



NATIONAL ASSEMBLY

FIRST SESSION

FORTIETH LEGISLATURE

Bill 39

Voluntary Retirement Savings Plans Act

Introduction

**Introduced by
Madam Agnès Maltais
Minister of Employment and Social Solidarity**

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EXPLANATORY NOTES

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

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

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

Each plan member may determine his or her own rate of contribution to the plan. Where the administrator offers investment options in addition to the default investment option, a plan member may also determine the investment option that will apply in his or her case. The member may discontinue contributions to the plan at any time or, under certain conditions, set his or her rate of contribution at 0%.

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

LEGISLATION AMENDED BY THIS BILL:

- Civil Code of Québec;
- Act respecting the Autorité des marchés financiers (chapter A-33.2);
- Code of Civil Procedure (chapter C-25);
- Act respecting administrative justice (chapter J-3);
- Act respecting labour standards (chapter N-1.1).

REGULATION AMENDED BY THIS BILL:

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

Bill 39

VOLUNTARY RETIREMENT SAVINGS PLANS ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

PURPOSE AND APPLICATION

- 1.** This Act establishes a type of retirement plan called a “voluntary retirement savings plan” in order to promote retirement savings, and provides a legal framework for the establishment and administration of such plans.
- 2.** Individuals may become members of a voluntary retirement savings plan to the extent that the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) permits them to contribute to the plan, even individuals who are self-employed workers or whose employer has not subscribed to a voluntary retirement savings plan. Individuals are called members and remain members from the time they hold an account under the terms of a voluntary retirement savings plan.

Employers may contribute to the voluntary retirement savings plan they have subscribed to on behalf of their employees when the latter pay contributions to the plan.

CHAPTER II

REGISTRATION OF THE PLAN

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

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

- (1) the text of the plan and its amendments, or a copy of those documents certified by the administrator;
- (2) in the case of the registration of the plan, a certified extract of the administrator’s registration in the register of administrators authorized by the Autorité des marchés financiers;

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

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

(5) the fees prescribed by regulation.

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

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

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

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

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

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

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

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

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

The Régie may also revoke the registration of a plan that has never had any members when the administrator applies to have it revoked or when the Autorité des marchés financiers cancels or revokes authorization.

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

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

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

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

CHAPTER III

ADMINISTRATION OF THE PLAN

DIVISION I

ADMINISTRATOR

§1.— *Obligations*

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

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

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

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

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

14. The administrator manages the plan and its assets as administrator of the property of another and, as such, exercises the prudence, diligence and skill that a reasonable person would exercise in similar circumstances. The administrator must also act with honesty and fairness in the best interest of the members.

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

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

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

- (1) a copy of the contract between the parties; and
- (2) on request, the annual statement and the financial report referred to in section 23.

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

The administrator must also give the individual a written summary of the plan that describes, in particular, the individual's rights and obligations and the investment options available under the contract as well as the costs related to the plan. The summary must also include the information provided for in subparagraphs 2 to 5 of the second paragraph of section 18.

18. Within 30 days after the contract is signed by an employer or after an employee has enrolled in the plan under section 43, the administrator sends each of those employees

- (1) a written notice confirming his or her membership in the plan; a copy of the notice is also sent to the employer;
- (2) a written summary of the plan that describes, in particular, the rights and obligations of the member and the employer, the investment options available under the contract and the costs related to the plan; and
- (3) a form for the designation of beneficiaries in case of the death of the member.

The summary must contain the following information:

- (1) the possibility for an eligible employee of opting out of the plan by notifying the employer and the administrator in writing within 60 days after the notice mentioned in subparagraph 1 of the first paragraph is sent;
- (2) the possibility of discontinuing contributions to the plan at any time and the conditions under which the member may set his or her rate of contribution at 0%;
- (3) the default contribution rate and the fact that a member may change the rate;
- (4) the fact that a member may change his or her investment options; and
- (5) any other information determined by regulation.

19. The personal information provided by the employer concerning the employees who opt out of the plan must be destroyed by the administrator within 60 days after the notice of opting out mentioned in subparagraph 1 of the second paragraph of section 18 is received.

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

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

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

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

The administrator must cause to be prepared, within the same time, a financial report containing a statement of the plan assets and a statement of revenues and expenditures for the fiscal year just ended. The report must be audited by an accountant, except in the cases prescribed by regulation.

For the purposes of this section, “accountant” means any person who, being a member of the Ordre des comptables professionnels agréés du Québec, is authorized under the Act constituting the order to act as an accountant for the purposes of this section.

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

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

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

25. A member’s investment choices may not be changed by the administrator except on the request of the member or in the circumstances and in the manner determined by regulation.

26. The administrator must provide a plan to its members at a low cost. The criteria for determining if the plan is low cost, as well as the fees the administrator may charge members and those that may be deducted from the return on fund assets, are established by regulation.

§2.—*Authorization*

27. A legal person referred to in section 13 applying for authorization must forward the application to the Autorité des marchés financiers in the form it prescribes.

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

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

(2) a document attesting that the amount by which the assets of the legal person exceed the liabilities is at least equal to the amount determined by regulation, or an irrevocable letter of credit or a suretyship, which letter or suretyship is in an amount determined by regulation and is issued by a financial institution licensed as an insurer, trust company or deposit institution under an Act of Canada or of a Canadian province or territory;

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

(4) any other document determined by regulation.

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

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

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

The decision granting authorization must be published in the Bulletin of the Autorité des marchés financiers.

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

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

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

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

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

(4) have a satisfactory financial situation.

31. The Autorité des marchés financiers may suspend or revoke the authorization granted any administrator that ceases to comply with the obligations set out in section 30.

32. The Autorité des marchés financiers may also suspend or revoke authorization when the Régie informs it that

(1) the administrator is not in compliance with this Act or with an order of the Régie;

(2) the administrator has not registered a new plan within 180 days after the termination of a plan established under this Act; or

(3) the registration of the plan has been revoked.

33. The Autorité des marchés financiers cancels or revokes authorization an administrator obtained through fraud or as the result of an error.

The Autorité des marchés financiers also cancels authorization when the Régie informs it that the administrator has not filed an application for the registration of the plan within the 90 days following the date authorization is granted or when the registration of the plan has been refused.

34. The Autorité des marchés financiers withdraws authorization from an administrator at its request if the plan has never had any members or on receipt of the notice from the Régie referred to in section 91.

An administrator who applies to have authorization withdrawn because the plan has never had any members must submit a document signed by a person in authority attesting that the plan has never had any members.

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

The administrator resulting from the amalgamation retains the management of the voluntary retirement savings plan it designates and winds up the assets of the other plans in accordance with the conditions prescribed in section 80.

36. An administrator's authorization is revoked of right the moment the administrator no longer holds an insurer's licence under the Act respecting

insurance, no longer holds a trust company licence under the Act respecting trust companies and savings companies, or is no longer registered as an investment fund manager in accordance with Title V of the Securities Act.

§3.—*Register of authorized administrators*

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

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

§4.—*Distribution*

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

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

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

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

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

DIVISION II

EMPLOYERS

41. An employer within the meaning of subparagraph 7 of the first paragraph of section 1 of the Act respecting labour standards (chapter N-1.1) having an

establishment in Québec may offer a voluntary retirement savings plan to employees.

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

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

(1) is an employee within the meaning of subparagraph 10 of the first paragraph of section 1 of the Act respecting labour standards and carries out work in Québec, or who is referred to in paragraph 1 or 2 of section 2 of that Act;

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

(3) does not have a registered retirement savings plan or a tax-free savings account, in the enterprise of the employer referred to in the second paragraph, for which payroll deductions may be made, or a registered pension plan within the meaning of the Income Tax Act, to which that employer is party.

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

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

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

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

(4) of the fact that the employer will provide the administrator with the personal information determined by regulation concerning the employees referred to in the last paragraph of section 43;

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

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

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

(8) of any other information determined by regulation.

43. An employer who has subscribed to a voluntary retirement savings plan must automatically enroll in the plan any eligible employee and any employee who so requests.

The employer must also offer the plan to any eligible employee who has opted out of the plan and offer any eligible employee who has discontinued contributions to the plan the possibility of resuming contributions to the plan. The employer must do so during the month of December of the year following the date the employee opted out of the plan or discontinued contributions to the plan.

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

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

44. When an eligible employee opts out of the plan, the employer must keep proof of the notice of opting out and notify the plan administrator within 30 days.

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

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

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

Sections 84 and 86 apply to the transfer, with the necessary modifications.

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

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

48. An employer must notify the plan administrator that employment of an employee who is a member of the plan is terminated or that an employee has discontinued contributions to the plan within 30 days after the date of

termination of employment or the date the notice required under the second paragraph of section 66 is received.

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

CHAPTER IV

CONTRIBUTIONS

DIVISION I

COLLECTION, REMITTANCE, AND CONTRIBUTION RATES

50. A member establishes the rate of his or her contribution to the voluntary retirement savings plan within 60 days after the notice mentioned in subparagraph 1 of the first paragraph of section 18 is sent, failing which, the rate set by regulation applies.

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

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

52. An employer is not required to contribute to the plan on behalf of the employees.

An employer who contributes to a member's plan may change the contribution the employer has agreed to pay. The employer must then send a written notice to the plan administrator and the members concerned.

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

53. From the sixty-first day after the notice referred to in section 18 is sent by the administrator, an employer must deduct the members' contributions for each pay period from their salary.

54. An employer must remit member contributions to the plan on or before the last day of the month that follows the day on which they are collected, along with the contributions the employer agreed to pay on behalf of the members.

55. If an employer fails to pay the contributions to the plan within the time limit set in section 54, the employer must pay interest on the contributions due.

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

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

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

58. Within 60 days after the time limit set in section 54, a plan administrator must notify the Régie of any contributions not remitted by the employer and the measures taken to ensure remittance.

DIVISION II

LOCKING IN

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

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

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

DIVISION III

REFUNDS AND TRANSFERS

§1.—*Locked-in account*

62. When employment of a member is terminated, when the member reaches the age of 55, when the member's employer establishes a pension plan or an account referred to in subparagraph 3 of the third paragraph of section 41, or in the cases referred to in section 63, all or part of the member's locked-in account may be transferred to a pension plan determined by regulation and chosen by the member.

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

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

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

(2) if the balance in the member's locked-in account is, subject to any other percentage and conditions set by regulation, less than 20% of the Maximum Pensionable Earnings established in accordance with the Act respecting the Québec Pension Plan (chapter R-9) for the year in which the member is no longer employed by an employer who subscribed to a voluntary retirement savings plan; or

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

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

§2. — *Not locked-in account*

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

Despite the first paragraph, in the case of termination of employment and in the cases provided for in subparagraphs 1 and 3 of the first paragraph of section 63, a member is entitled at any time to the refund or transfer of all or part of the not locked-in account.

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

DIVISION IV

VARIABLE PAYMENTS

65. The voluntary retirement savings plan may provide that a member who has reached the age of 55 or the member's spouse, as defined in section 69, may elect to receive variable payments from the funds in his or her accounts, on the conditions and within the time provided by regulation.

DIVISION V

DISCONTINUANCE OF CONTRIBUTIONS

66. A member may, at any time, discontinue contributions to the voluntary retirement savings plan.

The member must inform the plan administrator of the fact in writing or, if the member's employer collects his or her contributions, the member must notify the employer so that any contributions on his or her account may be discontinued.

The employer must remit to the administrator any contributions collected and any contributions the employer had agreed to pay before receiving the notice.

67. An employee who discontinues contributions to the plan may not, unless his or her employer agrees, again pay contributions to the plan before the end of a 12-month period after the date contributions were discontinued.

68. In this Act, setting the rate of contribution at 0% is not considered to be a discontinuance of contributions.

CHAPTER V

DEATH OF MEMBER

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER VI

TRANSFER OF BENEFITS BETWEEN SPOUSES

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

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

74. Upon the introduction of an application for separation from bed and board, divorce, annulment of marriage, dissolution or annulment of a civil union or payment of a compensatory allowance, the member and his or her spouse are entitled, upon application in writing to the plan administrator, to obtain a statement of the benefits accumulated by the member under the voluntary retirement savings plan and the value of the benefits on the date the

proceedings are instituted; the statement also contains any other information determined by regulation. The benefits and their value are established according to the rules determined by regulation.

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

75. In the event of cessation of the conjugal relationship between a member of the plan and a spouse, within the meaning of subparagraph 2 of the first paragraph of section 69, the member and the spouse may, in the ensuing year, agree in writing to a partition of the benefits accumulated by the member under the plan; such an agreement cannot, however, confer on the spouse more than 50% of the value of the benefits.

For that purpose, the member and the spouse are entitled to obtain the statement described in section 74, established on the date of cessation of their conjugal relationship.

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

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

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

(1) the benefits awarded to the spouse from the member's locked-in account may be used only to constitute a life pension, except in the cases determined by regulation, even when the benefits are transferred to a pension plan determined by regulation; and

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

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

77. The cost of producing the statement referred to in section 74 and the expenses incurred for effecting the transfer of benefits between spouses may be claimed from the spouses only up to the limit set by regulation.

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

CHAPTER VII

WINDING-UP AND TERMINATION

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

79. The Régie orders the liquidation of the plan assets if the Autorité des marchés financiers informs it that the plan administrator is no longer complying with the conditions set out in section 30 in order to maintain authorization or that it revoked authorization under either of paragraphs 1 and 3 of section 32, that it revoked authorization under the first paragraph of section 33 or that authorization was revoked of right under section 36.

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

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

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

The notice required under the first paragraph must also contain

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

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

(b) a note that the sums accrued in each of the accounts will be transferred to the voluntary retirement savings plan chosen by the employer or, if the

employer fails to choose a plan at least 30 days before the date set for the liquidation of the plan assets, to the voluntary retirement savings plan chosen by the administrator;

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

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

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

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

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

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

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

(4) any other information determined by regulation.

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

83. The plan administrator may obtain an extension from the Régie to liquidate the plan assets if the Régie is satisfied that it was impossible for the administrator to act within the time limit set in section 81, or if it is of the opinion that an extension is likely to serve the interests of the members.

84. The contributions an employer is required to remit to the plan under section 54 must be paid into the plan until the date the assets are transferred to the plan chosen by the employer, or if there is no such plan, to the plan the administrator will have chosen.

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

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

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

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

88. The plan is terminated when all the assets are liquidated.

89. After liquidating the plan assets, the plan administrator, within the following 60 days, must give the members of the plan and the employers who have not made the choice provided for in the second paragraph of section 82 the new administrator's contact information, and render an account to the Régie of the liquidation of the assets by filing

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

(2) a wind-up report consisting of the annual statement and the financial report required under the first and second paragraphs of section 23; the wind-up report must cover the period between 1 January of the current year and the date of liquidation of the plan assets; and

(3) any other information determined by regulation.

90. Any amount due to a member who is untraceable and who is affected by the termination of the plan must, within the time set in section 81, be transferred to the Minister of Revenue. The transfer must be accompanied by a statement setting out the amount due and, where applicable, the name and last known address of the member.

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

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

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

CHAPTER VIII

OBLIGATION TO INFORM

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

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

(2) provide the member concerned, within 30 days following receipt of the notice of termination of employment of the member or the date the member reaches the age of 55, with a statement containing the information determined by regulation; and

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

CHAPTER IX

FUNCTIONS AND POWERS OF THE RÉGIE

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

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

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

(2) carry out inspections regarding the plans;

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

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

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

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

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

(2) the financial report prepared under the second paragraph of section 23 does not comply with generally accepted accounting principles;

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

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

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

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

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

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

98. The Régie must periodically post a bulletin on its website containing the general instructions it provides under paragraph 1 of section 94 and any other information determined by regulation.

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

The application for an injunction constitutes in itself an action.

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

100. The Régie may, on its own initiative and without notice, intervene in any proceeding in which a question relating to this Act has been raised.

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

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

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

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

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

(5) when authorization is suspended or revoked by the Autorité des marchés financiers under paragraph 1 of section 32; or

(6) when authorization is revoked by the Autorité des marchés financiers under the first paragraph of section 33.

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

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

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

CHAPTER X

FUNCTIONS AND POWERS OF THE AUTORITÉ DES MARCHÉS FINANCIERS

104. The functions and powers conferred on the Autorité des marchés financiers under the Acts it administers in compliance with section 7 of the Act respecting the Autorité des marchés financiers (chapter A-33.2), with respect to insurers, trust companies and investment fund managers, apply to

administrators who have obtained authorization under this Act, with the necessary modifications.

Furthermore, sections 329 to 336 of the Act respecting trust companies and savings companies apply to any administrator referred to in subparagraph 1 of the second paragraph of section 13.

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

106. The Autorité des marchés financiers is responsible for the administration of sections 13, 27 to 40, 104, 105, 110, 112, 113, subparagraph 8 of the first paragraph of section 115 and sections 119, 133 and 136.

CHAPTER XI

FUNCTIONS AND POWERS OF THE COMMISSION DES NORMES DU TRAVAIL

107. The Commission des normes du travail supervises compliance with the obligations set out in the second paragraph of section 41, section 42 when the second paragraph of section 41 applies and section 43.

108. Sections 103 to 110 of the Act respecting labour standards apply to the inquiries the Commission may carry out for the purposes of the sections mentioned in section 107, with the necessary modifications.

CHAPTER XII

PROCEEDINGS

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

110. Any decision by the Autorité des marchés financiers under this Act is subject to the Act respecting the Autorité des marchés financiers and may be reviewed under that Act.

CHAPTER XIII

REGULATIONS

111. The Government may, by regulation,

(1) for the purposes of section 3, determine

(a) the manner of registering a voluntary retirement savings plan;

(b) the types of amendments that must be registered and the manner of registering them;

(c) the documents and information the administrator must file with the Régie; and

(d) the fees the administrator must deposit with the Régie;

(2) for the purposes of section 4, determine the information that must be included in the text of the plan;

(3) for the purposes of section 8, determine the cases in which a plan and its amendments may become effective on a date before the date on which they are registered;

(4) for the purposes of section 16, prescribe the information that must be included in a contract between the plan administrator and the employer or a member, as the case may be;

(5) for the purposes of section 18, determine the information that may be contained in the summary the plan administrator transmits to each member whose employer is subscribed to a plan;

(6) for the purposes of section 20, determine the grounds on which an administrator may refuse the application of an employer or an individual to subscribe to the plan;

(7) for the purposes of section 22, determine the cases where a plan administrator may give, offer or agree to give or offer an employer an inducement to enter into a contract with the administrator in respect of a voluntary retirement savings plan, the conditions that apply and the type of inducement, if any;

(8) for the purposes of section 23, prescribe the fees to be paid with the annual statement as well as the cases in which the financial report need not be audited by an accountant;

(9) for the purposes of section 24, determine the criteria to be met by the default investment option as well as the conditions governing the other investment options the plan administrator may offer, from among which a member may make an investment choice;

(10) for the purposes of section 25, determine the circumstances in which the plan administrator may change a member's investment choices and how such a change is made;

(11) for the purposes of section 26, establish the criteria for determining if the plan is low cost, as well as the fees a plan administrator may charge members and those that may be deducted from the return on fund assets;

(12) for the purposes of section 42, determine the personal information concerning the employees with which the employer will provide the administrator and any other information that may be contained in the notice the employer sends the employees;

(13) for the purposes of section 45, prescribe the conditions for the payment of the costs related to the transfer of the employee accounts and for the transfer itself;

(14) for the purposes of section 49, provide the cases in which an employer may demand, accept or agree to accept an inducement from a plan administrator, or offer or agree to offer a plan administrator an inducement, with a view to entering into a contract with the administrator in respect of a voluntary retirement savings plan, the conditions that apply and the type of inducement, if any;

(15) for the purposes of section 50, set the default contribution rate;

(16) for the purposes of section 51, determine the conditions under which a member may set a contribution rate at 0%;

(17) for the purposes of section 55, determine the rate at which and the manner in which the contributions bear interest;

(18) for the purposes of section 60, determine the other amounts credited to the member's locked-in and not locked-in accounts;

(19) for the purposes of sections 62, 64, 70, 76 and 121, determine the pension plans to which the amounts from the locked-in and not locked-in accounts, as the case may be, may be transferred;

(20) for the purposes of section 63, set the conditions and a percentage other than 20%;

(21) for the purposes of section 65, regulate variable payments;

(22) for the purposes of section 71, determine the details of the benefit payable on the death of a member who was receiving variable payments;

(23) for the purposes of section 74, determine

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

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

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

(24) for the purposes of section 75, prescribe the manner in which the member's benefits are partitioned;

(25) for the purposes of section 76, determine

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

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

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

(26) for the purposes of section 77, set the limit for the costs and expenses that may be claimed;

(27) for the purposes of section 82, determine the employee's options for the payment of his or her benefits and the other information the notice may contain;

(28) for the purposes of section 89, determine the information a plan administrator must file with the Régie after liquidating the plan assets;

(29) for the purposes of section 92, determine the manner in which a plan administrator must provide members with statements, as well as the information the statements must contain;

(30) for the purposes of section 94, establish the costs related to an inspection or an inquiry that a plan administrator may charge;

(31) for the purposes of section 98, determine the information the Régie may post on its website; and

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

112. The Autorité des marchés financiers may, by regulation,

(1) for the purposes of section 27, determine

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

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

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

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

(2) for the purposes of section 30, determine the requirements for the maintenance by a plan administrator of its liability insurance.

113. A regulation of the Autorité des marchés financiers under subparagraphs *b* to *d* of paragraph 1 or paragraph 2 of section 112 must be submitted for approval to the Minister of Finance and the Economy, who may approve it with or without amendment.

However, a regulation of the Autorité des marchés financiers under subparagraph *a* of paragraph 1 of section 112 must be submitted for approval to the Government, which may approve it with or without amendment.

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

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

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

CHAPTER XIV

PENAL PROVISIONS

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

(1) a plan administrator that commits an offence under section 18, 20, 21, 22 or 23, the first paragraph of section 24, section 25, 56, 58, 59 or 61, the second paragraph of section 62 or 63, the third paragraph of section 64 or section 80, 81, 82, 87, 89 or 92;

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

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

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

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

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

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

(2) a plan administrator that contravenes section 26;

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

(4) a person who acts as a plan administrator or suggests they are one without holding the authorization required under section 13;

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

(6) a person who provides false documents or information, or access to false documents or information, to the Autorité des marchés financiers or the Régie, or to a member of the personnel of the Autorité des marchés financiers or the Régie, in the course of activities governed by this Act;

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

(8) a person who contravenes section 39.

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

116. An employer who fails to remit contributions as required under section 54 or the third paragraph of section 66 is guilty of an offence and liable to a fine of \$800 to \$10,000.

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

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

(1) commits an offence under the second paragraph of section 41, section 42, 43, 44, 45, 47, 48 or 49, the second paragraph of section 52 or section 53, 55 or 84; or

(2) contravenes an order made under this Act.

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

118. A person who, by an act or omission, assists or, by encouragement, advice or consent or by an authorization or an order, induces another person to commit an offence under section 114 or 115 is guilty of the same offence.

119. Penal proceedings may be instituted by the Autorité des marchés financiers for an offence under subparagraph 8 of the first paragraph of section 115.

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

CHAPTER XV

MISCELLANEOUS PROVISIONS

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

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

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

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

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

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

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

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

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

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

Such agreements may, in particular,

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

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

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

The provisions of the agreement have force of law for the period during which it remains in force. In case of incompatibility, the provisions of the agreement that have force of law prevail over the provisions of this Act.

CHAPTER XVI

AMENDING PROVISIONS

CIVIL CODE OF QUÉBEC

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

“— a plan governed by the Supplemental Pension Plans Act (chapter R-15.1) or by the Voluntary Retirement Savings Plans Act (*insert the year and chapter*

number of this Act) or that would be governed by one of those Acts if one of them applied where the spouse works;”.

ACT RESPECTING THE AUTORITÉ DES MARCHÉS FINANCIERS

125. Section 19.1 of the Act respecting the Autorité des marchés financiers (chapter A-33.2) is amended

(1) by inserting “the members of a voluntary retirement savings plan administered by that person, partnership or other entity,” after “the rights of” in subparagraph 3 of the first paragraph;

(2) by inserting “12 of this Act, section” after “under section” in subparagraph 4 of the first paragraph.

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

“SECTIONS 13, 27 TO 40, 104 TO 106, 110, 112, 113, SUBPARAGRAPH 8 OF THE FIRST PARAGRAPH OF SECTION 115 AND SECTIONS 119, 133 AND 136 OF THE VOLUNTARY RETIREMENT SAVINGS PLANS ACT (*insert the year and chapter number of this Act*)”.

CODE OF CIVIL PROCEDURE

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

ACT RESPECTING ADMINISTRATIVE JUSTICE

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

“(20.2.1) section 109 of the Voluntary Retirement Savings Plans Act (*insert the year and chapter number of this Act*);”.

ACT RESPECTING LABOUR STANDARDS

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

“The Commission shall also supervise compliance with the obligations described in the second paragraph of section 41, section 42 when the second paragraph of section 41 applies and sections 42 and 43 of the Voluntary Retirement Savings Plans Act (*insert the year and chapter number of this Act*).”

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

“(8) on the ground that such employee has exercised a right arising from the Voluntary Retirement Savings Plans Act (*insert the year and chapter number of this Act*); or

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

REGULATION UNDER THE ACT RESPECTING INSURANCE

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

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

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

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

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

CHAPTER XVII

TRANSITIONAL AND FINAL PROVISIONS

133. Despite the second paragraph of section 38, until 1 January 2016 or until any later date determined by the Minister of Finance and the Economy, an insurer may provide a voluntary retirement savings plan to an employer through a representative in insurance of persons referred to in section 3 of the Act respecting the distribution of financial products and services (chapter D-9.2).

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

134. Despite the second paragraph of section 41, employers who, on 31 December 2013, have five eligible employees or more have two years from 1 January 2014 to comply with the obligation set out in that section.

135. Despite section 11 of the Regulations Act (chapter R-18.1), the first proposed regulation made by the Government under section 111 may be made as early as the fifteenth day following the day it is published in the *Gazette officielle du Québec*.

136. The first regulation made by the Autorité des marchés financiers under subparagraph *a* of paragraph 1 of section 112 may come into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified in it. Sections 4 to 8, 11 and 17 to 19 of the Regulations Act do not apply to that regulation.

The first regulation made by the Autorité des marchés financiers under subparagraphs *b* to *d* of paragraph 1 or paragraph 2 of section 112 may come into force despite not being published in the bulletin of the Autorité des marchés financiers.

137. The Minister of Employment and Social Solidarity is responsible for the administration of this Act, except sections 13, 27 to 40, 104 to 106, 110, 112, 113, subparagraph 8 of the first paragraph of section 115 and sections 119, 133 and 136, which are under the responsibility of the Minister of Finance and the Economy, and the second paragraph of section 41, section 42 when the second paragraph of section 41 applies and sections 43, 107 and 108, which are under the responsibility of the Minister of Labour.

138. This Act comes into force on 1 January 2014. However, sections 13, 27, 28, 30, 37, 112, 113, 135 and 136 may come into force on any earlier date set by the Government.

