Members of the National Assembly are established in accordance with the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly, having regard to the following provisions:

(1) if the Member is under 60 years of age, the accrued benefits correspond to a retirement pension payment of which is deferred to the later of the following dates:

(a) the first of the month following the date of the first election subsequent to the date of assessment or, if the election date is not known on the date of assessment, the first of the month following the latest possible date of dissolution of the National Assembly as determined under section 6 of the Act respecting the National Assembly (R.S.Q., chapter A-23.1);

(b) the Member's 60th birthday;

- (2) if the Member is 60 years of age or over, the accrued benefits correspond to a retirement pension payment of which is deferred to the date determined under subparagraph *a* of subparagraph 1.

The benefits accrued during the marriage or civil union are established in accordance with the first paragraph on the basis of the years or parts of a year of service counted during that period, on the assumption that the Member or former Member acquired for that period benefits of the same nature as those accrued to him or her between the date he or she began participating in the Pension Plan of the Members of the National Assembly and the date of assessment.

For the purpose of establishing and assessing accrued benefits, the benefits correspond to the benefits acquired under the Pension Plan of the Members of the National Assembly at the date of assessment on the basis of the years or parts of a year of service counted at that date. For that purpose, the Member is deemed to have ceased to participate in the plan at the date of assessment.

Despite the first paragraph, if the date of assessment is prior to 9 June 2006 but subsequent to 31 December 1991, or if the Member ceased to be a Member during that period and did not again become a Member, the benefits accrued under the Pension Plan of the Members of the National Assembly are established in accordance with the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly, having regard to the following provisions:

- (1) if the Member is under 60 years of age, the accrued benefits correspond to a retirement pension payment of which is deferred to the later of the following dates:

(*a*) the first of the month that occurs 12 months after the day after the date of the first election subsequent to the date of assessment or, if the election date is not known on the date of assessment, the first of the month that occurs 12 months after the day after the latest possible date of dissolution of the National Assembly as determined under section 6 of the Act respecting the National Assembly (R.S.Q., chapter A-23.1);

(*b*) the Member's 60th birthday;

- (2) if the Member is 60 years of age or over, the accrued benefits correspond to a retirement pension payment of which is deferred to the date determined under subparagraph *a* of subparagraph 1.

Despite the first paragraph, if the date of assessment is prior to 1 January 1992, or if the Member ceased to be a Member before that date and did not again become a Member, the benefits accrued under the Pension Plan of the Members of the National Assembly are established in accordance with the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly, having regard to the following provisions:

(1) if the Member is under 60 years of age, the accrued benefits correspond to the more valuable of the following benefits:

- (a) a refund of the Member's contributions;
 - (b) a retirement pension payment of which is deferred to the date that would be determined under subparagraph 1 of the fourth paragraph;
- (2) if the Member is 60 years of age or over, the accrued benefits correspond to a retirement pension payment of which is deferred to the date determined under subparagraph *a* of subparagraph 1 of the fourth paragraph;
- (3) if the former Member has not applied for a refund of his or her contributions or for a retirement pension, the accrued benefits are the more valuable of those benefits.

For the purposes of subparagraph 3 of the fifth paragraph, the value of the accrued benefits is equal to the sum of

(1) the value of the retirement pension computed for years of service carried out between 1 January 1983 and 31 December 1987 and payable at the later of the following dates:

(a) the first of the month following the end date of a transition allowance payable over a period of 12 months;

(b) the date at which the age and years of service of the former Member total 65 or more, if the Member is 60 years of age or more; and

(2) the value of the retirement pension computed for years of service carried out after 31 December 1987 and payable at the later of the following dates:

(a) the date determined under subparagraph *a* of paragraph 1;

(b) the date on which the age and years of service of the former Member total 65 or more, if the Member is 60 years of age or more.

4. Years or parts of a year of service redeemed are counted proportionately to the amounts paid in capital for them in relation to the total capital amount. Those years and parts of a year are deemed to be counted for the period of the marriage or civil union to the extent that they were paid for during the marriage or civil union.

§2 — *Assessment of benefits*

5. Where the accrued benefits consist in a refund of contributions, the value of those benefits corresponds to the contributions paid with interest computed in accordance with the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly and accrued to the date of assessment as though the refund were made at that date. The same applies in respect of the value of the benefits accrued during the marriage or civil union.

6. In this section, “CIA Standards” refers to the standards of practice entitled “Practice-Specific Standards for Pension Plans – 3800 Pension Commuted Values” of the Canadian Institute of Actuaries, in force since 1 February 2005 and periodically revised.

The actuarial value of benefits is determined by using the “distribution of benefits” method and corresponds to the sum of 80% of the actuarial value determined for a male and 20% of the actuarial value determined for a female.

The actuarial value is also determined by using the following actuarial assumptions:

(1) mortality rates:

The mortality rates are those determined in accordance with the CIA Standards.

(2) interest rates:

(a) the interest rates for fully-indexed benefits or non-indexed benefits are those determined in accordance with the CIA Standards;

(b) the interest rates for partially-indexed benefits are determined according to the following formula:

$$((1 + \text{interest rate for a non-indexed benefit}) / (1 + \text{indexing rate for a partially-indexed benefit})) - 1$$

The result must be adjusted in accordance with the CIA Standards.

(3) indexing rate:

(a) for a benefit fully indexed according to the rate of increase in the Pension Index, the indexing rate is computed in the manner described in the CIA standards;

(b) for a benefit indexed according to the excess of the rate of increase in the Pension Index “PI” over 3% or by half the rate of increase in the Pension Index, the indexing rate

corresponds to the excess of the indexing rate computed in the manner provided for in subparagraph *a* over 3% or, as applicable, to half the indexing rate computed in the manner provided for in that subparagraph.

In order to take inflation rate variations into account, the following additions are made to the results of effective indexing formulas for actuarial value computation purposes:

Inflation level	Addition to result of PI-3% formula	Adjusted indexing rate	Addition to result of 50% PI formula, min. PI-3%	Adjusted indexing rate
0.5	0.1	0.1	0.05	0.3
1.0	0.1	0.1	0.10	0.6
1.5	0.3	0.3	0.15	0.9
2.0	0.5	0.5	0.20	1.2
2.5	0.7	0.7	0.15	1.4
3.0	1.0	1.0	0.20	1.7
3.5	0.8	1.3	0.25	2.0
4.0	0.6	1.6	0.30	2.3
4.5	0.5	2.0	0.45	2.7
5.0	0.4	2.4	0.50	3.0

(4) turnover rate: Nil

(5) disability rate: Nil

(6) proportion of married persons at death:

Age	Male	Female
18-64 years	85%	65%
65-79 years	80%	30%
80-109 years	60%	10%
110 years	0%	0%

(7) age difference between spouses at death:

- (a) the male spouse of the Member is presumed to be 1 year older;
- (b) the female spouse of the Member is presumed to be 4 years younger.

7. A separate value must be determined for each part of a retirement pension that corresponds to each of the indexing methods applicable to it.

8. Where the accrued benefits consist in a retirement pension being paid at the date of assessment or that would be if the former Member had filed an application to that effect, the value of those benefits is obtained by calculating the actuarial value of such a pension.

The value of the benefits accrued during the marriage or civil union is determined in accordance with the first paragraph.

DIVISION III

PAYMENT OF SUMS AWARDED TO THE SPOUSE AS A RESULT OF PARTITION OR ASSIGNMENT OF BENEFITS

(s. 63, subpars. 4 and 5)

9. In this Division, «life income fund» has the meaning given to it by sections 18 and 19 of the Regulation respecting supplemental pension plans (O.C. 1158-90 dated 8 August 1990), and «locked-in retirement account» and «annuity contract» have the meaning given to them by sections 29 and 30 of that Regulation.

10. An application for payment of the sums awarded to the spouse must be preceded by an application for assessment made in accordance with Division I and must include the name, address, social insurance number and date of birth of the Member or former Member and his or her spouse.

11. An application for payment of the sums awarded to the spouse must be accompanied by the following documents:

(1) the judgment ruling on separation from bed and board, divorce, annulment of marriage, dissolution of civil union or payment of a compensatory allowance;

(2) where applicable, any other judgment relating to the partition or assignment of the benefits of the Member or former Member, or the joint declaration dissolving the civil union and the notarized transaction contract;

(3) where applicable, the agreement entered into between the spouses regarding the terms for payment to the spouse out of the benefits accrued under the Pension Plan of the Members of the National Assembly; and

(4) the divorce certificate and, where applicable, the certificate of non-appeal.

12. Upon receipt of a duly completed application for payment, the Office sends the Member or former Member a statement showing the sums awarded to the spouse as well as the amount of the reduction computed under Division IV. The Office also sends the spouse a statement showing the sums awarded to him or her.

Within 60 days of the mailing date of the latter statement, the spouse must inform the Office of the name and address of the financial institution to which the sums awarded to the spouse are to be transferred, including the identity of the annuity contract, locked-in retirement account, life income fund or, where applicable, registered retirement savings plan or registered retirement income fund concerned.

Unless the spouse has been paid otherwise, within 120 days of the expiry of the period specified in the second paragraph, the Office transfers the sums awarded to the spouse into an annuity contract, a locked-in retirement account, a life income fund or, where applicable, a registered retirement savings plan or registered retirement income fund with a financial institution chosen by the spouse, provided that the steps necessary for the transfer of the sums have been taken.

Should the spouse fail to indicate his or her choice or to take the necessary steps within the prescribed period, the Office transfers the sums into a locked-in retirement account or, where applicable, a registered retirement savings plan in the spouse's name with the financial institution with which the Office has entered into an agreement to that effect.

If the spouse resorts to compulsory execution, the judgment authorizing a seizure by garnishment serves as an application for payment and this section applies.

13. The Office transfers the sums awarded to the spouse into an annuity contract, a locked-in retirement account or a life income fund if they derive from an entitlement to a pension or deferred pension.

However, if the sums awarded to the spouse derive from an entitlement to a refund of contributions, the Office transfers those sums into a registered retirement savings plan or a registered retirement income fund or, at the spouse's request, into a locked-in retirement account, an annuity contract or a life income fund.

Despite the first and second paragraphs, the sums are paid to the spouse's successors in the event of his or her death.

14. The sums awarded to the spouse are apportioned among each of the values computed under section 7, in the proportion that the value of those sums is of the total value of the benefits accrued under the plan at the date of assessment.

15. Interest compounded annually and accrued from the date of assessment up to the date of payment must be added to the sums awarded to the spouse at the rate determined under Schedule VII to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) and in force on the date of assessment. However, if that date is prior to 1 June 2001, the applicable interest rate is 5.34%.

DIVISION IV:
REDUCTION OF ACCRUED BENEFITS
(s. 63, subpar.8)

16. If the amount paid to the spouse derives from an entitlement to a refund of contributions or a retirement pension payment of which is deferred to age 60, to the date determined under subparagraph *a* of subparagraph 1 of the first paragraph of section 3 or to the date determined under subparagraph 1 of the fourth paragraph of section 3, the benefits of the Member or former Member are established in accordance with the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly and recalculated as follows:

(1) where the Member or former Member is entitled to a refund of contributions or the payment of the actuarial value of his or her reduced retirement pension, the amount of the refund or the amount of the payment is reduced by the sums awarded to the spouse at the date of assessment with interest compounded annually at the rate determined for each period under Schedule VI to the Act respecting the Government and Public Employees Retirement Plan and accrued from the date of assessment to the date on which the refund or payment is made;

(2) where the Member or former Member is entitled to a retirement pension, the pension is reduced, from the date on which it becomes payable or from the date of the payment to the spouse if the retirement pension is being paid at that date, by the amount of pension that would be obtained on the basis of the sums awarded to the spouse at the date of assessment.

17. If the amount paid to the spouse derives from an entitlement to a pension that is being paid at the date of assessment or that would be if the former Member had filed an application to that effect, the pension is reduced, from the date of the payment to the spouse, by the amount of pension that would be obtained on the basis of the sums awarded to the spouse at the date of assessment.

18. Each part of pension corresponding to each of the indexing methods applicable to it must be reduced by the amount of pension that would be obtained on the basis of the sums awarded to the spouse at the date of assessment that corresponds to each such indexing method.

19. For the purposes of sections 16 and 18, the amount of pension that would be obtained on the basis of the sums awarded to the spouse at the date of assessment is determined according to

the actuarial method and assumptions provided for in section 6. That amount of pension is presumed applicable at the date determined, at the date of assessment, as the date to which the retirement pension is deferred or at the date at which the deferred retirement pension would have been payable if the Member or former Member had been entitled to such a pension at the date of assessment.

That amount of pension is indexed, at the time prescribed under section 119 of the Act respecting the Québec Pension Plan, in accordance with the rate of increase in the Pension Index determined under that Act, from 1 January following the date of assessment to 1 January of the year during which that amount begins to apply.

That amount of pension is presumed to be applicable for a period of at least ten years, as mentioned in section 47 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly, as it read on 31 December 1991, to the extent that that section applies with respect to the retirement pension of the former Member. That period, with respect to that amount of pension, corresponds to the residual period applicable to the retirement pension at the date of assessment if the retirement pension became payable between the date of assessment and the date of the payment to the spouse. However, if the retirement pension of the Member or former Member was replaced by a life annuity with continuity in favour of the surviving spouse under section 52 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly, as it read on 31 December 1991, the amount of pension mentioned in the first paragraph is adjusted in the same manner as the retirement pension in accordance with that section.

If the date at which the retirement pension becomes payable occurs before the date at which the amount of pension obtained under the first and second paragraphs is presumed applicable or if the retirement pension is being paid at the date of the payment to the spouse and the latter date occurs before the date at which that amount of pension is presumed applicable, that amount of pension is reduced by 0.33% per month, calculated for each month between the date at which it begins to apply and the date at which it is presumed applicable, without exceeding 65%.

Where the Member retired before the date of the payment to the spouse and if that date occurs after the date at which the amount of pension obtained under the first and second paragraphs is presumed applicable, that amount of pension is increased by 0.50% per month, calculated for each month between the date at which it is presumed applicable and the date at which it begins to apply if the Member retired before the date at which that amount of pension is presumed applicable, or for each month between the date on which the Member retired and the date at which that amount of pension begins to apply if the Member retired on or after the date at which that amount of pension is presumed applicable.

20. For the purposes of sections 17 and 18, the amount of pension that would be obtained on the basis of the sums awarded to the spouse at the date of assessment is determined in accordance

with the actuarial method and assumptions provided for in section 6. That amount of pension is presumed applicable at the date of assessment.

The amount of pension obtained under the first paragraph is indexed in the same manner as the retirement pension or in the manner it would be if it were being paid at the date of assessment, from 1 January following that date to 1 January of the year during which that amount of pension begins to apply.

Where applicable, that amount of pension is presumed applicable for the residual period applicable to the retirement pension in accordance with section 47 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly, as it read on 31 December 1991, to the extent that that section applies to the annual retirement pension of the former Member. However, if the retirement pension of the former Member was replaced by a life annuity with continuity in favour of the surviving spouse under section 52 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly, as it read on 31 December 1991, the amount of pension mentioned in the first paragraph is adjusted in the same manner as the retirement pension in accordance with that section.

The amount of pension obtained under the first and second paragraphs is increased by 0.50% per month, calculated for each month between the date of assessment and the date at which that amount of pension begins to apply if the pension was being paid at the date of assessment or would have been if the former Member had made an application to that effect.

21. Any refund of contributions to be made following a death must be reduced by the sums awarded to the spouse with interest compounded annually at a rate determined for each period under Schedule VI to the Act respecting the Government and Public Employees Retirement Plan and accrued from the date of assessment to the first day of the month during which the refund is made, except for the period during which a pension is paid.

DIVISION V

BENEFITS ACCRUED UNDER THE LEGISLATURE ACT

22. This Regulation applies, with the necessary modifications and subject to the provisions of this Division, for the purpose of the partition and assignment of benefits accrued under the system of retirement pensions for the Members of the National Assembly established under the Legislature Act (R.S.Q., chapter L-1), as it read before 1 January 1992.

23. Sections 3, 5, 16 and 21 of this Regulation must be replaced by the following sections:

“**3.** The benefits accrued under the system of retirement pensions for Members of the National Assembly are established in accordance with the Act respecting the conditions of

employment and the pension plan of the Members of the National Assembly, having regard to the following provisions:

(1) if the Member is under 60 years of age, has served as a Member for at least 60 months and has been a Member of at least two legislatures, the accrued benefits correspond to a retirement pension payment of which is deferred to the later of the following dates:

(a) the first of the month that occurs 12 months after the day after the date of the first election subsequent to the date of assessment or, if the election date is not known on the date of assessment, the first of the month that occurs 12 months after the day after the latest possible date of dissolution of the National Assembly as determined under section 6 of the Act respecting the National Assembly;

(b) the Member's 60th birthday;

(2) if the Member is 60 years of age or over, has served as a Member for at least 60 months and has been a Member of at least two legislatures, the accrued benefits correspond to a retirement pension payment of which is deferred to the date determined under subparagraph *a* of subparagraph 1.

The benefits accrued during the marriage or civil union are established in accordance with the first paragraph on the basis of the contributions paid during that period, years or parts of a year of service counted during that period, on the assumption that the Member or former Member acquired for that period benefits of the same nature as those accrued to him or her between the date the he or she began contributing to the system of retirement pensions for the Members of the National Assembly and the date of assessment.

For those purposes of the first and second paragraphs, the Member is deemed to have ceased to be a Member at the date of assessment.

“5. Where the accrued benefits consist in a refund of contributions, the value of those benefits corresponds to the contributions paid to the date of assessment. The same applies in respect of the value of the benefits accrued during the marriage or civil union.

“16. If the amount paid to the spouse derives from an entitlement to a refund of contributions or a retirement pension payment of which is deferred to age 60 or to the date determined under subparagraph *a* of subparagraph 1 of the first paragraph of section 3, the benefits of the Member or former Member are established in accordance with the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly and recalculated as follows:

(1) where the Member or former Member is entitled to a refund of contributions, the

amount of the refund is reduced by the sums awarded to the spouse at the date of assessment;

(2) where the Member or former Member is entitled to a retirement pension, the pension is reduced, from the date at which it becomes payable or from the date of the payment to the spouse if the retirement pension is being paid at that date, by the amount of pension that would be obtained on the basis of the sums awarded to the spouse at the date of assessment.

“21. Any refund of contributions made following a death must be reduced by the sums awarded to the spouse.”

24. For the purposes of the third paragraph of section 19 and the third paragraph of section 20, the reference to section 52 of Act respecting the conditions of employment and the pension plan of the Members of the National Assembly is replaced by a reference to section 103.11 of the Legislature Act, as it read on 31 December 1991.

DIVISION V.1

TRANSITIONAL PROVISION

25. For the purposes of sections 19 and 20, the amount of pension that would be obtained on the basis of the sums awarded to the spouse at the date of assessment is determined at that date according to the actuarial method and assumptions that were used for the assessment of the accrued benefits.

DIVISION VI

MISCELLANEOUS PROVISIONS

26. This Regulation replaces the Règlement sur le partage et la cession des droits accumulés au titre du régime de retraite des membres de l'Assemblée nationale, made by decision 757 dated 19 September 1995.

27. This Regulation comes into force on the day it is passed.