

chapter R-9, r. 6

Regulation respecting pensionable employment

Act respecting the Québec Pension Plan
(chapter R-9, ss. 4 and 5).

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DIVISION I

DEFINITIONS AND APPLICATION

1. For the purposes of the Act respecting the Québec Pension Plan and this Regulation,

(a) “agriculture” means all the operations relating to farming when carried on a farm for the benefit of an individual or other person who is a farmer and, without limiting the generality of the foregoing, includes:

(1) the following operations, when they are carried on a farm for the benefit of an individual or other person who is a farmer:

- i. clearing of land for the purposes of farming;
- ii. cultivation of the soil;
- iii. conservation of the soil, including the construction, maintenance and operation of drainage systems, ditches, canals, reservoirs or waterways exclusively for the purposes of farming;
- iv. producing, harvesting, storing or grading of any natural product of farming;
- v. harvesting of wild berries, including the preparation of land therefor;
- vi. raising of bees and producing of honey;
- vii. breeding or raising of livestock, furbearing animals or birds of any kind;
- viii. producing of eggs;
- ix. dairy farming and the processing of butter cheese on the farm where it is produced;
- x. producing of maple sap, maple syrup or maple sugar;

(2) the marketing or selling, off the farm for the benefit of such farmer, of any of the products of the operations previously described in this paragraph, where such marketing or selling is incidental to those operations;

(b) “agricultural enterprise” means the business of agriculture carried on for the benefit of an individual or other person who is a farmer;

(c) “horticulture” means the operations relating to:

(1) raising, producing or harvesting of vegetables, flowers, shrubs or ornamental grasses and their seeds, seedlings grafts or cuttings;

(2) landscape gardening where such landscape gardening is only incidental to the carrying on of any of the operations described in subparagraph 1 or the operations of agriculture;

(3) all services incidental to the carrying on of the operations described in subparagraph 1 or 2 if such services are performed where the operations are carried on;

(d) “fishing” means fishing for any fish, including shellfish, crustaceans, molluscs, or any aquatic animal or plant;

(e) “hunting” means hunting for any wild animal, but does not include any operation involved in carrying on the business of rodent extermination;

(f) “trapping” means trapping any wild animal, but does not include any operation involved in carrying on the business of rodent extermination;

(g) “forestry” means all operations in a forest or on a woodlot or tree farm relating to:

(1) the breeding, raising, propagation, production, cutting or harvesting of trees;

(2) logging, namely:

i. the cutting of trees, converting them into timber, and all operations for the purpose of getting the timber from the forest, woodlot or tree farm to a mill, plant or factory;

ii. lumbering, namely, the preparation of timber for milling into and the milling of timber into lumber or boards;

(3) all services incidental to the carrying on of any of the operations described in subparagraphs 1 and 2 if such services are performed where the operations are carried on;

(h) “timber” means trees, logs of any size, lathwood, pulp- wood, fuelwood, tiewood, veneerwood, posts, bolts, piles, pit props, spars, stakes, bark, chips or any crude wood before it has been milled or otherwise manufactured;

(i) “international organization” means an organization of which Canada is a member, whether such organization is brought into relationship with the United Nations in accordance with article 63 of the Charter of the United Nations, or whether such organization has as its primary purpose the maintenance of international peace or the economic or social well-being of a community of nations;

(j) “foreign affiliate” means a corporation described as such in Chapter I of Title X of Book III of Part I of the Taxation Act (chapter I-3).

R.R.Q., 1981, c. R-9, r. 8, s. 1.

2. In this Regulation, the word “Act” means the Act respecting the Québec Pension Plan (chapter R-9).

R.R.Q., 1981, c. R-9, r. 8, s. 2.

3. Employment by Her Majesty in right of Canada: Employment in Québec by Her Majesty in right of Canada, or by an agent of Her Majesty in right of Canada, is included in pensionable employment under the Act.

Employment, however, as a member of the Canadian Forces or the Royal Canadian Mounted Police, or employment conferring the right to a pension under the Judges Act (R.S.C. 1985, c. J-1) remains excepted employment.

R.R.Q., 1981, c. R-9, r. 8, s. 3.

4. Directors resident outside Canada: The employment of an individual who is not ordinarily resident in Canada, and who is an employee within the meaning of the Act by virtue only of his position as a director of a legal person, is excepted employment if such employment is performed wholly or partly outside of Canada.

R.R.Q., 1981, c. R-9, r. 8, s. 4; O.C. 187-97, s. 1.

5. Employment by an employer resident outside Québec: Employment in Québec by an employer having no establishment in Québec is excepted employment.

Such employment, however, shall be pensionable employment if the employer, in respect of employment performed in Québec by his employees resident in Canada, and whose remuneration is paid from an

establishment of the employer situated outside Canada, makes an arrangement with Retraite Québec for the payment of contributions in respect of such employment.

R.R.Q., 1981, c. R-9, r. 8, s. 5.

6. For the purposes of section 5, the employee of an employer having no establishment in Québec is held to be employed in Québec:

(a) if the employee ordinarily works therein or ordinarily does the most work therein; or

(b) in any case where a determination cannot be made under paragraph *a*, if the employee resides therein.

R.R.Q., 1981, c. R-9, r. 8, s. 6.

7. For the purposes of sections 56 to 56.5 of the Act with regard to an individual's employment considered employment covered under the second paragraph of section 5, amounts not deducted at source by an employer on account of the base contribution, the first additional contribution or the second additional contribution, as the employer should have done under the Act or a similar plan, cannot be taken into account.

R.R.Q., 1981, c. R-9, r. 8, s. 7; O.C. 868-2019, s. 1.

8. Employment outside Canada: Employment outside of Canada, that would be pensionable employment if it were in Québec, shall be included in pensionable employment if performed for an employer having an establishment in Québec and if the employer, in respect of his employees who were assigned outside Canada at a time they were resident in Québec, makes an arrangement with Retraite Québec for the payment of contributions in respect of such employment.

Work that would be pensionable employment if it were performed in Québec and that is performed outside Canada by a Canadian citizen for the account of a foreign affiliate of an employer having an establishment in Québec shall also be considered as pensionable employment for a period of not more than 5 years from the time of the assignment, if such employer makes on behalf of his employees who resided in Québec at the time they were assigned to his foreign affiliate outside Canada an arrangement with Retraite Québec for the payment of contributions in respect of such employment.

Employment outside of Canada that would be pensionable employment if it were performed in Québec shall also be considered as pensionable employment as long as it is performed by a person subject to the Act under an agreement entered into under section 215 of the Act.

This section does not apply to employment in a transportation enterprise as defined in Division II of this Regulation.

R.R.Q., 1981, c. R-9, r. 8, s. 8; O.C. 529-88, s. 1.

9. Employment of Québec's officer or servant outside Québec: Employment outside Québec of a Canadian citizen as an agent-general, officer or servant of Québec is pensionable employment.

R.R.Q., 1981, c. R-9, r. 8, s. 9.

10. Employment by another government or international organization: Employment in Québec by another government or international organization shall be included in pensionable employment if so included according to the terms of an agreement made between Retraite Québec and such government or organization.

R.R.Q., 1981, c. R-9, r. 8, s. 10.

DIVISION II

TRANSPORTATION ENTERPRISES

11. In this Division,

(a) “employment in a transportation enterprise” means the employment of an employee in a pay period in a transportation enterprise by road, by air, by rail or by water, where such employment is the employment primarily engaged in by that employee in the pay period and is performed partly within Québec and partly outside Canada;

(b) “pay period” means a pay period as defined in the Regulation respecting contributions to the Québec Pension Plan (chapter R-9, r. 2).

R.R.Q., 1981, c. R-9, r. 8, s. 11.

12. For the purposes of this Division, a station, marshalling yard, airport, pier, wharf, warehouse, garage or workshop is deemed to be an establishment of the employer.

R.R.Q., 1981, c. R-9, r. 8, s. 12.

13. Notwithstanding this Division, employment in a transportation enterprise is not pensionable employment unless it is employment that would be pensionable employment if it were wholly within Québec.

Employment in a transportation enterprise which is not pensionable employment under this Division is excepted employment.

R.R.Q., 1981, c. R-9, r. 8, s. 13.

14. Transportation by road: Employment in a transportation enterprise by road that is regarded, for the purposes of taxation under the Taxation Act (chapter I-3), as an enterprise of Canada, shall be pensionable employment if the employee is resident in Canada and ordinarily reports for work at an establishment of his employer situated in Québec.

R.R.Q., 1981, c. R-9, r. 8, s. 14.

15. Employment in a transportation enterprise by road that is regarded, for the purposes of taxation under the Taxation Act (chapter I-3), as an enterprise of the United States of America is excepted employment.

If, however, the employee is resident in Canada and ordinarily reports for work at an establishment of his employer situated in Québec, that part of such employment performed in Canada shall be included in pensionable employment if the employer makes the arrangement mentioned in section 5.

R.R.Q., 1981, c. R-9, r. 8, s. 15.

16. Transportation by air: Employment in a transportation enterprise by air, classified as an international air carrier and as a domestic air carrier under the Air Transportation Regulations (SOR/88-58), shall be pensionable employment if the employee ordinarily reports for work at an establishment of the employer situated in Québec.

R.R.Q., 1981, c. R-9, r. 8, s. 16.

17. Transportation by rail: Pensionable employment includes, in the case of employment in a transportation enterprise by rail, whose principal establishment is in Canada, that part of the employment determined by the employer, under standards approved by Retraite Québec, to be in respect of employment in Canada, if the employee ordinarily reports for work in Québec.

R.R.Q., 1981, c. R-9, r. 8, s. 17.

18. Pensionable employment includes, in the case of employment in a transportation enterprise by rail, whose principal establishment is outside of Canada, that part of the employment determined by the employer under standards approved by Retraite Québec to be in respect of employment in Canada, if the employee is resident in Canada and ordinarily reports for work in Québec.

R.R.Q., 1981, c. R-9, r. 8, s. 18.

19. Transportation by water: Employment in a transportation enterprise by water is pensionable employment if the employee is resident in Québec and performs such employment under an agreement with the crew entered into Canada under the Canada Shipping Act, 2001 (S.C. 2001, c. 26).

R.R.Q., 1981, c. R-9, r. 8, s. 19.

DIVISION III

CASUAL OR SHORT-TERM EMPLOYMENT

20. The following casual or short-term employment is excepted:

(a) employment in abating a disaster or effecting a rescue, if the employee is not in the regular employment of the employer;

(b) employment, other than as an entertainer, in a circus, show, fair, parade, carnival, exposition, exhibition or other like activity, if the employee:

- i. is not in the regular employment of the employer; and
- ii. is so employed by the employer for less than 7 days in the year;

(c) *(subparagraph revoked)*;

(d) employment by the Government of Canada, the government of a province, a municipality, a school service centre or a school board with respect to any referendum or election if the employee:

- i. is not in the regular employment of the employer; and
- ii. is so employed by the employer for less than 35 hours with respect to such referendum or election.

Excepted employment as described in subparagraph *b* or *d* of the first paragraph becomes included employment from the time the employee who performs such employment becomes an employee in the regular employment of the employer.

Employment shall be included employment from its commencement, notwithstanding subparagraph *b* or *d* of the first paragraph, where such employment is performed for the benefit of a single employer during one or more periods whose total duration exceeds, in the course of a year:

(a) 6 days, in the case of employment described in subparagraph *b* of the first paragraph;

(b) 34 hours, in the case of employment described in subparagraph *d* of the first paragraph.

R.R.Q., 1981, c. R-9, r. 8, s. 20; O.C. 789-99, s. 1; O.C. 816-2021, s. 85.

DIVISION IV

OPTION

21. For the purposes of sections 55 to 55.2 of the Act, the following is contemplated:

- (a) employment described in paragraph *h* of section 3 of the Act, in section 5 and in the first paragraph of section 8, where the employer has not signed any agreement or arrangement, as the case may be;
- (b) employment excepted by sections 13 and 20;
- (c) employment excepted by paragraph *a* of section 3 of the Act,

where the employee who performs it resides in Québec within the meaning of section 8 of the Act, or is deemed to be employed in Québec in accordance with the Taxation Act (chapter I-3).

R.R.Q., 1981, c. R-9, r. 8, s. 21; S.Q. 2017, c. 29, s. 266; O.C. 868-2019, s. 2.

UPDATES

R.R.Q., 1981, c. R-9, r. 8

O.C. 529-88, 1988 G.O. 2, 1940

O.C. 187-97, 1997 G.O. 2, 932

O.C. 789-99, 1999 G.O. 2, 1702

S.Q. 2015, c. 20, s. 61

S.Q. 2017, c. 29, s. 266

O.C. 868-2019, 2019 G.O. 2, 2286

O.C. 816-2021, 2021 G.O. 2, 2103

