

**These Rules are Current to December 14, 2018*****PUBLIC SERVICE PENSION PLAN RULES***

Effective April 1, 2000

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## ***PUBLIC SERVICE PENSION PLAN RULES***

### **Background**

Pursuant to the *Pension (Public Service) Act*, R.S.B.C. 1996, c. 356 (the “former Act”), a pension plan was provided for the benefit of certain public service employees. The Public Service Pension Fund was continued under the former Act.

The *Public Sector Pension Plans Act*, S.B.C. 1999, c. 44 (the “Act”), which received Royal Assent on July 15, 1999, introduced certain changes to British Columbia’s four statutory pension plans, including the plan provided for under the former Act. Effective April 1, 2000, the plan provided for under the former Act was continued as the Public Service Pension Plan under Schedule C to the Act and the regulations made pursuant to subsection 16(1) of Schedule C to the Act (the *Public Service Pension Plan Regulation*, B.C. Reg. 114/2000). Effective April 1, 2000, the Public Service Pension Fund was continued under Schedule C to the Act.

Section 18 of Schedule C to the Act provides that the government and the B.C. Government and Service Employees’ Union, the Professional Employees Association and the Union of Psychiatric Nurses may enter into a joint management agreement for the management of the Public Service Pension Plan and the Public Service Pension Fund. Once such a joint management agreement is concluded and Part 1 of Schedule C to the Act is repealed and replaced pursuant to sections 114 and 121 of the Act, the joint management agreement and the pension plan rules made under that agreement will govern the Public Service Pension Plan and the Public Service Pension Fund.

The government and the B.C. Government and Service Employees’ Union, the Professional Employees Association and the Union of Psychiatric Nurses entered into a joint trust agreement which was made pursuant to, and constitutes a joint management agreement for the purposes of, section 18 of Schedule C to the Act. As a result, on the date that sections 114 and 121 of the Act come into force (the “effective date”), the Public Service Pension Plan and the Public Service Pension Fund will be continued under the joint trust agreement.

Beginning the effective date, the pension plan rules made under Article 11 of the joint trust agreement replace the *Public Service Pension Plan Regulation*, B.C. Reg. 114/2000. This document constitutes the pension plan rules of the Public Service Pension Plan made under Article 11 of the joint trust agreement.

**Interpretation**

- 1 (1) This document constitutes the pension plan rules of the Public Service Pension Plan which replace the *Public Service Pension Plan Regulation*, B.C. Reg. 114/2000. These pension plan rules are referred to in this document as the “Plan”.
- (2) Part 13 contains definitions of terms used in this Plan.
- (3) Pursuant to subsections 3.1(b) to (d) of the Public Service Pension Plan Joint Trust Agreement, the Plan applies to every person who, immediately before the effective date, was an employer, eligible employee or member under the Public Service Pension Plan Regulation, B.C. Regulation 114/2000 or any predecessor legislation or regulation.
- (4) In this Plan, unless the context requires otherwise:
  - (a) gender specific terms include both genders and include corporations;
  - (b) words in the singular include the plural, and words in the plural include the singular;
  - (c) where a word or expression is defined, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
  - (d) headings are used for ease of reference only and do not form part of the Plan;
  - (e) the use of the word “may” is to be construed as permissive and empowering; and
  - (f) the use of the word “must” is to be construed as imperative.

*[Note: Sections of this Plan that are identical or similar to, or that correspond to, the rules made for the College Pension Plan, the Municipal Pension Plan, and the Teachers’ Pension Plan under the Act are given identical section numbering to the rules of those other pension plans, even though this means breaking the normal sequential section numbering system of this Plan.]*

**PART 1 – ENROLLMENT IN THE PENSION PLAN****Employer eligibility**

- 2 (1) This Plan applies to the following employers with respect to their eligible employees:
  - (a) the government;
  - (b) an employer, or other person or body responsible for payment of salary, to whom application of this Plan is authorized by another enactment;
  - (c) any other body designated by the board or former board as an employer, on terms and conditions of eligibility specified by the board or former board.
- (2) In this Plan, the Minister of Finance and Corporate Relations acts on behalf of the government, as an employer, for the purpose of making deductions from the salaries of eligible employees and making the employer contributions as required by Part 2.
- (3) After this Plan begins to apply to an employer, it continues to apply to that employer unless and until otherwise permitted by the board in accordance with the terms and conditions established by the board.

**Employee eligibility**

- 3 (1) Subject to terms and conditions of eligibility specified by the board or former board, this Plan applies to the following employees:
- (a) in the case of an employer referred to in section 2 (1) (a),
    - (i) to a regular employee,
    - (ii) subject to subsection (2), to a regular employee who is appointed by the Lieutenant Governor in Council,
    - (iii) to an employee who is not within subparagraph (i) or (ii) and who,
      - (A) in any calendar year, has earned a salary that in the aggregate exceeds 50% of the year's maximum pensionable earnings, or
      - (B) subject to subsection (2), has been employed continuously for 2 years where there has not been a temporary absence of more than 52 weeks,
    - (iv) to an assistant deputy minister and an associate deputy minister, and
    - (v) subject to subsection (2), to a deputy minister;
  - (b) in the case of an employer referred to in section 2 (1) (b),
    - (i) to a regular employee,
    - (ii) to an employee who is not within subparagraph (i) and who,
      - (A) in any calendar year, has earned a salary that in the aggregate exceeds 50% of the year's maximum pensionable earnings, or
      - (B) subject to subsection (2), has been employed continuously for 2 years where there has not been a temporary absence of more than 52 weeks, and
    - (iii) to a person receiving a salary payable from public money, within the meaning of the *Financial Administration Act*, to whom this Plan is declared to apply by another enactment or by order of the Lieutenant Governor in Council;
  - (c) in the case of an employer referred to in section 2 (1) (c),
    - (i) to a regular employee,
    - (ii) to an employee who is not within subparagraph (i) and who,
      - (A) in any calendar year, has earned a salary that in the aggregate exceeds 50% of the year's maximum pensionable earnings, or
      - (B) subject to subsection (2), has been employed continuously for 2 years where there has not been a temporary absence of more than 52 weeks,
    - (iii) to a person receiving a salary payable from public money, within the meaning of the *Financial Administration Act*, to whom this Plan is declared to apply by another enactment or by order of the Lieutenant Governor in Council, and
    - (iv) to a person approved by the board or former board.
- (2) An employee referred to in subsection (1) (a) (ii), (iii) (B) or (v), (b) (ii) (B) or (c) (ii) (B) or (2.1) may elect not to participate in this Plan by signing a waiver form to that effect, and the employer must retain a copy of the waiver form.
- (2.1) Despite subsection (1), if an employee is in the employ of an employer to whom this Plan begins to apply on or after July 1, 2011 the employee may, by giving written notice to the employer not more than 90 days after the date this Plan begins to apply to the employee, elect not to participate in this Plan by making the waiver required by subsection (2).

- (3) When the waiver form referred to in subsection (2) is signed by the employee, this Plan does not apply to that employee, and the waiver is effective until
  - (a) subsection (1) applies to the employee, or
  - (b) the employee elects coverage under subsection (4).
- (4) An employee who elected not to participate in this Plan may, at any time, on application to the employer, elect coverage under this Plan if the employee meets the requirements of subsection (1), and that employee must begin making contributions with the first pay period following the date of application to become a member of this Plan.
- (5) If an employee is making contributions to some other fund for pensions during a period of temporary absence of not more than 3 years, the employee may apply for exemption from coverage and the board may exempt the employee from making contributions under this Plan.
- (6) An employee exempt under subsection (5) may not
  - (a) make contributions under this Plan if making contributions to some other pension plan, or
  - (b) purchase service under this Plan in respect of the period of temporary absence.
- (7) This section does not apply to an employee who is a retired member (other than a person who is considered a retired member solely because he or she is receiving a pension or monthly benefit following the death of a member).
- (8) After this Plan begins to apply to an employee, it continues to apply to that employee as an active member until termination of employment.
- (9) Despite subsection (1), this Plan does not apply to an employee of an employer who, by virtue of that employment, is making contributions to the College Pension Plan, the Municipal Pension Plan or the Teachers' Pension Plan in respect of that employment.
- (10) If an active member has terminated employment and is re-employed within 30 days by the same employer in any capacity, the employer must
  - (a) immediately commence deducting contributions from the member's salary under section 5, and
  - (b) pay the employer contributions under section 6.

### **3.1 [SECTION NOT USED]**

#### **Transfers of active member groups between plan employers**

- 3.2** (1) Despite any other provision of this plan, if an identifiable group of active members is transferred from the service of one employer to whom this plan applies (the former employer) to the service of another employer to whom this plan applies (the new employer) due to workforce re-structuring or any other transaction that results in a successor employer situation, then
- (a) the transfer does not constitute a termination of employment by any of the affected active members,
  - (b) the new employer must take into account an affected active member's earnings with the former employer in the calendar year in which the transfer occurs in determining the amounts to deduct and pay to the pension fund in respect of that active member under sections 5 and 6,
  - (c) the new employer is bound by any order under subsection 9 (1) or 10 (1) to pay enrollment arrears or payroll arrears which arose prior to the transfer of employment in



respect of an affected active member to the same extent the former employer is bound by that order,

- (d) the new employer is bound to make payments for enrolment arrears or a purchase of service for a period of leave which arose prior to the transfer of employment in respect of an affected member under subsection 19 (5) to the same extent the former employer is bound to do so, and
- (e) for the purposes of paragraphs 19 (7) (b) and 27 (1) (b) the employer is deemed to be the new employer.

#### **Application to officers of the Legislative Assembly**

##### **4** (1) In this section, “**officer**” means

- (a) the clerk,
- (b) the law clerk,
- (c) the clerk assistant, or
- (d) the Sergeant at Arms

of the Legislative Assembly of British Columbia constituted under the *Constitution Act*.

- (2) This Plan applies to an officer unless the officer notifies the plan administrative agent that the officer elects to not have this Plan apply and makes the waiver required by subsection (3).
- (3) An officer referred to in subsection (2) who does not elect coverage under this Plan must sign a waiver form to that effect and the plan administrative agent must retain a copy of the waiver form.
- (4) The waiver form referred to in subsection (3) is effective until the officer elects coverage under subsection (5).
- (5) An officer who elected to not participate in the pension plan may, at any time, on application to the plan administrative agent, elect coverage under this Plan and that officer must begin making contributions with the first pay period following the date of application to become a member of this Plan.
- (6) An officer to whom this Plan applies is deemed, for the purpose of this Plan, to be a regular employee.

#### **Application to provincial court judges, supreme court masters, justices and judicial justices**

- 4.1** This Plan applies to a judge of the Provincial Court of British Columbia, a master of the Supreme Court of British Columbia and to a justice or judicial justice appointed or designated under the Provincial Court Act, in accordance with the terms of the Judicial Compensation Act, the Supreme Court Act, and the Provincial Court Act.

## **PART 2 – CONTRIBUTIONS TO THE PENSION PLAN**

#### **Active member contributions**

- 5** (1) From each payment of salary made during a calendar year to an active member, the employer must deduct and pay to the pension fund, as a contribution from the member,
- (a) 7.10% of the member’s salary, and
  - (b) [Repealed]
  - (c) 1.25% of the member’s salary.

- (d) [Repealed]
- (e) [Repealed]
- (2) From each payment of salary made during a calendar year to an active member who is exempt from the provisions of the *Canada Pension Plan*, the employer must deduct and pay to the pension fund, as a contribution from the member, the amounts under subsection (1) but, for the purpose of this subsection, the percentage in subsection (1) (a) is deemed to be 8.18%.
- (3) If a member is unable to work due to illness or injury and is receiving less than full salary under a plan of compensation provided by an employer, other than a group disability plan, the member's monthly salary is deemed to be the salary the member would have been receiving under this section had the member been working, and the deductions under subsection (1) or (2) must be made based on the deemed salary.
- (4) Member contributions must stop on the earlier of
  - (a) the member reaching latest retirement age, in which case the member is deemed to have terminated employment for the purposes of this Plan, and
  - (b) the member accruing 35 years of pensionable service, in which case the member is deemed to continue as an active member until actual termination of employment.

#### **Employer contributions**

- 6 (1) Each time an employer deducts and pays active member contributions in accordance with section 5, the employer must pay to the pension fund, as a contribution from the employer,
  - (a) 7.10% of the member's salary, and
  - (b) [Repealed]
  - (c) 2.75% of the member's salary.
  - (d) [Repealed]
  - (e) [Repealed]
- (2) From each payment of salary made during a calendar year to an active member who is exempt from the provisions of the *Canada Pension Plan*, the employer must pay to the pension fund, as a contribution from the employer, the amounts under subsection (1) but, for the purpose of this subsection, the percentage in subsection (1) (a) is deemed to be 8.18%.
- (2.1) In addition to the contributions required by subsection (1), from each payment of salary made during a calendar year to an active member who is
  - (a) a correctional employee who is less than normal retirement age, the employer must pay to the pension fund, as a contribution from the employer
    - (i) 1.97% of the member's salary, and
    - (ii) 0.60% of the member's salary, or
  - (b) a deputy minister appointed before September 1, 2001, or statutory officer, the employer must pay to the pension fund, as a contribution from the employer,
    - (i) 7.84% of the member's entire salary, and
    - (ii) 2% of the member's entire salary.
- (3) Employer contributions must stop on the earlier of
  - (a) the member reaching latest retirement age, and
  - (b) the member accruing 35 years of pensionable service.

**Contribution remittances**

- 8** (1) In this section, “**pay period end date**” means the date on which the employer normally pays the members.
- (2) For an employer with total annual active member and employer pension contribution remittances of \$100,000 or more per year based on the last reported year, contribution remittances must be received by the pension fund within 15 calendar days after the pay period end date for each payroll.
- (3) For an employer with total annual active member and employer pension contribution remittances of less than \$100,000 per year based on the last reported year, contribution remittances must be received by the pension fund within 30 calendar days after the pay period end date for each payroll.
- (4) Interest, compounded annually, at the fund interest rates, is charged on late payments from the due date for receipt of the payment as set out in subsection (2) or (3) to the date of payment.
- (5) An employer must pay the interest charge under subsection (4) within 30 calendar days from the date of the assessment notice.
- (6) If the interest payment is not received by the pension fund within the 30 calendar days referred to in subsection (5), additional interest will be charged in accordance with subsection (4).
- (7) Late payment includes a pension contribution remittance that
- (a) is less than that required under this Plan, or
  - (b) arises from the application of incorrect contribution rates or other miscalculations.
- (8) All contributions or amounts that are due or owing to the pension fund, regardless of source, must be kept separate and apart from the employer’s own assets.

**Enrollment arrears**

- 9** (1) If an employer has not made deductions under section 5 (1) or (2) from the date an employee becomes eligible to contribute to the pension fund, the plan administrative agent must order the employer
- (a) to commence making deductions immediately, and
  - (b) to pay to the pension fund, at the time and in the manner specified by the plan administrative agent,
    - (i) an amount determined in accordance with subsections 6 (1), 6 (2), 6 (2.1), and 102 (6), as applicable, but using the member’s full time equivalent salary payable for the most recent month of employmentmultiplied by
    - (ii) the number of months and fractions of a month of pensionable service to be credited from the employee’s eligibility date to the date contributions commenced in accordance with paragraph (a),and the employer must comply with the order.
- (2) An active member who receives a notice of enrollment arrears on or after April 1, 2002 may, at the member’s option, apply to the plan administrative agent to purchase those arrears but such application must be made on or before the earlier of
- (a) 5 years from the date the arrears notice is sent to the employee, and
  - (b) the termination of employment.

- (2.1) If an active member applies to purchase enrollment arrears under subsection (2) but does not pay the amount required under subsection (4) at the time and in the manner specified by the plan administrative agent, the active member is ineligible to purchase those enrollment arrears unless he or she makes a further application under subsection (2) on or before the earlier of the dates referred to in subsection (2) (a) and (b).
- (3) [Repealed]
- (4) For the purposes of subsection (2), the active member must pay to the pension fund, at the time and in the manner specified by the plan administrative agent,
  - (a) an amount determined in accordance with section 5 (1) or (2) but using the member's full time equivalent salary payable for the most recent month of employment multiplied by
  - (b) the number of months and fractions of a month of pensionable service to be credited from the employee's eligibility date to the date contributions commenced in accordance with subsection (1) (a).
- (5) If both the employer and member make the contributions referred to in subsections (1) (b) and (4), the period of service in respect of which contributions are made is contributory and pensionable service within the meaning of this Plan.
- (6) If only the employer portion is paid under subsection (1) (b),
  - (a) all of the period of service in respect of which employer contributions have been made is contributory service, and
  - (b) 1/2 of the period of service in respect of which employer contributions have been made is pensionable service.
- (7) This section does not apply to a period of service waived by an employee under section 3 (2) or 4 (3).
- (8) An order to pay made under subsection (1) is due and payable by the employer immediately upon receipt in accordance with the terms of the order.

#### **Payroll arrears**

- 10** (1) If an employer has failed at any time to make the deductions required by section 5 (1) or (2) or the contributions required by subsections 6 (1), 6 (2), 6 (2.1) and 102 (6), as applicable, or both, in respect of an active member, the plan administrative agent must order the employer to make those deductions and contributions in accordance with subsection (2) for the period during which the required deductions and contributions were not made, and the employer must comply with the order.
- (2) The amount payable under subsection (1) is
  - (a) the sum of the amounts determined in accordance with subsections 5 (1) or (2) and 6 (1), 6 (2), 6 (2.1), and 102 (6), as applicable, but using the member's full time equivalent salary payable for the most recent month of employment multiplied by
  - (b) the number of months and fractions of a month of pensionable service to be credited for which the failure to make deductions or contributions, or both, occurred.
- (3) Subsection (1) does not apply to enrollment arrears under section 9.
- (4) An order to pay made under subsection (1) is due and payable by the employer immediately upon receipt.

**Income Tax Act (Canada) limits**

- 11** (1) Contributions made under section 5 must not exceed the maximums set out in section 8503 (4) of the *Income Tax Regulations* under the *Income Tax Act* (Canada).
- (2) Contributions made under section 5 in respect of a calendar year must not be paid before January 1 of that year.
- (3) Contributions made under section 6 must qualify as eligible contributions under section 147.2 (2) of the *Income Tax Act* (Canada).

**PART 3 – RECOGNITION OF SERVICE****Division 1 – Contributory and Pensionable Service****Limitation on accrual of contributory and pensionable service**

- 12** (1) When determining contributory service, every calendar month in respect of which the member has pensionable service must be counted as one month's contributory service.
- (2) When determining pensionable service, part time service must be adjusted to its full time equivalent.
- (3) The maximum contributory service that can be accrued in a calendar year is 12 months.
- (4) The maximum pensionable service that can be accrued in a calendar year is 12 months.
- (5) If an active member has applied for and is entitled to receive a benefit from a group disability plan,
- (a) the member is deemed to have made a contribution to the pension fund during each month for which the member is entitled to the benefit, and
  - (b) the period of service during which the member is or would have been employed, had the member not been receiving that group disability plan benefit, is deemed to be pensionable service.

**13 and 14** [SECTIONS NOT USED]

**Division 2 – Leaves of Absence****Application of this Division**

- 15** This Division applies to an active member who takes a leave of absence.

**Leaves of absence under *Employment Standards Act***

- 16** Subject to section 19, if an active member is or was absent from service by reason of
- (a) required attendance at court as a juror;
  - (b) a leave under any of the following sections of the *Employment Standards Act*:
    - (i) section 50 [*pregnancy leave*];
    - (ii) section 51 [*parental leave*];
    - (iii) section 52 [*family responsibility leave*];
    - (iv) section 52.1 [*compassionate care leave*];
    - (v) section 52.3 [*leave respecting disappearance of child*];
    - (vi) section 52.4 [*leave respecting death of child*];

(vii) section 53 [*bereavement leave*]; or

- (c) any other circumstance in which subsection 56 (2) of the *Employment Standards Act* obligates an employer to make contributions to a pension plan in respect of a period of absence if the employee pays his or her contributions to the plan in respect of that period of absence,

the active member may apply to purchase that leave of absence and must pay to the pension fund an amount determined in accordance with section 19 (1).

**17** [SECTION NOT USED]

**Leaves of absence for other reasons**

- 18** (1) Subject to section 19, if an active member is or was absent from service for a reason other than under section 16 and the period of leave of absence is approved by the employer, the active member may apply to purchase this leave and must pay to the pension fund an amount determined in accordance with section 19 (2), (3) or (4).
- (2) [Repealed]
- (3) [Repealed]

**Payment and conditions for leaves of absence**

- 19** (1) In order to purchase a period of leave of absence under section 16, the member must pay to the pension fund, at the time and in the manner specified by the plan administrative agent,
- (a) an amount determined in accordance with section 5 (1) or (2) but using the member's full time equivalent salary payable for the most recent month of employment multiplied by
- (b) the number of months and fractions of a month of pensionable service to be credited for the leave period.
- (2) In order to purchase a period of leave of absence under section 18 that is 30 days or less, the member must pay to the pension fund, at the time and in the manner specified by the plan administrative agent,
- (a) the sum of the amounts determined in accordance with section 5 (1) or (2) but using the member's full time equivalent salary payable for the most recent month of employment multiplied by
- (b) the number of months and fractions of a month of pensionable service to be credited for the leave period.
- (3) In order to purchase a period of leave of absence under section 18 that exceeds 30 days, the member must pay to the pension fund, at the time and in the manner specified by the plan administrative agent,
- (a) the sum of the amounts determined in accordance with subsections 5 (1) or (2) and 6 (1), 6 (2), 6 (2.1), and 102 (6), as applicable, but using the member's full time equivalent salary payable for the most recent month of employment multiplied by
- (b) the number of months and fractions of a month of pensionable service to be credited for the leave period.
- (4) Despite subsection (3), in order to purchase a period of leave of absence under section 18 that was approved in writing by the employer

- (a) before September 8, 1998,
- (b) in respect of leave that commenced during the period from September 8, 1998 to December 31, 1998, or
- (c) to enable the member to participate in the Deferred Salary Leave Program with payroll deductions commencing before January 1, 1999,  
the member must pay to the pension fund, at the time and in the manner specified by the plan administrative agent,
  - (d) an amount determined in accordance with section 5 (1) or (2) but using the member's full time equivalent salary payable for the most recent month of employment multiplied by
  - (e) the number of months and fractions of a month of pensionable service to be credited for the leave period.
- (5) If the member pays the amount required by subsection (1), (2) or (4), the employer must pay to the pension fund, at the time and in the manner specified by the plan administrative agent,
  - (a) an amount determined in accordance with section subsections 6 (1), 6 (2), 6 (2.1), and 102 (6), as applicable, but using the member's full time equivalent salary payable for the most recent month of employment multiplied by
  - (b) the number of months and fractions of a month of pensionable service to be credited for the leave period.
- (6) If payment is made in accordance with subsections (1) and (5), (2) and (5) or (4) and (5) or subsection (3),
  - (a) the payment is considered to be contributions made by the member under section 5 (1) or (2) and by the employer under subsections 6 (1), 6 (2), 6 (2.1), and 102 (6), as applicable, and
  - (b) the period of service to which payment relates is contributory and pensionable service.
- (7) An application under section 16 or 18 to purchase a period of leave of absence that ends on or after April 1, 2002 must be made on or before the earlier of
  - (a) the date which is 5 years from the end of the period of leave that is being purchased, and
  - (b) the termination of employment with the employer with which the leave of absence occurred.
- (7.1) If an active member applies to purchase a leave of absence under section 16 or 18 but does not pay the amount required under subsection (1), (2), (3) or (4) of this section at the time and in the manner specified by the plan administrative agent, the active member is ineligible to purchase the leave of absence unless he or she makes a further application under section 16 or 18 on or before the earlier of the dates referred to in subsection (7) (a) and (b).
- (8) [Repealed]

### **Division 2.1 – Periods of Reduced Pay**

#### **Application of this Division**

- 19.1** (1) This Division applies in respect of a period of reduced pay that commences after March 31, 2008.

- (2) Despite subsection (1), if a period of reduced pay commenced prior to April 1, 2008, the portion that occurs after March 31, 2008, shall be deemed to be a period of reduced pay that commences April 1, 2008.

**Duration of a period of reduced pay**

- 19.2** For the purposes of this Division, a period of reduced pay having a duration of longer than 12 months shall be deemed to consist of one or more consecutive periods of reduced pay with each period ending 12 months after its commencement, except for the most recent period, which may have a shorter duration.

**Payment and conditions for purchase**

- 19.3** (1) An active member may apply to purchase a period of reduced pay in the manner specified by the plan administrative agent.
- (2) The member's employer must verify the member's period of reduced pay in the manner specified by the plan administrative agent.
  - (3) In order to purchase a period of reduced pay, the member must pay to the pension fund, at the time and in the manner specified by the plan administrative agent,
    - (a) the sum of the amounts determined in accordance with subsections 5 (1) or (2) and 6 (1), 6 (2), 6 (2.1), and 102 (6), as applicable, but using the member's full time equivalent salary payable for the most recent month of employment multiplied by
    - (b) the number of months and fractions of a month of pensionable service to be credited.
  - (4) If payment is made in accordance with subsection (3),
    - (a) the payment is considered to be contributions made by the member under section 5(1) or (2) and by the employer under subsections 6 (1), 6 (2), 6 (2.1), and 102 (6), as applicable, and
    - (b) the period of service to which payment relates is pensionable service, and contributory service, if applicable.
  - (5) An application to purchase a period of reduced pay must be made on or before the earlier of
    - (a) the date which is 5 years from the end of the period of reduced pay or deemed period of reduced pay that is being purchased, and
    - (b) the termination of employment with the employer with which the period of reduced pay occurred.
- (5.1) If an active member applies to purchase a period of reduced pay under subsection (1) but does not pay the amount required under subsection (3) at the time and in the manner specified by the plan administrative agent, the active member is ineligible to purchase those periods of reduced pay unless he or she makes a further application under subsection (1) on or before the earlier of the dates referred to in subsection (5) (a) and (b).



### Division 3

[Repealed]

### Division 4 – Other Recognition of Service

#### Purchase of service

- 25** The board may grant recognition as pensionable service to all or part of the service of an active member as an employee of any employer to whom this Plan applies, but the member and the current employer must contribute to the pension fund additional sums specified by the plan administrative agent in accordance with requirements established by the board or former board.

#### Service recognized as contributory and pensionable service

- 26** (1) In this section “**plan employer**” includes any current or former employer who,
- (a) at the relevant time the service was performed, participated in or currently participates in the Public Service Pension Plan,
  - (b) subsequent to the relevant time, amalgamated with an employer referred to in paragraph (a), or
  - (c) subsequent to the relevant time, was taken over by an employer referred to in paragraph (a).
- (2) Subject to sections 27 and 28, service of a member is declared to be contributory and pensionable service if the service
- (a) was service with a plan employer,
  - (b) was not service for which the member participated in a registered pension plan,
  - (c) was not service for which the member waived enrollment under section 3 (2) or 4 (3) on or after April 1, 2000,
  - (d) was not service for which the member waived enrollment under section 3 (2.1) on or after July 1, 2011 and
  - (e) is not pensionable service at the time an application is made under section 27 (1) or (2).

#### Conditions for recognition of contributory and pensionable service

- 27** (1) A person who becomes an active member under this Plan on or after April 1, 2002 may apply to purchase service under section 26 on or before the earlier of
- (a) the date which is 5 years from the date the member enrolls in the Plan, and
  - (b) the termination of employment with the employer with whom the service occurred.
- (1.1) If an active member applies to purchase service under subsection (1) but fails to complete the purchase in the time and manner specified by the plan administrative agent under subsection 28(1), the active member is thereafter ineligible to purchase such service unless he or she makes a further application under subsection (1) on or before the earlier of the dates referred to in subsection 1(a) and (b).
- (2) [Repealed]

#### Calculation of member and employer contributions

- 28** (1) Subject to subsections (2) and (3), in order to purchase service under section 26 the active member must pay to the pension fund, at the time and in the manner specified by the plan administrative agent, the full cost to purchase the period of non-contributory service.
- (2) The amount payable under subsection (1) is

- (a) the sum of the amounts determined in accordance with subsections 5 (1) or (2) and 6 (1), 6 (2), 6 (2.1), and 102 (6), as applicable, but using the member's full time equivalent salary payable for the most recent month of employment multiplied by
- (b) the number of months and fractions of a month of pensionable service to be credited for the period of non-contributory service.
- (2.1) Despite subsection (2), the amount payable under subsection (1) to purchase service with an employer participating in the Public Service Pension Plan, for a period of service that was performed before the Plan applied to that employer, shall be the actuarial value of the increase in retirement benefit for the member, determined by the plan administrative agent, which results from the purchase of service.
- (3) Despite subsection (1), if an employer and employee relationship existed during the period of non-contributory service, and that member did not receive compensation in lieu of contributing to a registered pension plan during the period of non-contributory service, the employer is responsible for that portion of the amount under subsection (2) which is determined in accordance with subsections 6 (1), 6 (2), 6 (2.1), and 102 (6), as applicable.

#### **Transfer of service agreements**

- 29** (1) The board may enter into an agreement with another pension plan, in accordance with the terms and conditions established by the board or former board, to transfer an inactive member's contributory and pensionable service to another pension plan, and to transfer an active member's contributory and pensionable service from the other pension plan to this Plan.
- (2) Locked-in pension credits must not be transferred on behalf of a member to another pension plan unless the member and the plan administrative agent of the other pension plan make written commitments that the locked-in conditions required by this Plan will continue to apply to the pension credits.

#### **Division 5**

[Repealed]

#### **Division 6**

[Repealed]

#### **Division 7**

[Repealed]

#### **Division 8**

[Repealed]

### **Division 9 – Limitations on Recognition of Service**

#### **Income Tax Act (Canada) limits**

- 41** (1) In this section, “**defined benefit limit**” for a calendar year means the greater of
- (a) \$1,722.22, and
- (b) 1/9 of the money purchase limit for the year.

- (2) If the period of a leave of absence or a period of reduced pay of an active member is included as contributory and pensionable service by another employer under this Plan or by another plan registered under the *Income Tax Act* (Canada), the period may be purchased under this Part provided that
  - (a) the benefits for the period are retroactively provided after April 30 of the year immediately following the year in which the member returns to work, and
  - (b) Canada Revenue Agency certifies the past service pension adjustment associated with the purchase.
- (3) A member cannot purchase service under this Part that would result in pensionable service in excess of
  - (a) 12 months pensionable service in a calendar year, or
  - (b) a cumulative total of 35 years pensionable service.
- (4) Contributions must not exceed the maximums as set out in section 8503 (4) of the *Income Tax Regulations* made under the *Income Tax Act* (Canada).
- (5) Contributions made in respect of a calendar year must not be paid before January 1 of that year.
- (6) The maximum service that an active member may purchase for leaves of absence and periods of reduced pay completed after December 31, 1991 is restricted to
  - (a) 3 years of pensionable service in respect of pregnancy leave and parental leave, each leave of absence not to exceed one year from the child's birth date or adoption date, and
  - (b) 5 years of pensionable service in respect of any other recognized leaves of absence and periods of reduced pay.
- (7) Service before January 1, 1990 will only be recognized if the lifetime retirement benefit for the year does not exceed  $\frac{2}{3}$  of the defined benefit limit for the year in which the benefits begin to be paid, or such greater amount as is permitted by subsection 8504(6) of the *Income Tax Regulations* made under the *Income Tax Act*.
- (8) Subsection (7) does not apply for a particular calendar year if
  - (a) a period in the particular calendar year was pensionable service under a registered pension plan before June 8, 1990,
  - (b) the member was entitled, on June 7, 1990 under an arrangement in writing, to be provided with lifetime retirement benefits in respect of a period in the particular calendar year, whether or not the entitlement was conditional on contributions being made, and
  - (c) at the beginning of the particular calendar year, a period in the preceding calendar year was pensionable service of the member and the member was disabled or on a leave of absence.
- (9) [Repealed]
- (10) Service recognized under this Part must be eligible service as defined under the *Income Tax Act* (Canada) and its regulations.

## PART 4 – TERMINATION BENEFITS

### Eligibility for termination benefits

- 42** (1) Subject to subsections (2) to (4), a member who terminates employment on or after September 30, 2015 is eligible to receive one of the following:
- (a) [Repealed]
  - (b) a deferred retirement benefit under section 45 (1) ,
  - (c) a commuted value under section 46 if the member's age is less than earliest retirement age, or
  - (d) a commuted value under section 46 if the member reached earliest retirement age after March 31, 2018 and before October 1, 2019 and elects a commuted value under section 46 on or before October 31, 2019.
- (1.1) Despite subsection (1), a member who terminated employment before September 30, 2015 and is eligible under the terms of the Plan in effect when the member terminated employment to elect to receive a commuted value under section 46 (or a predecessor to section 46) may, if the member reaches earliest retirement age after March 31, 2018 and before October 1, 2019, elect a commuted value under section 46 on or before October 31, 2019.
- (2) Except as provided in paragraph 1(d) and subsection (1.1), an inactive member is not eligible to receive a termination benefit under this Part if the member is eligible to receive an immediate retirement benefit under Part 5.
- (3) A member is not eligible to receive a termination benefit under section 46 or 48 if the member again becomes an employee, in respect of whom an employer is required to deduct contributions under section 5, within 30 days after the date of termination of employment.
- (4) A member is not eligible to receive a retirement benefit pursuant to section 45 if the member again becomes an employee, in respect of whom an employer is required to deduct contributions under section 5, within 30 days after the day on which the retirement benefit is granted in accordance with section 53.
- (5) A member who has taken any of the following with respect to a period of service is not entitled to any other benefit under this Plan in respect of that period of service:
- (a) a refund calculated in accordance with section 44;
  - (b) a commuted value under section 46;
  - (c) a payment under section 48.
- (6) If a member to whom subsection (5) applies again becomes an active member, the member is deemed to be a new active member from the date on which the member again becomes a contributor to the pension fund.

### Termination benefits statement

- 43** (1) The plan administrative agent must provide the inactive member with a termination benefits statement in the manner required by the *Pension Benefits Standards Act*.
- (2) If a member who is eligible for a termination benefit in accordance with section 42 elects an option as provided for in the termination benefits statement and returns the completed election to the plan administrative agent, the plan administrative agent must make the payment in accordance with this Part.

**Calculation of a refund of member's contributions**

- 44** (1) If a member is eligible to receive a refund payment in the amount of his or her contributions including interest, the interest will be compounded annually at the refund interest rates determined in accordance with subsections (2) and (4) from the member's enrollment date to the end of the month immediately before the date of calculation.
- (2) The interest payable under subsection (1) must be calculated as if
- (a) the contributions made during the current fiscal year in which the refund is paid were due and payable in a lump sum on the first day of the month in which payment of the refund is made, and
  - (b) the contributions made during any earlier fiscal year were due and payable in a lump sum on March 31 in those other fiscal years.
- (3) The contributions referred to in subsection (1) do not include the employer's contributions.
- (4) Interest is also payable from the date of calculation to the end of the month immediately before the date of payment.
- (5) If under this Part a refund is payable to a member, the payment may be transferred to an RRSP.

**Calculation of deferred retirement benefit**

- 45** (1) A member who
- (a) is eligible for a termination benefit under section 42 (1) (b), and
  - (b) elects to receive a deferred retirement benefit,
- will receive a retirement benefit under Part 5 on meeting the eligibility requirements of subsections 50 (1) and 50 (2), other than the requirement of active membership.
- (2) For greater clarity, an inactive member who
- (a) terminated employment before March 1, 2002,
  - (b) was eligible to receive a deferred retirement benefit under the rules of this Plan, or under any predecessor rules to this Plan, as those rules read at the date of termination of employment, and
  - (c) applies to receive the deferred retirement benefit,
- is entitled to receive that retirement benefit in accordance with the rules in force at the date of termination of employment.
- (3) Despite subsection (2), if an inactive member who terminated employment before April 1, 2000 and is entitled to a reduced retirement benefit, with an effective date on or after April 1, 2000, the retirement benefit must be calculated
- (a) by applying the rule of age plus service is equal to not less than 85 years instead of the rule of age plus service is equal to not less than 90 years when determining the number of years subject to a reduction,
  - (b) using the formula described in section 54, but any reduction required by the rules in force at the date of termination must be applied to each of the amounts determined under section 54 (1) and (2), and
  - (c) using the formula described in section 54, but the percentage to be used in section 54 (1) (b) and (2) (a) is the percentage required by the rules in force at the date of termination.
- (4) For greater clarity, for a member who was exempt from the provisions of the Canada Pension Plan, subsection (3)(b) does not apply, and any reduction required by the rules in force at the date of termination must be applied to the amount determined under section 54 (4).

**Calculation of commuted value benefit**

- 46** (1) Subject to subsection (2), an inactive member who
- (a) is eligible for a termination benefit under paragraph 42 (1) (c) or (d) or subsection 42 (1.1), and
  - (b) elects to receive a commuted value, including interest, if any, on the commuted value, will receive that payment calculated on the basis of the method specified by the board.
- (2) For greater clarity, an inactive member who
- (a) terminated employment before March 1, 2002,
  - (b) was eligible to receive a commuted value under the rules of this Plan, or under any predecessor rules to this Plan, as those rules read at the date of termination of employment, and
  - (c) applies to receive the commuted value,
- is entitled to receive that payment in accordance with the rules in force at the date of termination of employment.
- (3) Despite subsection (2), if a person described in subsection (2) is entitled to a reduced retirement benefit with an effective date on or after April 1, 2000, then the commuted value, if not yet paid, must be calculated
- (a) by applying the rule of age plus service is equal to not less than 85 years instead of the rule of age plus service is equal to not less than 90 years when determining the number of years subject to a reduction,
  - (b) using the formula described in section 54, but any reduction required by the rules in force at the date of termination must be applied to each of the amounts determined under section 54 (1) and (2), and
  - (c) using the formula described in section 54, but the percentage to be used in section 54 (1) (b) and (2) (a) is the percentage required by the rules in force at the date of termination.
- (4) For greater clarity, for a member who was exempt from the provisions of the Canada Pension Plan, subsection (3)(b) does not apply, and any reduction required by the rules in force at the date of termination must be applied to the amount determined under section 54 (4).
- (5) If the plan administrative agent is satisfied that the commuted value must be transferred on a locked-in basis, it may be transferred to
- (a) another registered pension plan,
  - (b) a locked-in retirement account,
  - (c) a life income fund, or
  - (d) an insurance company or other financial institution,
- in accordance with the requirements of the *Pension Benefits Standards Act* for the transfer of locked-in funds.
- (6) The locked-in requirement of subsection (2) does not apply to a member who
- (a) has been absent from Canada for 2 or more years, and
  - (b) has become a non-resident of Canada as determined for the purpose of the *Income Tax Act* (Canada).

**Calculation of refund of voluntary contributions**

- 47 A member who is entitled to a benefit under this Part and who has made voluntary contributions is entitled to a refund of the voluntary contributions, including interest at fund interest rates on those contributions.

**Lump sum payment instead of small deferred retirement benefit**

- 48 (1) Despite section 42 and sections 45 to 47, a member may elect to receive, instead of a deferred retirement benefit, a payment equal to the commuted value of the retirement benefit if the commuted value is not greater than 20% of the year's maximum pensionable earnings for the calendar year in which the most recent calculation of the commuted value was made.
- (2) Despite any provision of this Plan respecting the payment of the commuted value, if the amount of a member's contributions plus accrued interest exceeds the commuted value, the member's contributions plus accrued interest, at refund interest rates, must be paid.

**Income Tax Act (Canada) limits**

- 49 (1) Benefits payable under this Part for service accrued after December 31, 1991 are limited to pension benefits in accordance with the maximum lifetime retirement benefits as set out in section 8504 of the Income Tax Regulations under the *Income Tax Act* (Canada).
- (2) The manner in which benefits are payable under this Part for service accrued after December 31, 1991 must be in accordance with section 8517 of the Income Tax Regulations under the *Income Tax Act* (Canada).
- (3) Unless consent to delay commencement of payment of benefits to members is obtained pursuant to s. 8502(e)(i)(A) of the Income Tax Regulations, commencement of payment of benefits to a member must not be delayed beyond the member's latest retirement age. If such consent is obtained, the amount of benefits (expressed on an annualized basis) payable to the member cannot exceed the amount that would have been payable to the member had payment begun at the end of the calendar year in which the member attained age 71.

**PART 5 – RETIREMENT BENEFITS****Eligibility for retirement retirement benefit**

- 50 (1) An active member who, on or after September 30, 2015, terminates employment is, on application, entitled to an unreduced retirement benefit
- (a) for service accrued before April 1, 2018, calculated under paragraphs 54 (1) (a) to (c) if the member has reached
- (i) earliest retirement age and the number of the member's age plus years of contributory service is at least 85 years,
- (ii) pensionable age and has completed at least two years of contributory service, or
- (iii) normal retirement age.
- (b) for service accrued after March 31, 2018, calculated under paragraph 54 (1) (d) if the member has reached
- (i) earliest retirement age and has completed 35 years of contributory service, or
- (ii) pensionable age and has completed at least two years of contributory service, or
- (iii) normal retirement age.
- (2) An active member, who on or after September 30, 2015, terminates employment is, on application, entitled to a reduced pension

- (a) for service accrued before April 1, 2018, calculated under subsection 55 (1) if the member has reached earliest retirement age, is less than pensionable age, has completed at least two years of contributory service and the sum of the member's age and contributory service is less than 85 years;
  - (b) for service accrued after March 31, 2018, calculated under subsection 55 (2) if the member has reached earliest retirement age, is less than pensionable age, has completed at least two years of contributory service but has not completed 35 years of contributory service, or
  - (c) calculated under subsection 55 (3) if the member has reached earliest retirement age, is less than normal retirement age and has not completed at least two years of contributory service.
- (2.1) Despite any other provision of this Plan, paragraphs 50 (1) (b) and 50 (2) (b) do not apply to correctional employees or to any ambulance paramedic member who satisfies the requirements of subsection 102(1). Rather, such members shall receive benefits in respect of all of their service, including service accrued after March 31, 2018, in accordance with paragraphs 50 (1) (a), 50 (2) (a) and 50(2)(c).

**51** [Repealed]

#### **Exception to eligibility to receive retirement benefit**

**51.1** Despite section 50, a member is not eligible

- (a) to receive a benefit under section 56(9) if the member again becomes an employee, in respect of whom an employer is required to deduct contributions under section 5, within 30 days after the date of termination of employment, or
- (b) to receive a retirement benefit under this Part if the member again becomes an employee, in respect of whom an employer is required to deduct contributions under section 5, within 30 days after the day on which the retirement benefit is granted in accordance with section 53.

#### **Retirement benefits statement**

- 52** (1) The plan administrative agent must provide to the member a retirement benefits statement in the manner required by the *Pension Benefits Standards Act*.
- (2) If a member who is eligible for a retirement benefit under section 50 elects an option as provided for in the retirement benefits statement and returns the completed election to the plan administrative agent, the plan administrative agent must make the payment in accordance with this Part.

#### **Effective date of retirement benefit**

- 53** (1) A retirement benefit will be granted on
- (a) the first day of the month following the month for which final payment of salary is made,
  - (b) the first day of the month in which the application for a retirement benefit is filed with the plan administrative agent, or
  - (c) the first day of the month following the month in which the member first becomes eligible to receive a retirement benefit,

whichever is latest.



- (2) Despite subsection (1) (b), if a member fails to apply for a retirement benefit on or before its eligibility date and, in the opinion of the plan administrative agent, the failure to apply is due to
- (a) the member being incapable of managing the member's affairs, or
  - (b) another good and sufficient reason,
- the plan administrative agent may grant a retirement benefit effective the date the member would have, but for the failure to apply, begun receiving it.
- (3) [Repealed]

#### Calculation of unreduced retirement benefits

- 54** (1) A member referred to in subsection 50 (1) is entitled to receive an unreduced pension, calculated on the basis of the single life guaranteed option under section 56 (1) (b) with a term certain of 10 years, that is the sum of
- (a) if the member is entitled to an unreduced pension under paragraph 50(1)(a), 2% of the member's highest average salary multiplied by the number of years of pensionable service accrued before January 1, 1966,
  - (b) if the member is entitled to an unreduced pension under paragraph 50(1)(a), 1.35% of the lesser of
    - (i) the member's highest average salary, and
    - (ii) 1/12 of the year's maximum pensionable earnings for the calendar year immediately before the calendar year of the effective date of the retirement benefit payable to the member,multiplied by the number of years of pensionable service accrued after December 31, 1965 and before April 1, 2018, not exceeding 35 years,
  - (c) if the member is entitled to an unreduced pension under paragraph 50(1)(a), 2% of the excess of the member's highest average salary over the amount determined under subparagraph (b) (ii), multiplied by the number of years of pensionable service accrued after December 31, 1965 and before April 1, 2018, not exceeding 35 years, and
  - (d) if the member is entitled to an unreduced pension under paragraph 50(1)(b), 1.85% of the member's highest average salary multiplied by the number of years of pensionable service accrued after March 31, 2018, not exceeding 35 years minus the member's years of pensionable service prior to April 1, 2018 recognized in calculating the member's entitlements under paragraphs (b) and (c).
- (2) A member entitled to an unreduced pension under paragraph 50(1)(a) is also entitled to a monthly bridge benefit, payable until the earlier of the death of the member and the member reaching age 65, that is
- (a) 0.65% of the lesser of
    - (i) the member's highest average salary, and
    - (ii) 1/12 of the year's maximum pensionable earnings for the calendar year immediately before the calendar year of the effective date of the retirement benefit payable to the member,multiplied by
  - (b) the number of years of pensionable service accrued after December 31, 1965 and before April 1, 2018, not exceeding 35 years.

- (2.1) When determining the monthly bridge benefit payable under subsection (2) for a member who is a statutory officer, the number of years of pensionable service for the purposes of paragraph (b) of that subsection is deemed to be the actual years of service for the statutory officer.
- (3) Subsections (1) and (2) do not apply to a member to whom section 5 (2) applies.
- (4) If section 5 (2) applies to a member and the member is entitled to receive a pension under section 50 (1), that pension, calculated on the basis of the single life option under section 56 (1) (b), is 2% of the member's highest average salary multiplied by the number of years of pensionable service not exceeding 35 years.
- (5) A member who is entitled to a benefit under this section and who has made voluntary contributions is entitled to
  - (a) a benefit in an amount obtained by converting to a pension the balance of any voluntary contributions, including interest at fund interest rates on those contributions, or
  - (b) a refund of the balance of any voluntary contributions, including interest at fund interest rates on those contributions.

#### **Calculation of reduced retirement benefits**

- 55** (1) A member referred to in paragraph 50 (2) (a) is entitled to receive a reduced retirement benefit that is the sum of
- (a) the amounts determined under section 54 (1) (a) to (c) or 54(4), as applicable, each reduced by 3% for each year of age by which
    - (i) the member's age is less than pensionable age, or
    - (ii) the sum of the member's age plus years of contributory service is less than 85 years,whichever is less, and the percentage must be prorated for fractions of years, and
  - (b) the amount determined under section 54 (2), reduced by 3% for each year of age by which
    - (i) the member's age is less than pensionable age, or
    - (ii) the sum of the member's age plus years of contributory service is less than 85 years,whichever is less, and the percentage must be prorated for fractions of years, reduced, on the earlier of the death of the member or the member reaching age 65, by the amount determined under paragraph (b).
- (2) In addition to the retirement benefit payable under paragraphs 54 (1) (a) to (c) or subsection 54(4), as applicable, or subsection (1), if any, a member referred to in paragraph 50 (2) (b) is also entitled to receive a reduced pension that is the amount determined under paragraph 54 (1) (d), reduced by 6.2% for each year of age by which the member's age is less than pensionable age, and the percentage must be prorated for fractions of years
- (3) A member referred to in paragraph 50 (2) (c) is entitled to receive a reduced retirement benefit that is the sum of:
- (a) the amounts determined under paragraphs 54(1)(a) to (c) or subsection 54(4), as applicable, each reduced by 5% for each year of age by which the member's age is less than normal retirement age, and the percentage must be prorated for fractions of years.
  - (b) the amount determined under subsection 54(2), reduced by 5% for each year of age by which the member's age is less than normal retirement age, and the percentage must be prorated for fractions of years, and

- (c) the amount determined under paragraph 54 (1) (d), reduced by 6.2% for each year of age by which the member's age is less than normal retirement age, and the percentage must be prorated for fractions of years,
- reduced, on the earlier of the death of the member or the member reaching age 65, by the amount determined under paragraph (b).
- (4) Despite subsection (1), if the member terminates employment on or after April 1, 2000 and, while an active member,
- (a) has not reached an age that is within 15 years of normal retirement age, or
- (b) has not completed at least 10 years of contributory service,
- the 3% referred to in subsection (1) is deemed to be 5%.
- (5) A member who is entitled to a benefit under this section and who has made voluntary contributions is entitled to
- (a) a benefit in an amount obtained by converting to a monthly pension the balance of any voluntary contributions, including interest at fund interest rates on those contributions, or
- (b) a refund of the balance of any voluntary contributions, including interest at fund interest rates on those contributions.
- (6) A reduced pension under this Part must have an actuarial present value that is at least equal to the actuarial present value of the pension payable at normal retirement age.

#### Options and conditions at retirement

- 56** (1) A pension calculated in accordance with sections 54 and 55 may be granted on any of the following options:
- (a) [Repealed]
- (b) single life guaranteed, payable for the longer of
- (i) the life of the member, or
- (ii) a term certain of 5, 10 or 15 years;
- (c) joint life and last survivor, payable
- (i) during the joint life of the member and
- (A) the spouse, or
- (B) a former spouse who, as a result of a written agreement or court order, has such an entitlement, and
- (ii) during the life of the survivor;
- (d) temporary annuity at a rate not exceeding one of the following:
- (i) the amount of the pension payable under the *Old Age Security Act* (Canada), payments to cease when the member dies or reaches age 65, whichever first occurs;
- (ii) the amount of the member's retirement pension under the *Canada Pension Plan*, payments to cease when the member dies or reaches age 65, whichever first occurs;
- (e) a combination of the options under paragraphs (b), (c) and (d) as the member, with the approval of the plan administrative agent, may request.

- (2) The options referred to in subsection (1) must be adjusted to the actuarial equivalent of the pension otherwise payable under this Part on the single life guaranteed option with a term certain of 10 years.
- (2.1) The temporary annuity under subsection (1)(d) may only be granted in combination with an option under subsection (1)(b), or (c).
- (3) If a member has a spouse on the date the member elects an option under subsection (1), the member is required to elect that 60% of the member's pension, in relation to subsection (1) (b) or (c), be paid on the joint life and last survivor option under subsection (1) (c) unless the spouse waives this requirement in writing by completion of a form specified by the plan administrative agent or there is filed with the plan administrative agent a written agreement or court order made under Part 5 or 6 of the *Family Law Act* with the same effect.
- (4) If the payment of the retirement benefit ceases, the last survivor, or the last survivor's personal representative, must be paid any amount by which the refund value of the member contributions exceeds the total of the retirement benefit payments made under this Plan.
- (4.1) Subsection (4) does not apply if a pension includes an amount payable as a single life with no guaranteed period, payable for the life of the member.
- (5) If the pension granted to a member includes the single life guaranteed option under subsection (1) (b), and the member dies before the expiration of the term certain, the payments for the remainder of the term must be made to the beneficiary as determined by section 81, in the form of
  - (a) a choice of a monthly payment or lump sum if the beneficiary is a spouse, or is designated under section 81 (2) (a) (i) or is one or more trustees designated by the member in respect of a minor beneficiary; or
  - (b) a lump sum for any other beneficiary including, without limitation, a beneficiary designated under section 81 (2) (a) (ii) or (iii) and a trustee not referred to in subsection (a) including a trustee of a family or charitable purpose trust.
- (6) [Repealed]
- (7) If the pension granted to a member includes the single life guaranteed option under subsection (1) (b) and the member dies before the expiration of the term certain, and a beneficiary designated by the member under section 81 (2) (a) (i) dies after the member dies but before the expiration of the term certain
  - (a) where the beneficiary that died was the only beneficiary designated by the member under section 81 (2) (a) (i) the commuted value of the remaining payments must be made to that beneficiary's estate,
  - (b) where the member designated more than one beneficiary under section 81 (2) (a) (i) the commuted value of the remaining payments otherwise payable to the deceased beneficiary must be paid to that beneficiary's estate.
- (7.1) If the pension granted to a member includes a joint life guaranteed option under subsection 1 (c) and if
  - (a) the spouse or former spouse and the member die before the expiration of the term certain but the spouse or former spouse survives the member, the commuted value of the remaining payments must be paid to the estate of the spouse or former spouse;
  - (b) the spouse or former spouse and the member die before the expiration of the term certain

but the member survives the spouse or former spouse, the commuted value of the remaining payments must be paid to the beneficiary designated by the member under section 81.

- (8) Within 60 days after the date on which the member's retirement benefit is granted, the member may change the pension option by notice in writing filed with the plan administrative agent.
- (9) A member may elect to receive, instead of a pension, a retirement benefit equal to the commuted value of the retirement benefit if the commuted value is not greater than 20% of the year's maximum pensionable earnings for the calendar year in which the most recent calculation of the commuted value was made.
- (10) A member who reaches pensionable age and who is receiving a disability benefit under Part 6 is not entitled to benefits under this Part.
- (11) If under this Part a refund is payable to a member, the payment may be transferred to an RRSP.

#### **Special retirement incentive plan**

- 57**
- (1) The employer may, by resolution, request that the plan administrative agent waive or alter any of the reduction factors provided for in section 55, and the plan administrative agent, subject to subsection (4), may make the waiver or alteration.
  - (2) The resolution of the employer must include all of the following:
    - (a) the class of members to which subsection (1) applies;
    - (b) the period of time during which subsection (1) applies;
    - (c) the conditions under which the reduction factor(s) is or are waived or altered;
    - (d) the commitment to pay the amount requested by the plan administrative agent.
  - (3) The board must approve the methodology for determining the cost to waive or alter any of the reduction factors provided for in section 55.
  - (4) The plan administrative agent must, on request for a waiver or alteration under subsection (1), determine the following:
    - (a) the additional cost to the pension fund that results from the payment of a retirement benefit to a member by the application of subsection (1);
    - (b) the amount and the time at which additional payments must be made to the pension fund by the employer.
  - (5) [Repealed]
  - (6) Benefits payable under this Part are subject to the restrictions on early retirement provisions set out in section 8503 (3) of the Income Tax Regulations under the *Income Tax Act* (Canada).

**58** [SECTION NOT USED]

#### **Income Tax Act (Canada) limits**

- 59**
- (1) Pension benefits payable under this Part for service accrued after December 31, 1991 are limited to the maximum lifetime retirement benefits as set out in section 8504 of the Income Tax Regulations under the *Income Tax Act* (Canada).
  - (2) Unless consent to delay commencement of payment of benefits members is obtained pursuant to s. 8502(e)(i)(A) of the Income Tax Regulations, commencement of payment of benefits to

a member must not be delayed beyond the member's latest retirement age. If such consent is obtained, the amount of benefits (expressed on an annualized basis) payable to the member cannot exceed the amount that would have been payable to the member had payment begun at the end of the calendar year in which the member attained age 71.

## PART 6 – DISABILITY BENEFITS

### Eligibility for disability benefits

- 60**
- (1) In this Part, “**totally and permanently disabled**” means, in relation to a member, to be suffering from a mental or physical condition that
    - (a) prevents the member from engaging in any employment for which the member is reasonably suited by virtue of the member's education, training or experience, and
    - (b) can reasonably be expected to last for the remainder of the member's lifetime.
  - (2) A member is eligible to receive a disability benefit determined in accordance with section 63 if the member
    - (a) has terminated employment,
    - (b) has completed at least 2 years of contributory service,
    - (c) is, on or after October 1, 1999, totally and permanently disabled before reaching pensionable age, and
    - (d) is not eligible
      - (i) to receive a monthly income benefit under a group disability plan, or
      - (ii) for coverage under the Public Service Long Term Disability Plan.
  - (2.1) Despite subsection (2), a member who has received a lump sum payment instead of a monthly income benefit under a group disability plan is not eligible to receive a disability benefit under this Part.
  - (3) The disability benefit that a member becomes eligible for under subsection (2) is only to be granted
    - (a) on application by the member within 2 years after the date of the last contribution, or deemed contribution, made to the pension fund, and
    - (b) with the approval of the plan administrative agent.
  - (4) A member is not totally and permanently disabled unless, within 2 years after the date of the last contribution, or deemed contribution, made to the pension fund,
    - (a) the member has been examined at the direction of the plan administrative agent by at least 2 medical doctors,
    - (b) the medical doctors determine that the disability arises from the mental or physical condition of the member, and
    - (c) at least 2 medical doctors certify in writing that, to the best of their knowledge, the member is totally and permanently disabled.
  - (5) For each member receiving a disability benefit, the plan administrative agent must arrange a medical examination of the member, not more often than once in each year, until the member reaches pensionable age.
  - (6) If the medical examination required by subsection (5) shows that the member is no longer totally and permanently disabled, the disability benefit must, immediately after that medical examination, be discontinued as follows:

- (a) if the member does not re-enter service and resume contributions, the member is entitled to apply for a benefit under Part 4 or 5 when the member qualifies for a benefit;
- (b) if the member re-enters service and resumes contributions, any later calculation or determination with respect to that member must be made as if the disability benefit had not been paid during the disability.

#### **Disability benefits statement**

- 61** (1) The plan administrative agent must provide to the member a disability benefits statement upon request.
- (2) If a member who is eligible for a disability benefit under section 60 elects an option provided for in the disability benefits statement and returns the completed election to the plan administrative agent, the plan administrative agent must make the payment in accordance with this Part.

#### **Effective date of disability benefits**

- 62** (1) A disability benefit will be granted on
- (a) the first day of the month following the month for which final payment of salary was made, or
  - (b) the first day of the month in which the application for a disability benefit is filed with the plan administrative agent,
- whichever is later.
- (2) Despite subsection (1) (b), if a member fails to apply for a disability benefit on or before its eligibility date and, in the opinion of the plan administrative agent, the failure to apply is due to
- (a) the member being incapable of managing the member's affairs, or
  - (b) another good and sufficient reason,
- the plan administrative agent may grant a disability benefit effective the date the member would have, but for the failure to apply, begun receiving it.

#### **Calculation of disability benefits**

- 63** (1) Subject to this section, a member who is eligible for a disability benefit under section 60 and who terminates employment on or after October 1, 1999 is entitled to receive that benefit calculated in accordance with section 54 (1) based on the member's actual salary and service.
- (2) Despite subsection (1), an increased disability benefit calculated in accordance with subsection (3) must be paid to the member in accordance with section 8503 (3) (d) of the Income Tax Regulations under the *Income Tax Act* (Canada) if it is greater than the disability benefit calculated under subsection (1).
- (3) The increased disability benefit described in subsection (2) is the lesser of
- (a) the unreduced pension that would be payable to the member under section 54 (1) if the member had remained in service, retired from service at age 65, and continued to receive the salary paid to the member for the member's last complete month of employment, and
  - (b) 1/12th of the year's maximum pensionable earnings for the year in which the disability benefit is to commence, reduced by the total benefits being paid on a monthly basis to the member by any other defined benefit pension plans.

- (4) If section 5 (2) applies to a member referred to in subsection (1), the references to section 54 (1) in this section are deemed to be references to section 54 (4).
- (5) A member who is entitled to a disability benefit under this Part and who has made voluntary contributions is entitled to
  - (a) a benefit in an amount obtained by converting to a pension the balance of any voluntary contributions, including interest at fund interest rates on those contributions, or
  - (b) a refund of the balance of any voluntary contributions, including interest at fund interest rates on those contributions.
- (6) If under this Part a refund is payable to a member, the payment may be transferred to an RRSP.

#### **Options and conditions at retirement**

- 64** (1) The disability benefit that a member is entitled to receive under this Part is granted on the same options and conditions as set out in section 56.
- (2) A member who is receiving a disability benefit under this Part and who reaches pensionable age will continue to receive that benefit, whether or not the member remains totally and permanently disabled, unless the member returns to work.

#### **Income Tax Act (Canada) limits**

- 65** (1) Benefits payable under this Part are limited to the maximums set out in section 8503 (3) of the Income Tax Regulations under the *Income Tax Act* (Canada).
- (2) Pension benefits payable under this Part for service accrued after December 31, 1991 are limited to the maximum lifetime retirement benefits set out in section 8504 of the Income Tax Regulations under the *Income Tax Act* (Canada).

### **PART 6.1 – SHORTENED LIFE EXPECTANCY BENEFITS**

#### **Election to convert locked-in benefits in the event of shortened life expectancy**

- 65.1** (1) If a member, other than a retired member in receipt of a benefit under this Plan, who is entitled to receive a benefit from this Plan has an illness or a disability that is certified by a medical practitioner to be terminal or to likely shorten the member's life considerably, that member may, subject to and in accordance with the Pension Benefits Standards Regulations,
- (a) elect to convert all or part of the benefit to a series of payments for a fixed term to that member, or
  - (b) elect to withdraw as a lump sum an amount equal to the commuted value of the benefit or any lesser amount that the member may select.
- (2) If a member who wishes to make an election under subsection (1) has a spouse, the member is not eligible to make that election unless a valid spousal waiver has been filed with the plan administrative agent.
- (3) If a payment is made to a member pursuant to subsection (1), any subsequent payments made in respect of that member will be reduced by an actuarially equivalent value to reflect any payments made under subsection (1).



## PART 7 – PRE-RETIREMENT DEATH BENEFITS

### Eligibility for pre-retirement death benefits

- 66 This Part applies to a member who dies on or after October 1, 1999 but before being granted a benefit under Part 4 or 5.

### Pre-retirement death benefits statement

- 67 (1) The plan administrative agent must provide to the member's beneficiary a pre-retirement death benefits statement in the manner required by the *Pension Benefits Standards Act*.
- (2) If the member's beneficiary is eligible for a pre-retirement death benefit under this Part and applies to the plan administrative agent for that benefit, the plan administrative agent must pay the benefit in accordance with this Part.

### Effective date of pre-retirement death benefit

- 68 If payable, a pension determined in accordance with section 69 will be granted on the first day of the month following the member's date of death.

### Calculation of pre-retirement death benefit

- 69 (1) [Repealed]
- (2) If a member dies and there is no surviving spouse or a valid spousal waiver has been filed with the plan administrative agent, a benefit equal to the greater of
- (a) a refund calculated in accordance with section 44, and
  - (b) the commuted value calculated in accordance with section 46 which the member would have been entitled to in respect of the member's pensionable service had the member terminated employment immediately before death,
- is payable to the beneficiary as determined by section 81 (2) or 81.1.
- For greater clarity, if a valid spousal waiver has been filed with the plan administrative agent, in no case is the surviving spouse entitled to receive the benefit as a designated beneficiary under sections 81 or 81.1.
- (3) If a member who dies is not entitled at the date of death to an immediate pension in accordance with section 50, and there is a surviving spouse and a valid spousal waiver has not been filed with the plan administrative agent, the spouse may elect to receive either
- (a) a benefit equal to the greater of
    - (i) a refund calculated in accordance with section 44, and
    - (ii) the commuted value calculated in accordance with section 46which the member would have been entitled to in respect of the member's pensionable service had the member terminated employment immediately before death, or,
  - (b) an immediate pension which is actuarially equivalent to the amount calculated under paragraph (a) (ii), and payable as if the member had chosen the joint life and last survivor option under section 56 (1) (c).
- (4) If a member who dies is entitled at the member's date of death to an immediate pension in accordance with section 50, and there is a surviving spouse and a valid spousal waiver has not been filed with the plan administrative agent, an immediate pension is payable to the spouse of the member

- (a) which is actuarially equivalent to the commuted value calculated in accordance with section 46 which the member would have been entitled to in respect of the member's pensionable service had the member terminated employment immediately before death, and
  - (b) payable as if the member had chosen the joint life and last survivor option under section 56 (1) (c).
- (4.1) If a surviving spouse dies prior to making an election under subsection (3), or prior to receiving an immediate pension under subsection (4), the greater of the commuted value of the pension the spouse was entitled to and the refund the spouse could have elected under subparagraph (3)(a)(i) is payable to the surviving spouse's estate.
- (5) If section 5 (2) applies to the member referred to in subsection (4), the pension under subsection (4) is calculated in accordance with section 54 (4).
- (6) [Repealed]
- (7) A surviving spouse may elect to receive, instead of a pension calculated under subsection (3) or (4), a payment equal to the commuted value of the pension if the commuted value is not greater than 20% of the year's maximum pensionable earnings for the calendar year in which the most recent calculation of the commuted value was made.
- (8) If the plan administrative agent is satisfied that the commuted value must be transferred on a locked-in basis, it may be transferred to
  - (a) another registered pension plan,
  - (b) a locked-in retirement account,
  - (c) a life income fund, or
  - (d) an insurance company or other financial institution,in accordance with the requirements of the *Pension Benefits Standards Act* for the transfer of locked-in funds.
- (9) The locked-in requirement of subsection (8) does not apply to a surviving spouse or former spouse who
  - (a) has been absent from Canada for 2 or more years, and
  - (b) has become a non-resident of Canada as determined for the purpose of the Income Tax Act (Canada).
- (10) The beneficiary of a member who has made voluntary contributions is entitled to
  - (a) a benefit in an amount obtained by converting to a pension the balance of any voluntary contributions, including interest, at fund interest rates on those contributions, or
  - (b) adding to a commuted value the balance of any voluntary contributions, including interest, at fund interest rates on those contributions.
- (11) Despite any other provision of this Part, if a member who terminated employment before January 1, 1996 dies on or after April 1, 2000, and
  - (a) was not entitled to a deferred or immediate retirement benefit or a commuted value at the time of termination of employment, then the entitlement to a pre-retirement death benefit is a refund calculated in accordance with section 44,
  - (b) was entitled to a deferred retirement benefit at the time of termination of employment and was not entitled to an immediate retirement benefit at the time of death, then the entitlement to a pre-retirement death benefit is

- (i) the benefit described in subsection (2) if there is no surviving spouse or a valid spousal waiver has been filed with the plan administrative agent, or
  - (ii) the benefit described in subsection (3) if there is a surviving spouse and a valid spousal waiver has not been filed with the plan administrative agent, or
- (c) was entitled to an immediate retirement benefit at the time of termination of employment or was entitled to a deferred retirement benefit at the time of termination of employment and to an immediate retirement benefit at the time of death, then the entitlement to a pre-retirement death benefit is
- (i) the pension described in subsection (4) or (5) if there is a surviving spouse and a valid spousal waiver has not been filed with the plan administrative agent, or
  - (ii) the benefit described in subsection (2) if there is no surviving spouse or a valid spousal waiver has been filed with the plan administrative agent.
- (12) If under this Part a refund is payable, the payment may be transferred to an RRSP to the extent permitted by the *Income Tax Act* (Canada).

#### **Options and conditions respecting pension benefits**

- 70** (1) Despite any other provision of this Part, if a member is separated or divorced and, as a result of a written agreement or court order made under Part 5 or 6 of the *Family Law Act*, the former spouse is entitled to a portion of the benefit payable under section 69 on the death of the member, the former spouse is entitled to that portion whether or not the member has nominated the former spouse or any other beneficiary.
- (2) Despite subsection (1), if the plan administrative agent has paid a benefit under section 69 on the death of a member before receiving notice of an agreement or court order, the plan administrative agent is not liable to make any payment to the former spouse except in accordance with section 77.
- (3) Despite any other provision of this Part, the remainder of the benefit over the amount of the court order or separation agreement must be paid to the beneficiary described in section 81 as the benefit would have been paid under section 69 had there been no court order or separation agreement.

#### ***Income Tax Act* (Canada) limits**

- 71** Benefits payable under this Part are limited to the maximums set out in section 8503 (2) of the *Income Tax Regulations* under the *Income Tax Act* (Canada).

## **PART 8 – RETIRED MEMBER BENEFITS**

#### **Source of payments**

- 72** The pensions, bridge benefits, temporary annuities, monthly benefits and disability benefits paid under Parts 5, 6 and 7 must be paid monthly from the pension fund, including a full payment for the month in which the member dies or payment of the benefit ends.

#### **Cost of living benefits**

- 73** (1) Cost of living benefits to retired members who receive
- (a) an indexable benefit pension under this Plan, or
  - (b) an indexable benefit pension permitted by the *Members' Remuneration and Pensions Act* that is payable under this Plan,

are funded from the inflation adjustment account.

- (2) On January 1 of each year, the board must grant cost of living benefits to members in accordance with this section. If on the day a cost of living benefit is granted, the indexable benefit has been paid for a period of less than 12 months, the cost of living benefit must be reduced to the amount obtained by multiplying it by 1/12 for each complete month during which the indexable benefit was paid.
- (3) The portion of the indexable benefit eligible for adjustment is the total amount of the indexable benefit, including any previous cost of living benefits, less
  - (a) any pension provided under sections 54 (5), 55 (5), 63 (5) and 69 (10).
  - (b) [Repealed]
- (4) The amount of a cost of living benefit granted on any January 1 must not exceed the amount obtained by multiplying
  - (a) the percentage increase in the average CPI determined as of that January 1<sup>st</sup> over the average CPI determined as of the preceding January 1<sup>st</sup>by
  - (b) the portion of the indexable benefit eligible for adjustment on that January 1.
- (4.1) In determining the percentage change in the average CPI for the purposes of subsection (4)
  - (a), the value of the average CPI on any January 1 is deemed to be the greater of
    - (a) the actual value of the average CPI calculated as of that date, or
    - (b) the highest average CPI calculated as of any preceding January 1<sup>st</sup>.
- (5) Subject to subsection (4), the cost of living benefit must be
  - (a) an amount, in total, that has a capitalized value less than or equal to the amount in the inflation adjustment account on the preceding September 30, and
  - (b) calculated to provide a uniform percentage increase in the portion of the indexable benefit eligible for adjustment.
- (6) The total capitalized value of all cost of living benefits granted on any January 1 under this section must not exceed the amount the plan administrative agent determines is in the inflation adjustment account on the preceding September 30.
- (7) The capitalized value of the aggregate of the cost of living benefits granted annually under this section must be transferred from the inflation adjustment account to the basic account.
- (8) A cost of living benefit ends when the part of the indexable benefit on which the cost of living benefit is based ends.

#### **Public sector remuneration after retirement**

- 74**
- (1) If a retired member becomes an employee to whom this Plan would otherwise apply, the retired member must continue to receive a retirement benefit. For greater clarity, the retired member is not eligible to make contributions and accrue service in respect of the re-employment.
  - (2) This section does not apply to a person who is considered a retired member solely because he or she is receiving a pension or monthly benefit following the death of a member.

**PART 9 – PENSION FUND****Accounts in the pension fund**

- 75 (1) The pension fund is divided into the following 3 accounts:
- (a) the basic account;
  - (b) the inflation adjustment account;
  - (c) the supplemental benefits account.
- (2) The basic account consists of all the assets of the pension fund other than assets in the inflation adjustment account and the supplemental benefits account.
- (3) The inflation adjustment account consists of
- (a) the active member's contributions made under section 5 (1) (c),
  - (b) the employer's contributions made under section 6 (1) (c) , (2.1) (a) (ii), (2.1) (b) (ii), and 102 (6) (b) less amounts allocated for the payment of group benefit entitlements under the Public Service Pension Plan Post-retirement Group Benefit Rules,
  - (c) net investment income earned on the account,
  - (d) subject to the prior approval of the board, all or such lesser part as the board designates of the income, as specified by the plan administrative agent, that
    - (i) is earned on other pension fund assets held in the basic account in respect of indexable benefits being paid, and
    - (ii) is in excess of the investment rate of return assumed by the actuary in the most recent actuarial valuation of this Plan,
  - (e) amounts transferred under subsection (8) of this section, and
- (e.1) the active member and government contributions made under the *Judicial Compensation Act*,
- (e.2) plan participant and government contributions made under Part 15 less
- (f) amounts transferred to the basic account under sections 73 and 88,
  - (g) amounts refunded to a former member in respect of contributions made under section 5 (1) (c) or transferred out of the pension fund in respect of member contributions made under section 5 (1) (c), employer contributions made under section 6 (1) (c) , (2.1) (a) (ii), (2.1) (b) (ii), and 102 (6) (b) or transfers under section 29,
  - (h) amounts determined by the plan administrative agent in respect of the portion of the commuted value or transfer of the actuarial reserve value that is attributable to the cost of living adjustment that is transferred out of the pension fund in accordance with section 29, 46 or 69 (2) (b) or (3) (a),
  - (i) amounts transferred to the basic account that are equal to the capitalized value of the increase in a member's retirement benefit resulting from any increase in the member's highest average salary under section 100,
  - (j) amounts contributed to the supplemental benefits account under subsection (4) (d) of this section, and
  - (k) amounts received as contributions in accordance with paragraph (e.1) and allocated by the board to the basic account and the supplemental benefits account,
  - (l) amounts received as contributions in accordance with paragraph (e.2) and allocated by the board to the basic account and the supplemental benefits account.

- (4) The supplemental benefits account consists of
  - (a) contributions to the pension fund provided for in section 86 and the Public Service Pension Plan Post-retirement Group Benefit Rules,
  - (b) amounts from contributions under section 6 (1) (a) and (b), (2.1) (a) (i), (2.1) (b) (i), and 102 (6) (a), specified by the plan administrative agent as necessary to cover any annual shortfall between current assets in the account and the cost of providing benefits under section 87 and the cost of providing cost of living benefits under section 88,
  - (c) amounts otherwise contributed under section 6 (1) (a) and (b), (2.1) (a) (i), (2.1) (b) (i), and 102 (6) (a), which are specified by the plan administrative agent to be required to pay for the cost of administering the account, including the costs to administer any benefits under Part 11 and the Public Service Pension Plan Post-retirement Group Benefit Rules, and
  - (d) other amounts that may be specified by the board or former board,less
  - (e) amounts paid in respect of benefits under section 87,
  - (f) amounts paid in respect of cost of living benefits under section 88,
  - (g) amounts paid in respect of group benefits under the Public Service Pension Plan Post-retirement Group Benefit Rules, and
  - (h) amounts determined by the plan administrative agent as the cost of administering the account, including the costs to administer any benefits under Part 11 and the Public Service Pension Plan Post-retirement Group Benefit Rules.
- (5) The plan administrative agent must keep an account of
  - (a) all contributions and money received and all money paid out, and
  - (b) all assets and liabilities of the pension fund.
- (6) Subject to section 59 of the *Pension Benefits Standards Act*, the plan administrative agent may return to a member or employer, or to the supplemental benefits account, any contributions that are inadvertently made to the basic account which are in excess of the maximum contributions set out in the *Income Tax Act* (Canada).
- (7) For retirements benefits to be paid to a retired member, as permitted by the *Members' Remuneration and Pensions Act*, the monies that must be transferred from the Members of the Legislative Assembly Superannuation Account, at the time of retirement of the member, must be equivalent to the capitalized value of the retirement benefit to be paid to the member, including the capitalized value of projected costs of living benefits.
- (8) The portion of the capitalized value relating to the projected cost of living benefits must be transferred into the inflation adjustment account.

## PART 10 – GENERAL ADMINISTRATIVE REQUIREMENTS

### Assignment

- 76 Benefits payable under the Plan must not be assigned, charged, attached, anticipated, surrendered or given as security, and any transaction purporting to assign, charge, attach, anticipate, surrender or give as security a benefit, is void.

### Separation agreements and court orders

- 77 (1) If a member is separated or divorced and there is a written agreement or court order made under Part 5 or 6 of the *Family Law Act* under which the spouse is entitled to, or relinquishes entitlement to, the benefits under this Plan or has that entitlement cancelled, a copy of that written agreement or court order must be filed with the plan administrative agent before the earlier of
- (a) the death of the member, and
  - (b) the date the member begins receiving a benefit.
- (2) If the written agreement or court order is not filed within the time required by subsection (1), the plan administrative agent must not make any adjustment in the payment of a benefit
- (a) other than a pension granted under Part 7, or
  - (b) except as required by the *Family Law Act*.
- (3) If an adjustment is made under subsection (2), the adjustment applies only to payments made after the written agreement or court order is filed.

### Proof

- 78 (1) When required by the plan administrative agent, a member or other person claiming a benefit must submit
- (a) proof respecting
    - (i) age,
    - (ii) identity,
    - (iii) marital status,
    - (iv) employment,
    - (v) termination of employment, or
    - (vi) spouse, or
  - (b) any proof necessary for the determination of entitlement to a benefit.
- (2) The plan administrative agent may defer the granting of a benefit until proof satisfactory to the plan administrative agent has been submitted.
- (3) The plan administrative agent may require the person to provide evidence to establish the claim, including evidence by way of affidavit or declaration or by certified copy of a certificate or other required document.

### Address of members or persons claiming an interest

- 79 A member or a person with an interest or entitlement must
- (a) keep the plan administrative agent informed of his or her current address, and
  - (b) in the case of a retired member, report in person or by certificate, using the form specified by the plan administrative agent, as the plan administrative agent may require.

**Employer's duties and rights**

- 80** (1) An employer must do all of the following:
- (a) provide to the plan administrative agent, in the manner and within the time limits specified by the plan administrative agent, complete, accurate and sufficient personal information and records respecting any member as may be necessary for the administration of this Plan;
  - (b) collect and remit to the plan administrative agent all required member and employer contributions in accordance with Part 2;
  - (c) provide each member with the information supplied by the plan administrative agent as required by the Pension Benefits Standards Act, and provide any other information and records in the manner, and within the time limits, established by the plan administrative agent;
  - (d) obtain and retain a form of waiver from any employee who elects in writing not to be covered as a member under this Plan.
- (2) An employer must reimburse the plan administrative agent, on demand, for the full amount of any costs, charges, expenses or penalties imposed on, and paid by, the plan administrative agent on behalf of the employer arising out of
- (a) the employer's failure to report information in the form or within the deadlines specified by the plan administrative agent, or
  - (b) the employer's submission to the plan administrative agent of incomplete, inaccurate or insufficient data for the purposes of calculating the pension adjustment.
- (3) Nothing in this Plan impairs or affects the rights of an employer to remove or dismiss a person from service.

**Beneficiary designation**

- 81** (1) Despite the member's designation of one or more beneficiaries pursuant to subsection (2) and despite subsection (5):
- (a) if a member has a spouse at the time that the member elects a pension option under section 56, the spouse will be the member's beneficiary;
  - (b) if a member has a spouse at the time that the member dies before commencing a retirement benefit, the spouse will be the member's beneficiary.
- (2) If a member does not have a spouse at the relevant time or a valid spousal waiver has been filed with the plan administrative agent, the member's beneficiary will be determined in accordance with the following:
- (a) the member may designate as his or her primary beneficiary, any one of or a combination of the following:
    - (i) one or more individuals,
    - (ii) one or more corporations, partnerships, societies, associations or any other entities that are acceptable to the plan administrative agent,
    - (iii) the personal representative of the estate of the member in a representative capacity,
    - (iv) one or more trustees including, without limitation, trustees of a family trust, trustees of a minor designated by the member as a beneficiary or trustees of a charitable purpose trust;



- (b) for any primary beneficiary designated pursuant to subsection (a) the member may designate an alternate beneficiary that will only receive the applicable share of the benefit if the primary designated beneficiary dies, winds-up or terminates (as is applicable) before the member's death;
  - (c) the member may designate the percentage of the benefit to be paid to each of the beneficiaries designated pursuant to subsections (a) and (b). If the member does not specify how the benefit will be shared between or among the beneficiaries designated pursuant to subsections (a) and (b), the beneficiaries will receive an equal share of the payment;
  - (d) if the member does not designate an alternate beneficiary and the primary beneficiary dies, winds-up or terminates (as is applicable) before the member's death, the share that would have been paid to the primary designated beneficiary will be payable:
    - (i) to the surviving designated beneficiary,
    - (ii) among the surviving designated beneficiaries in equal shares if there is more than one surviving designated beneficiary, or
    - (iii) to the member's estate if there are no surviving designated beneficiaries.
- (3) A person granted power over an adult's financial affairs under
- (a) Part 2 of the *Power of Attorney Act*, or
  - (b) the *Patients Property Act*
- may make, alter or revoke a designation under this section only if expressly authorized to do so by the court and the designation is not made in a will.
- (4) Subject to subsection (7), any designation, alteration or revocation of a beneficiary designation made pursuant to subsection (2) or (3) must be
- (a) in writing,
  - (b) signed by the person making it, or by another person in the presence of the person making it and by his or her direction and the signature may be in the name of the person making it or the person signing by his or her direction, and
  - (c) in a form acceptable to the plan administrative agent.
- (5) A member may make any beneficiary designation made pursuant to this section an irrevocable designation of beneficiary to which subsection (7) applies if
- (a) the member completes the form approved by the plan administrative agent for that purpose in order to irrevocably designate a beneficiary, and
  - (b) the irrevocable beneficiary designation form referred to in subsection (a) is filed with the plan administrative agent before the member's death.
- (6) For greater clarity, a member's irrevocable beneficiary designation that does not comply with subsection (5) including, without limitation, because the irrevocable beneficiary designation is made in a will or because the member does not file the form referred to in subsection (5) (a) with the plan administrative agent before his or her death, the designation will be subject to the normal alteration and revocation rules as set out in subsection (4).
- (7) If a member makes an irrevocable beneficiary designation in accordance with subsection (5), despite subsection (4):
- (a) the member may only alter or revoke that designation during the lifetime of the beneficiary that is the subject of the irrevocable designation with that beneficiary's express consent and using the form approved by the plan administrative agent for that purpose, and

- (b) the benefit about which the irrevocable beneficiary designation has been made does not form part of the member's estate upon his or her death and is not subject to the control of the member or of the member's creditors.

#### **Beneficiary designation in a member's will**

- 81.1** (1) Subject to section 81 (5), a member's beneficiary designation may be made in his or her will.
- (2) If a member designates a beneficiary in his or her will:
- (a) such designation is only effective if the designation relates expressly to the plan either generally or specifically,
  - (b) the member may alter or revoke that designation by:
    - (i) altering or revoking the designation in a subsequent will provided that alteration or revocation complies with subsection (a), or
    - (ii) completing a form acceptable to the plan administrative agent for the purpose of altering or revoking a beneficiary designation and by filing that form with the plan administrative agent before the member's death,
  - (c) revocation of the member's will also revokes any beneficiary designations made in the will,
  - (d) revocation of that beneficiary designation does not revive an earlier designation of beneficiary.

#### **Discharge of liability**

- 81.2** (1) If a payment is made to a designated beneficiary, the board and the plan administrative agent are discharged in respect of that benefit even if the plan administrative agent later receives notice of a change of designated beneficiary.
- (2) Any payment to a trustee including, without limitation, payment to a trustee for a minor designated as a beneficiary or a trustee of a family or charitable purpose trust, discharges the board and the plan administrative agent in respect of that payment.
- (3) In the event of a payment referred to in subsection (1) or (2), the board and the plan administrative agent may set up any defence that would have been available had a claim to enforce payment been brought by the member or the member's personal representative.

#### **Benefit payable to a minor**

- 82** (1) If, on the death of a member, a benefit becomes payable to a minor, the benefit must be paid to the Public Guardian and Trustee, in trust for the minor, for payment to the minor on reaching the age of 19 years.
- (2) Subsection (1) does not apply if the member has designated a trustee in respect of the minor under subsection 81 (2) (a) (iv).

#### **Creditor's claim respecting a benefit**

- 83** (1) If, on the death of a member, a benefit becomes payable to
- (a) the spouse of the member if there is a spouse and a valid spousal waiver has not been filed with the plan administrative agent, or
  - (b) a beneficiary of the member if there is no spouse or a valid spousal waiver has been filed with the plan administrative agent,
- the amount is not subject to the control of the creditors of the deceased member and does not form part of the member's estate.

(c) [Repealed]

(d) [Repealed]

- (2) If, on the death of a member, a benefit becomes payable and no spouse or beneficiary exists who qualifies to receive the benefit under subsection (1), the benefit is payable to the estate of the member and forms part of the member's estate and is subject to the control of the creditors.

#### **Refund of Voluntary Contributions**

- 84** A member who has made voluntary contributions is entitled, on request, to a refund of the voluntary contributions, including interest at fund interest rates on those contributions. If requested, the payment may be transferred to an RRSP.

#### **Benefits under a group disability plan**

- 85** (1) A member who receives a monthly income benefit under a group disability plan for a particular period of time is not entitled to a benefit under this Plan for that same period of time.
- (2) If a benefit was paid under this Plan for a period of time during which the member received a monthly income benefit under a group disability plan, the benefit paid under this Plan must be repaid to the Plan by the member as an amount due and owing by the member to the Plan.

### **PART 11 – SUPPLEMENTAL BENEFITS**

#### **Supplemental benefit contributions**

- 86** (1) If an active member contribution required under section 5 is limited by section 11 (1), the difference between what would have been contributed and what is actually contributed under Part 2 must be contributed under this Part.
- (2) If an employer contribution required under section 6 is limited by section 11 (3), the difference between what would have been contributed and what is actually contributed under Part 2 must be contributed under this Part.
- (3) If a member contribution required for a benefit under Part 3 is limited by section 41 (2), (4) or (7) to (10), the difference between what otherwise would have been contributed and what was actually contributed under Part 2 may, with the approval of the board or former board, be contributed under this Part.
- (4) If an employer contribution required for a benefit under Part 3 is limited by section 41 (2), (4) or (7) to (10), the difference between what otherwise would have been contributed and what was actually contributed under Part 2 may, with the approval of the board or former board, be contributed under this Part.
- (5) The contributions required by this section must be made to the supplemental benefits account.

**Supplemental benefits**

- 87** (1) If a benefit resulting from recognition of service that would be provided under Part 3 is limited by section 41 (7) to (10), the difference between what would have been provided and what is actually provided under Part 3 must, with the approval of the board or former board, be provided under this Part.
- (2) If a benefit that would be provided under Part 4 is limited by section 49, the difference between what would have been provided and what is actually provided under Part 4 must, with the approval of the board or former board, be provided under this Part.
- (3) If a benefit that would be provided under Part 5 is limited by section 59, the difference between what would have been provided and what is actually provided under Part 5 must, with the approval of the board or former board, be provided under this Part.
- (4) If a benefit that would be provided under Part 6 is limited by section 65, the difference between what would have been provided and what is actually provided under Part 6 must, with the approval of the board or former board, be provided under this Part.
- (5) If a benefit that would be provided under Part 7 is limited by section 71, the difference between what would have been provided and what is actually provided under Part 7 must, with the approval of the board or former board, be provided under this Part.
- (6) If a benefit is paid to a retired member as permitted by the *Members' Remuneration and Pensions Act*, the difference between what is permitted by that Act and the maximum lifetime retirement benefits as set out in section 8504 of the Income Tax Regulations made under the *Income Tax Act (Canada)* must be provided under this Part.

**Supplemental cost of living benefits**

- 88** (1) If a member receives or is entitled to receive a cost of living benefit under section 73, the member must receive or is entitled to receive an additional cost of living benefit with respect to the amount of a supplemental benefit payable under section 87.
- (2) The additional cost of living benefit provided under this section must
- (a) be calculated using the same percentage increase as the increase provided with respect to an indexable benefit, and
  - (b) be provided in the same manner as a cost of living benefit provided with respect to an indexable benefit,.

**Payment of supplemental benefits**

- 89** If a benefit is payable under this Part, the benefit is payable on the same terms and conditions as the original benefit payable under Parts 4 to 7 unless
- (a) the benefit was to be in the form of a commuted value transfer to a locked-in retirement account, in which case the payment of the commuted value amount under this Part must be made directly to the individual,
  - (b) the person has elected different options for the payment of benefits under Parts 4 to 7 and benefits under this Part, or
  - (c) different treatment is required under the Income Tax Act (Canada) or some other authority.

**Supplemental benefits on re-employment**

- 90 If a member receiving supplemental benefits becomes an employee to whom this Plan applies, the provisions of section 74 respecting a retirement benefit also apply to the supplemental benefits.

**PART 12 – REPEALED****Group benefit entitlements to be provided to pensioners**

91 to 95 [Repealed]

**PART 13 – DEFINITIONS AND PLAN INTERPRETATION****Division 1 – General Definitions****Definitions and interpretation**

- 96 (1) In this Plan, unless the context requires another meaning, the following defined terms have the following meanings:

“**Act**” means the *Public Sector Pension Plans Act*, S.B.C. 1999, c. 44;

“**active member**” means an employee who is making, or is deemed to be making, contributions to the pension fund, including an employee

- (a) on a leave of absence approved by the employer,
- (b) receiving a group disability plan benefit,
- (c) no longer required by section 5 (4) to contribute, or
- (d) receiving a benefit under this Plan as the spouse or beneficiary of a member,

but does not include an employee who has terminated employment or is receiving a retirement benefit under this Plan that arises as a result of providing service to an employer;

“**actuarial interest rate**” means the investment rate assumed by the actuary in the most recent valuation of this Plan;

“**average CPI**” means, as of January 1st of a calendar year, the average for the twelve month period ending October 31 in the preceding year of the consumer price index for each month in that twelve month period;

“**beneficiary**” means one or more of the following as permitted by the application of section 81:

- (a) the member’s spouse,
- (b) one or more individuals,
- (c) one or more corporations, partnerships, societies, associations or any other entities that are acceptable to the plan administrative agent,
- (d) the personal representative of the estate of the member in a representative capacity,
- (e) one or more trustees including, without limitation, trustees of a family trust, trustees of a minor designated by the member as a beneficiary or trustees of a charitable purpose trust.

“**benefit**” means a commuted value, pension, refund, bridge benefit, temporary annuity, monthly benefit or any other entitlement payable under this Plan to a member or the beneficiary of a member;

“**board**” means the Public Service Pension Board of Trustees established under the Public Service Pension Plan Joint Trust Agreement;

- “**bridge benefit**” means a monthly payment payable pursuant to subsection 54(2);
- “**capitalized value**” means, in relation to a retirement benefit or indexable benefit or part of a retirement benefit or indexable benefit, its actuarial present determined, at the date of the calculation, in accordance with
- (a) generally accepted actuarial methods, and
  - (b) mortality and investment rates assumed by the actuary in the most recent actuarial valuation of this Plan,
- as approved by the board or former board;
- “**certified copy**” means, in relation to a document, a copy of the document certified to be a true copy by a person authorized by the employer or plan administrative agent to certify the document;
- “**chief executive officer**” means the chief executive officer of the British Columbia Pension Corporation;
- “**child rearing**” [definition repealed];
- “**College Pension Plan**” means the pension plan which was continued under Schedule A of the Act;
- “**commuted value**” means, in relation to a benefit that a member has a present or future entitlement to receive, the actuarial present value of the benefit determined, at the date of calculation, in accordance with
- (a) generally accepted actuarial methods, and
  - (b) mortality and investment rates that are adequate and appropriate, and in accordance with generally accepted actuarial principles,
- as approved by the board or former board;
- “**consumer price index**” means the Consumer Price Index for Canada, as published by Statistics Canada under the authority of the *Statistics Act* (Canada), used for calculating the amount of any benefit payable under this Plan and, if the Consumer Price Index for Canada is adjusted to reflect a new time basis or a new content basis, includes a corresponding percentage adjustment in the consumer price index;
- “**contributory service**” means the period of service of a member for which contributions were made by the member or the employer, or are deemed to have been made by the member or by the employer with respect to the member;
- “**correctional employee**” means a person
- (a) holding an appointment under section 2(1) of the *Correction Act* (SBC 2004, Chapter 46) and who is employed in a correctional centre as defined in that Act; or,
  - (b) holding an appointment under section 24(1) of the *Youth Justice Act* (SBC 2003 Chapter 85) and who is employed in a youth custody centre as defined in that Act;
- “**dependant**” [definition repealed];
- “**earliest retirement age**” means the end of the calendar month in which a member reaches normal retirement age minus 10 years;
- “**effective date**” means April 1, 2000, the date ss. 114 and 121 of the *Act* came into force;
- “**employee**” means a person who provides a service to an employer and is in receipt of, or entitled to, a salary for the service, and includes, for the purpose of this Plan, to the extent required by the *Judicial Compensation Act*, the *Supreme Court Act* and the *Provincial Court Act*, a judge of the Provincial Court of British Columbia, a master of the Supreme Court of

British Columbia and a justice or judicial justice appointed or designated under the *Provincial Court Act*;

“**employer**” means a person or organization, whether incorporated or not, described in section 2 (1) from whom an employee receives or received salary;

“**fiscal year**” means the year beginning on April 1 and ending on March 31 next following, or the period that the board establishes as the fiscal year;

“**former Act**” means the *Pension (Public Service) Act*, R.S.B.C. 1996, c.356;

“**former board**” means the Public Service Pension Advisory Board established under section 3 of Schedule C to the *Act*;

“**former member**” means a person, other than a beneficiary,

- (a) whose membership is terminated upon pre-retirement death, or
- (b) who has received a benefit and has no further entitlement to a benefit;

“**fund interest rates**” mean the net earned rate of the pension fund as specified by the board or former board;

“**government**” means Her Majesty in Right of British Columbia;

“**group disability plan**” means a disability plan, approved by the plan administrative agent, which meets the criteria established by the board or former board;

“**highest average salary**” has the meaning given to it in Division 2 of this Part;

“**inactive member**” means a person who

- (a) was an active member,
- (b) has terminated employment,
- (c) is entitled to receive a benefit from this Plan, and
- (d) is not currently receiving a benefit from this Plan;

“**indexable benefit**” means a pension, bridge benefit, temporary annuity or monthly benefit payable to a retired member;

“**insurance company**” means a corporation authorized to carry on life insurance business in Canada;

“**Interplan Pension Transfer Agreement**” [definition repealed];

“**latest retirement age**” means, in respect of a member, November 30<sup>th</sup> of the calendar year in which the member attains the age prescribed under section 8502(e) of the Income Tax Regulations under the *Income Tax Act* (Canada) for the latest commencement of retirement benefits under a registered pension plan;

“**Lieutenant Governor in Council**” means the Lieutenant Governor acting by and with the advice of, or by and with the advice and consent of, or in conjunction with, the Executive Council;

“**life income fund**” has the same meaning as defined in the *Pension Benefits Standards Act*;

“**locked-in**” means that the pension plan funds must be used to provide a lifetime benefit;

“**locked-in retirement account**” has the same meaning as defined in the *Pension Benefits Standards Act*;

“**master**” [definition repealed];

“**member**” means

- (a) an active member,

- (b) a former member,
- (c) an inactive member, or
- (d) a retired member;

**“monthly benefit”** means a monthly payment payable pursuant to Part 5 for the balance of a guarantee period after the death of a member;

**“Municipal Pension Plan”** means the pension plan which was continued under Schedule B of the Act;

**“minor”** means a person under the age of majority;

**“normal retirement age”** means the end of the calendar month in which a member reaches

- (a) age 65,
- (b) age 60 in the case of a correctional employee, or;
- (c) the age provided in Division 3 of this Part in respect of eligible ambulance paramedics;

**“pension”** means a monthly lifetime payment payable pursuant to Parts 4, 5 or 7;

**“pension fund”** means the Public Service Pension Fund which was continued under the former Act and which, pursuant to section 9 of Schedule C to the Act, was continued under Schedule C to the Act, and which is further continued under the Public Service Pension Plan Joint Trust Agreement;

**“pension index”** means, for the purpose of the highest average salary, in any one year, the average of the consumer price index over a 12 month period ending on December 31 in that year;

**“pensionable age”** means the end of the calendar month in which a member reaches normal retirement age minus 5 years;

**“pensionable service”** means the period of service of a member, used to determine the amount of benefits payable to a member under this Plan, for which contributions were made by the member or the employer, or are deemed to have been made by the member or by the employer, but does not include service which the member is, because of this Plan, not permitted to count as pensionable service;

**“period of reduced pay”** means a defined period of reduced remuneration, resulting from an arrangement between an active member and an employer to whom this Plan applies, that qualifies to be recognized as an “eligible period of reduced pay” under section 8500(1) of the Income Tax Regulations made under the *Income Tax Act* (Canada);

**“plan administrative agent”** means the British Columbia Pension Corporation established under section 5 of the Act;

**“provincial court judge”** [definition repealed];

**“Public Service Pension Plan”** means the plan provided for under the former Act which, pursuant to section 2 of Schedule C to the Act, was continued under Schedule C to the Act and the regulations made pursuant to subsection 16(1) of Schedule C, and which is further continued under the Public Service Pension Plan Joint Trust Agreement;

**“Public Service Pension Plan Joint Trust Agreement”** means the agreement among the government and the B.C. Government and Service Employees’ Union, the Professional Employees Association and the Union of Psychiatric Nurses concluded pursuant to section 18 of Schedule C to the Act;

**“refund”** means the value of the member’s contributions, together with interest, at the refund interest rates to the end of the month preceding the date of payment;



**“refund interest rates”** means

- (a) for periods before January 1, 1993, the rates specified by the board or former board,
- (b) for periods on or after January 1, 1993 and before January 1, 2004, the rate of interest calculated on the basis of the average yields of 5 year personal fixed term chartered bank deposit rates, published in the Bank of Canada Review as CANSIM Series B 14045, and
- (c) for periods on or after January 1, 2004, the rates of interest calculated on the basis of the average yields of 5 year personal fixed term chartered bank deposit rates, published in the Bank of Canada Review as CANSIM Series V122515;

**“RRSP”** means a retirement savings plan that is within the meaning of the *Income Tax Act* (Canada) and that is registered under that Act;

**“regular employee”** means an employee who is employed for work that is of a continuous full time or a continuous part time nature;

**“reinstate”** means to include, or the inclusion of, a period of previous service of a former member as contributory service or pensionable service or both;

**“retired member”** means a person who

- (a) has terminated employment, and
- (b) is eligible to receive and is receiving a retirement benefit from the pension fund, and includes
- (c) a person who receives a pension or monthly benefit following the death of the member, and
- (d) a person who receives or continues to receive a pension permitted by the *Members’ Remuneration and Pensions Act* and payable under this Plan;

**“retirement benefit”** means a pension and, if applicable, a bridge benefit payable pursuant to Part 5;

**“salary”** means such amounts received by a member as recognized and adopted by the Board by resolution and as amended from time to time but does not include any amounts expressly excluded by the Board;

**“semi-annual interest period”** has the meaning given it in subsection (4) of this section;

**“service”** means service in the employment of an employer;

**“spouse”** persons are spouses for the purposes of the *Pension Benefits Standards Act* and this Plan on any date on which one of the following applies:

- (a) they
  - (i) are married to each other, and
  - (ii) have not been living separate and apart from each other for a continuous period longer than 2 years;
- (b) they have been living with each other in a marriage-like relationship for a period of at least 2 years immediately preceding the date;

**“statutory officer”** means any of the following:

- (a) the Auditor General appointed under the *Auditor General Act* before April 1, 2003;
- (b) [Repealed]
- (c) the Chief Electoral Officer appointed under the *Election Act*;
- (d) the Information and Privacy Commissioner appointed under the *Freedom of Information and Protection of Privacy Act*;

- (e) the Ombudsperson appointed under the *Ombudsperson Act*;
- (f) the Police Complaint Commissioner appointed under the *Police Complaint Commissioner Enabling and Validating Act*;

**“Teachers’ Pension Plan”** means the pension plan which was continued under Schedule D of the Act;

**“temporary absence”** for the purposes of enrolment under this Plan, the absence of an employee from employment is a temporary absence if all of the following apply:

- (a) no cessation of employment has occurred;
- (b) immediately before the absence the employee was in the employment of an employer;
- (c) during the absence the employee is not doing work, or providing a service, for an employer for remuneration; and
- (d) after the absence the employee is again in the employment of an employer.

**“temporary annuity”** means a monthly payment payable pursuant to paragraph 56(1)(d);

**“termination of employment”** or **“terminated employment”** means,

- (a) in the case of a member who is covered by a collective agreement, the cessation by the member of employment for which the employer is required by this Plan to make contributions on the member’s behalf, provided that if at that time the member has seniority rights under a collective agreement, the member will not be considered to have terminated employment until the earlier of
  - (i) the date that is 335 days after the cessation by the member of employment for which the employer is required by this Plan to make contributions on the member’s behalf, and
  - (ii) the date the member ceases to have seniority rights under the collective agreement,
- (b) in the case of a member who is not covered by a collective agreement, the cessation by the member of employment for which the employer is required by this Plan to make contributions on the member’s behalf, or
- (c) in the case of a member who is entitled to receive benefits from a group disability plan and whose contributions to the pension fund have been discontinued because of that entitlement, the cessation of entitlement to benefits from the group disability plan;

**“Treasury Board”** [definition repealed]

**“vested”** [definition repealed]

**“year’s maximum pensionable earnings”** has the meaning given to it in the *Canada Pension Plan*.

(2) [Repealed]

(3) [Repealed]

(4) For the purpose of crediting or charging interest as required under the *Members’ Remuneration and Pensions Act*, each fiscal year is divided into two periods, one ending on September 30 and the other ending on March 31, referred to in this Plan as the semi-annual interest periods.

**Division 2 – Highest Average Salary****Calculation of highest average salary – full time service**

- 97** (1) This section only applies to a member whose service was full time during the 60 months immediately preceding termination of employment.
- (2) Subject to subsection (3), the highest average salary of a member who is entitled to a retirement benefit is the average of 1/12th of the annual salary that the member earned, or is deemed to have earned, in each fiscal year
- (a) during the 5 years of service in which the member received, or is deemed to have received, his or her highest salary before the date on which the member begins receiving a retirement benefit, or
  - (b) during the member's actual period of pensionable service, if the member's period of pensionable service is less than 5 years.
- (3) If a member does not terminate employment at the end of a fiscal year, and if the annualized salary for that partial year is equal to or higher than the annual salaries received, or deemed to have been received, in each of the 5 full years of highest annual salary as determined under subsection (2), the partial year may be combined as required with a portion of the salary of the lowest of the 5 years in order to calculate a highest annual salary for the combined year, and the combined year can be used in place of the lowest of the 5 years, but in no case can the total of the 2 portions exceed one year of salary.

**Calculation of highest average salary – less than full time service**

- 98** (1) This section only applies to a member whose service was less than full time during the 60 months immediately preceding termination of employment.
- (2) The highest average salary of a member who is entitled to a retirement benefit is the greater of
- (a) the average of 1/12th of the annual salary that the member earned, or is deemed to have earned, in each fiscal year during the 5 years of service immediately before the date on which the member begins receiving a retirement benefit, adjusted in each of those years by an additional amount which is calculated by using salary from a year or multiple years of previous service, to compensate for those periods in a year that the member was not working, multiplied by the ratio that the pension index for the calendar year before the year of adjustment bears to the pension index for the calendar year of previous service, and
  - (b) subject to subsection (3), the average of 1/12th of the annual salary that the member earned, or is deemed to have earned, in each fiscal year
    - (i) during the equivalent of 5 full time years of service in which the member received, or is deemed to have received, his or her highest salary before the date on which the member begins receiving a retirement benefit, or
    - (ii) during the member's actual period of pensionable service, if the member's period of pensionable service is less than the equivalent of 5 full time years, adjusted to its full time equivalent.
- (3) For the purpose of calculating the highest average salary in subsection (2) (b), if a member does not terminate employment at the end of a fiscal year, and if the annualized full time equivalent of the salary for that partial year as determined under subsection (2) (b) is equal to or higher than the annual salaries received, or deemed to have been received, in each of the equivalent of 5 full time years of highest annual salary as determined under subsection (2) (b),

the partial year may be combined as required with a portion of the salary of the lowest of the equivalent of 5 full time years in order to calculate a highest annual salary for the combined year, and the combined year can be used in place of the lowest of the 5 years, but in no case can the total of the 2 portions exceed one year of full time equivalent salary.

**Adjustment to highest average salary – group disability plan service**

- 99**
- (1) This section only applies to a member who terminates employment and becomes a retired member immediately following cessation of benefits from a group disability plan.
  - (2) The plan administrative agent must adjust the highest average salary of the member, as determined under section 97 or 98, by the ratio that the pension index for the calendar year immediately before the calendar year in which the retirement benefit is granted bears to the pension index for the calendar year in which the member last began to receive a monthly income benefit under the group disability plan.

**Adjustment to highest average salary – deferred retirement benefit**

- 100**
- (1) This section only applies to an inactive member who is entitled to and applies for a deferred retirement benefit when the member reaches earliest retirement age or later.
  - (2) In this section, “**percentage increase granted to retirement benefits**” means the percentage increase in a deferred retirement benefit that results from the granting on January 1 in each year of a cost of living benefit under section 73.
  - (3) If an inactive member, whose employment terminated before January 1, 1981, is entitled to and applies to receive a deferred retirement benefit under this Plan, the plan administrative agent must adjust the highest average salary of the member, as determined under section 97 or 98,
    - (a) by the ratio that the pension index of the year ending December 31, 1980 bears to the pension index of the calendar year in which the member terminated employment, and
    - (b) by the method set out in subsection (5) from January 1, 1981 to the end of the month immediately preceding the month in which the retirement benefit is to be granted.
  - (4) If an inactive member, whose employment terminated on or after January 1, 1981, is entitled to and applies to receive a retirement benefit under this Plan, the plan administrative agent must adjust the highest average salary of the member, as determined under section 97 or 98, by the method set out in subsection (5) from the first of the month following the month in which termination of employment occurred to the end of the month immediately preceding the month in which the retirement benefit is to be granted.
  - (5) The inactive member’s highest average salary is increased in each calendar year during the period referred to in subsections (3) and (4) by the percentage, for each of those calendar years, as follows:
    - (a) if the member’s retirement benefit is granted in the same calendar year as the year in which termination of employment occurred, the proration, for the number of complete months from the date of termination of employment to the end of the month immediately preceding the effective date of the retirement benefit, of the percentage increase granted to retirement benefits on January 1 of the calendar year of termination;
    - (b) if the member’s retirement benefit is granted in a calendar year other than that referred to in paragraph (a),

- (i) the proration, for the number of complete months from the date of termination of employment to the end of the calendar year, of the percentage increase granted to retirement benefits on January 1 of the calendar year following termination,
- (ii) for each complete year between the years referred to in subparagraphs (i) and (iii), the percentage increase granted to retirement benefits on each January 1 following the calendar year following termination until January 1 of the year that the retirement benefit is granted, and
- (iii) the proration, for the number of complete months from January 1 of the year the retirement benefit is granted to the end of the month immediately preceding the effective date of the retirement benefit, of the percentage increase granted to retirement benefits on January 1 of that calendar year.

#### **Limitation on calculation of highest average salary**

- 101** (1) For the purpose of this Division, only salary paid to a member after the date on which this Plan first applies to the member must be counted in calculating the member's highest average salary.
- (2) For the purpose of this Division, salary paid to a member while the member is receiving a benefit from a group disability plan must not be counted in calculating the member's highest average salary.

### **Division 3 – Normal Retirement Age**

#### **Normal retirement age for ambulance paramedics**

- 102** (1) Subject to the payment required by subsection (6), this section applies to employees of the British Columbia Emergency Health Services who
- (a) are employed on a full time basis, or, after March 31, 2015 in a “regular part time” position, as defined in the collective agreement between British Columbia Emergency Health Services and Local 873 of the Canadian Union of Public Employees,
  - (b) are members of Local 873 of the Canadian Union of Public Employees, and
  - (c) terminate employment on or after October 1, 1995.
- (2) If a member to whom subsection (1) applies is at least age 55, then, for the purposes of sections 50 (1) (a) and 55 (1) (a) (ii) and (b) (ii), the sum of the member's age plus years of contributory service must be not less than 80 years.
- (3) If a member to whom subsection (1) applies is
- (a) at least age 50 but less than age 55, and
  - (b) has at least 10 years but less than 25 years of contributory service,
- then,
- (c) for the purpose of section 50, the earliest retirement age of the member is age 50,
  - (d) for the purpose of section 55 (1) (a) (i) and (b) (i), the pensionable age of the member is age 60, and
  - (e) for the purpose of section 55 (1) (a) (ii) and (b) (ii), the sum of the member's age plus years of contributory service must be at least 80 years.
- (4) If a member to whom subsection (1) applies is
- (a) at least age 50 but less than age 55, and

- (b) has at least 25 years of contributory service,  
then,
  - (c) for the purpose of sections 50 and 55 (1) (a) (i), the earliest retirement age of the member is 50 and the pensionable age of the member is 55, and
  - (d) section 55 (1) (a) (ii) does not apply.
- (5) For all purposes of this Plan, other than as set out in subsections (2) to (4) of this section, the normal retirement age for a member to whom this section applies is age 65.
- (6) In addition to the contributions required by subsection 6 (1), from each payment of salary made during a calendar year to an active member to whom this section applies, the employer must pay to the pension fund, as a contribution from the employer,
- (a) 0.66% of the member's salary, and
  - (b) 0.07% of the member's salary.
- (7) Payment under subsection (6) must be made in a manner determined by the board or former board.

## PART 14 – TRANSITIONAL

### Transitional Definitions

**103** In this part:

“**predecessor board**” means the Public Service Pension Advisory Board continued under section 51 of the former Act;

### Appeals begun under the former Act or the Act

- 104**
- (1) An appeal received before April 1, 2000 but not dealt with by the predecessor board under section 54 of the former Act is continued before the former board as if made under section 7 of Schedule C to the Act, and the provisions of the former Act continue to apply to the appeal despite the repeal of the former Act.
  - (2) If an appeal made before April 1, 2000 was dealt with by the predecessor board under section 54 of the former Act but no decision was made, the appeal is to be treated for all purposes as a new appeal before the former board as if made under section 7 of Schedule C to the Act, and the provisions of the former Act continue to apply to the appeal despite the repeal of the former Act.
  - (3) An appeal received before the effective date but not dealt with by the former board under section 7 of Schedule C to the Act, including an appeal referred to in subsections (1) or (2), is to be continued before the board as if made under Article 8 of the Public Service Pension Plan Joint Trust Agreement, and, as applicable, the provisions of the former Act, the Public Service Pension Plan Regulation, BC Regulation 114/2000 and Part 1 of Schedule C to the Act continue to apply to the appeal despite the repeal of the former Act, the Regulation and Part 1 of Schedule C to the Act.
  - (4) If an appeal made before the effective date was dealt with by the former board under section 7 of Schedule C to the Act but no decision was made, including an appeal referred to in subsections (1) or (2), the appeal is to be treated for all purposes as a new appeal before the board as if made under Article 8 of the Public Service Pension Plan Joint Trust Agreement, and, as applicable, the provisions of the former Act, the Public Service Pension Plan Regulation, BC Regulation 114/2000 and Part 1 of Schedule C to the Act continue to apply to the appeal despite the repeal of the former Act, the Regulation and Part 1 of Schedule C to the Act.

**Purchase of service under the former Act**

- 105** The board may, in respect of an application made before April 1, 2000 to purchase service under section 65 (5) of the former Act but not dealt with by the predecessor or former boards, grant recognition as pensionable service to all or part of the service of a plan member as an employee of any employer, whether or not the employer is an employer to whom the former Act applied, but the plan member and the plan member's most recent employer to whom the former Act applied must contribute to the pension fund additional sums specified by the board in accordance with the rules in effect on March 31, 2000 under the former Act.

**Determination by chief executive officer**

- 106** For the purpose of section 32 of the former Act, any amount payable may be dealt with for the benefit of the plan member or of the spouse or children of the plan member in a manner the chief executive officer determines.

**Part 15 – MLA PENSIONS****Definitions and Interpretation**

- 107** (1) In this Part:

“**earnings**” means, in respect of a plan participant, both of the following types of compensation

- (a) the basic compensation or annual indemnity paid under the *Members' Remuneration and Pensions Act* or the *Legislative Assembly Management Committee Act* to a plan participant who is or was a member of the Legislative Assembly at any time on or after June 19, 1996;
- (b) the salary paid under the *Members' Remuneration and Pensions Act* or the *Legislative Assembly Management Committee Act* to a plan participant on or after June 19, 1996;

“**Executive Council**” means the Executive Council appointed under the *Constitution Act*;

“**latest retirement age**” means, in respect of a plan participant, November 30th of the calendar year in which the member attains the age prescribed under section 8502(e) of the Income Tax Regulations under the *Income Tax Act* (Canada) for the latest commencement of retirement benefits under a registered pension plan;

“**legislative service**” means, in respect of a plan participant, any period of time during which the plan participant serves as a member of the Legislative Assembly or is a person who holds a position on the Executive Council;

“**plan participant**” means:

- (a) a person who is or was a member of the Legislative Assembly at any time on or after June 19, 1996; or
- (b) a person who holds or held a position on the Executive Council at any time on or after June 19, 1996;

but does not include a person who gives the notice to the Speaker as described in section 4.1 of the *Members' Remuneration and Pensions Act*;

“**termination of employment**” or “**terminates employment**” means, subject to subsections (3) and (4), ceasing to be either a member of the Legislative Assembly or a person who holds a position on the Executive Council for a reason other than death.

- (2) The definitions in section 96, except where a contrary definition is set out in this Part, apply to this Part.

- (3) A person who is a member of the Legislative Assembly immediately before its dissolution is deemed to cease to be a member of the Legislative Assembly as of the date of the general election next following the dissolution if he or she is not elected as a member of the Legislative Assembly at that general election.
- (4) If a plan participant attains latest retirement age while an active member, he or she shall for all purposes of this Plan be deemed to have terminated employment on his or her latest retirement age, and is entitled to benefits under this Part on that basis.

#### **Application of this Part**

- 108**
- (1) This Part contains the terms of the Part 3 pension plan contemplated by Part 3 of the *Members' Remuneration and Pensions Act*.
  - (2) Effective April 1, 2007 this Plan, as modified by this Part, applies to the plan participants and the government.
  - (3) If there is a conflict between Part 3 of the *Members' Remuneration and Pensions Act* and this Plan, Part 3 of the *Members' Remuneration and Pensions Act* prevails.
  - (4) A decision of the plan administrative agent respecting the application of Part 3 of the *Members' Remuneration and Pensions Act* and this Plan may, by written notice, be appealed to the board in accordance with the practice and procedure for appeals to the board.
  - (5) A plan participant's legislative service and earnings recognized under this Part must not be recognized in determining any entitlements that individual has under this Plan in respect of service recognized or salary received other than in that individual's capacity as a plan participant, and vice versa.

#### **Membership, Earnings and Service**

- 109**
- (1) A plan participant is deemed to be a regular full-time employee of the government, and an active member of the Plan, effective as of the later of:
    - (a) the date he or she first qualifies to become a plan participant; and
    - (b) April 1, 2007,if as of that date he or she has not attained latest retirement age.
  - (2) Each payment of earnings to a plan participant is deemed to be a payment of salary to an active member.
  - (3) A plan participant's pensionable and contributory service is his or her legislative service for which contributions have been made to the pension fund in accordance with subsection 110(1) or 110(2).

#### **Contributions by Plan Participants and Government**

- 110**
- (1) The government and each plan participant must contribute to the pension fund in respect of each plan participant's earnings on or after April 1, 2007 in accordance with Parts 2 and 11, subject to the following:
    - (a) instead of the amount specified in section 5, the amount deducted and paid to the pension fund from a plan participant's earnings must be in the amount specified in subsection 38(1) of the *Members' Remuneration and Pensions Act*;
    - (b) instead of the amount specified in section 6, employer contributions to the pension fund by the government must be in the amount determined under subsection 38(2) of the *Members' Remuneration and Pensions Act*.



- (2) A plan participant may prior to July 1, 2011 apply to the board to have all or part of his or her period of legislative service after June 18, 1996 and before April 1, 2007 during which he or she had not attained latest retirement age recognized as pensionable and contributory service under this Plan in accordance with section 39 of the Members' Remuneration and Pensions Act, in which event:
  - (a) the board must determine in accordance with section 39 of the *Members' Remuneration and Pensions Act* the amounts the plan participant and the government must contribute to the pension fund to have such legislative service recognized as pensionable and contributory service under this Plan;
  - (b) the plan participant may, prior to July 1, 2011, pay to the pension fund the amount the board determines pursuant to paragraph (a) he or she must pay in respect of that legislative service; and
  - (c) if the plan participant makes the payment in accordance with paragraph (b) prior to July 1, 2011, the government must pay to the pension fund the amount the board determines pursuant to paragraph (a) it must pay in respect of that legislative service.
- (3) Contributions by plan participants and government under subsection (1) must stop on the earlier of:
  - (a) the plan participant reaching latest retirement age; and
  - (b) the plan participant accruing 20 years of pensionable service, in which case the plan participant is deemed to continue as an active member until he or she terminates employment.
- (4) For greater certainty, if a plan participant attained latest retirement age prior to April 1, 2007 or the date he or she first qualifies to become a plan participant, no contributions under subsection (1) can or will be made in respect of that plan participant.
- (5) Contributions by plan participants and government under subsection (1) or subsection (2) must be allocated to the pension fund accounts in a manner determined by the board.

### **Recognition of Service**

- 111** (1) Sections 15 through 29 do not apply to plan participants.

### **Termination and Retirement Benefits**

- 112** (1) Plan participants who terminate employment are entitled to benefits in accordance with this section. Except as provided in this section, Parts 4 and 5 do not apply to plan participants.
- (2) A plan participant who terminates employment prior to latest retirement age without completing six years of legislative service is entitled to a refund of his or her contributions under this Part calculable and payable in accordance with section 44.
  - (3) A plan participant who terminates employment prior to latest retirement age having attained age 65 and having completed six years of legislative service, or who is deemed to terminate employment upon attaining latest retirement age, is entitled, on application, to an unreduced pension equal to 3.5% of the plan participant's highest average salary multiplied by the number of his or her years of pensionable service, not exceeding 20 years.
  - (4) A plan participant who terminates employment having attained age 60 but not age 65 and having completed six years of legislative service is entitled, on application, to receive a reduced pension in the amount determined under subsection (3) reduced by 0.25% of that amount for each month of age by which the plan participant's age on the date the reduced pension commences payment is less than 65 years.

- (5) A plan participant who terminates employment before age 60 having completed six years of legislative service is entitled to a deferred pension calculable and payable in accordance with subsections (3) or (4) upon attaining the age requirements of those subsections.
- (6) Instead of a deferred pension payable in accordance with subsection (5), a plan participant may elect to receive the commuted value of that deferred pension. Any such commuted value, and any interest there on, shall be calculated on the basis of the method specified by the board and will be transferred from the pension fund on a locked-in basis to the extent required by subsections 46(5) and 46(6).
- (7) Sections 43, 48, 49, 52, 53 and 59 apply to plan participants who are entitled to benefits in accordance with this section, making such changes to those provisions as are necessary to apply them to the benefits payable under this section.
- (8) If under this section a refund is payable to the member, the payment may be transferred to an RRSP.

### Form of Pension

- 113**
- (1) If on the date a plan participant's pension under this Part commences payment he or she does not have a spouse, the pension payable to the plan participant is a single life guaranteed pension payable for the longer of:
    - (a) the life of the plan participant, and
    - (b) a term of 10 years.
  - (2) Subsections 56(5) through (7) apply to a single life guaranteed pension payable pursuant to subsection (1).
  - (3) If on the date a plan participant's pension under this Part commences payment he or she has a spouse, then despite subsection (1) the pension payable to the plan participant must be paid as a joint life and last survivor pension payable for:
    - (a) the life of the plan participant, and
    - (b) the life of the plan participant's spouse, if he or she survives the plan participant, provided that the pension payable to the spouse on the plan participant's death, if the spouse survives the plan participant, will equal 60% of the pension to which the plan participant was entitled on his or her date of death.
  - (4) Despite subsection (3), if a plan participant's spouse waives, in writing by completion of a form specified by the plan administrative agent, the entitlement that the pension be paid on the joint life and last survivor basis as provided under subsection (3), or there is filed with the plan administrative agent a written agreement or court order made under Part 5 or 6 of the *Family Law Act* with the same effect, the pension to which the plan participant is entitled is payable in accordance with subsection (1).
  - (5) A plan participant may elect, in writing by completion of a form specified by the plan administrative agent, to be paid his or her pension in a form other than that specified in subsection (1) or (3), but the amount of the pension must be adjusted to the actuarial equivalent of the pension that is otherwise payable in accordance with subsection (1) or (3).
  - (6) Despite subsection (5), if on the date a plan participant's pension under this Part commences payment he or she has a spouse who has not waived his or her entitlement to the survivor pension payable under subsection (3), the plan participant may not elect an optional form that provides his or her spouse with less than 60% of the pension to which the plan participant is

entitled to during his or her lifetime. If the spouse waives, in writing by completion of a form specified by the plan administrative agent, the entitlement to receive no less than a 60% survivor pension, the amount of any optional form of pension provided to the plan participant must be adjusted so that it is the actuarial equivalent of the pension that would have otherwise been payable to the plan participant in accordance with subsection (1) had he or she not had a spouse on the date the pension commenced payment.

#### **Calculation of Highest Average Salary of Plan Participant**

- 114**
- (1) For the purpose of calculating the amount of the pension to which a plan participant is entitled under this Part, the plan participant's highest average salary is, subject to subsection (2), the average of 1/12th of the annual earnings that the plan participant received, or is deemed to receive, in each fiscal year:
    - (a) during the three years of pensionable service in which the plan participant received, or is deemed to have received, his or her highest earnings before the date on which the plan participant begins receiving a pension, or
    - (b) during the plan participant's actual period of pensionable service, if the plan participant's period of pensionable service is less than three years.
  - (2) If a plan participant does not terminate employment at the end of a fiscal year, and if the annualized earnings for that partial year are equal to or higher than the annual earnings received, or deemed to have been received, in each of the three full years of highest annual earnings as determined under subsection (1), the partial year may be combined as required with a portion of the earnings of the lowest of the three years in order to calculate a highest annual salary for the combined year, and the combined year can be used in place of the lowest of the three years, but in no case can the total of the two portions exceed one year of earnings.
  - (3) Sections 97 and 98 do not apply to plan participants.
  - (4) The highest average salary determined under this section must be adjusted in accordance with section 100.
  - (5) The pension determined under section 112 must not exceed 70% of a plan participant's highest average salary.

#### **Disabled MLAs**

- 115**
- (1) Part 6 does not apply to plan participants.
  - (2) In this section "disabled MLA" means an individual who:
    - (a) is a plan participant;
    - (b) ceased on or after April 1, 2007 to be a member of the Legislative Assembly;
    - (c) while serving as a member of the Legislative Assembly became disabled due to accident or illness; and
    - (d) as a result of the accident or illness referred to in paragraph (c), became entitled to receive disability benefits from the government immediately after ceasing to be a member of the Legislative Assembly.
  - (3) So long as a disabled MLA is in receipt of disability benefits from the government:
    - (a) the disabled MLA is not entitled to a benefit under this Part;

- (b) the period during which such disability benefits are payable is deemed to be both pensionable and contributory service;
  - (c) the disabled MLA is deemed to receive earnings at a rate equal to the rate of basic compensation payable to him or her under the *Members' Remuneration and Pensions Act* on the date the accident or illness which caused the disabled MLA to become entitled to disability benefits first occurred; and
  - (d) the government must pay plan participant and government contributions under subsection 110(1) in respect of the plan participant on the basis of the plan participant's deemed earnings under paragraph (c).
- (4) A disabled MLA is deemed to terminate employment on the date he or she ceases to receive disability benefits from the government for a reason other than death, and is entitled to benefits under this Part on that basis.

### Pre-Retirement Death Benefits

- 116**
- (1) The beneficiary of a plan participant who dies before commencing his or her pension under this Part is entitled to a pre-retirement death benefit in accordance with this section. Except as provided in this section, Part 7 does not apply to plan participants.
  - (2) If a plan participant dies prior to latest retirement age without completing six years of legislative service, a refund calculated in accordance with subsection 112(2) is payable to the plan participant's beneficiary.
  - (3) If a plan participant who dies completed six or more years of legislative service and there is no surviving spouse or a valid spousal waiver has been filed with the plan administrative agent, a benefit equal to the greater of:
    - (a) the refund calculated in accordance with subsection 112(2), and
    - (b) the commuted value calculated in accordance with subsection 112(6),which the plan participant would have been entitled to in respect of his or her pensionable service had he or she terminated employment immediately before death, is payable to the plan participant's beneficiary described in paragraph 81(b) or (c).
  - (4) If a plan participant who dies completed six or more years of legislative service but had not attained age 60, and there is a surviving spouse who has not filed a valid spousal waiver with the plan administrative agent, the spouse may elect to receive either:
    - (a) a benefit equal to the greater of:
      - (i) the refund calculated in accordance with subsection 112(1), and
      - (ii) the commuted value calculated in accordance with subsection 112(6),which the plan participant would have been entitled to in respect of his or her pensionable service had he or she terminated employment immediately before death, or
    - (b) an immediate pension which is actuarially equivalent to the amount calculated under subparagraph (a)(ii), and payable as if the plan participant had chosen the joint life and last survivor option under subsection 113(3).
  - (5) If a plan participant who dies completed six or more years of legislative service and had attained age 60, and there is a surviving spouse who has not filed a valid spousal waiver with the plan administrative agent, a pension calculated in accordance with subsection 112(3), or subsection 112(3) as reduced by subsection 112(4), as though the plan participant had terminated employment and commenced a pension in the joint life and last survivor form

described in subsection 113(3) on the date of death, is payable to the spouse of the plan participant.

- (6) Sections 67, 68, 69(7) through 69(9), 70 and 71 apply to the payment of pre-retirement death benefits under this section, making such changes to those provisions as are necessary to apply them to the benefits payable under this section.
- (7) If under this Part a refund is payable, the payment may be transferred to an RRSP to the extent permitted by the *Income Tax Act* (Canada).

#### **Retired Member Benefits**

- 117**
- (1) Pensions payable under sections 112 and 116 must be paid monthly from the pension fund, including a full payment for the month in which the member dies or payment of the pension ends.
  - (2) Pensions payable under sections 112 and 116 must have cost of living benefits added to them in accordance with section 73.

#### **Re-election as a Member of the Legislative Assembly**

- 118**
- (1) In this section “re-elected MLA” means an individual who:
    - (a) is a plan participant;
    - (b) ceased on or after April 1, 2007 to be a member of the Legislative Assembly or a person who holds a position on the Executive Council; and
    - (c) has again been elected a member of the Legislative Assembly or has again become a person who holds a position on the Executive Council.
  - (2) If a re-elected MLA previously received a refund or made a commuted value transfer pursuant to section 112 and has no other entitlement under this Part, such an individual shall be considered in all respects a new plan participant, and his or her prior earnings and legislative service shall be ignored in determining his or her entitlements under this Part.
  - (3) If a re-elected MLA is entitled to a benefit under this Part which has not commenced payment and as of the date he or she became a re-elected MLA has not attained latest retirement age, he or she will again become an active member of the Plan who makes contributions and accrues benefits in accordance with this Part effective as of the date he or she becomes a re-elected MLA. All periods of legislative service and earnings of such an individual shall be combined in determining his or her entitlements under this Part.
  - (4) Subject to subsection (5), if as of the date an individual becomes a re-elected MLA he or she has attained latest retirement age, or is in receipt of a pension under this Part, he or she shall not become an active member of the Plan and shall not be required or entitled to make contributions or accrue benefits in accordance with this Part.
  - (5) Despite subsection (4) and section 74, if an individual who has not attained latest retirement age becomes a re-elected MLA within six months after the date on which a pension becomes payable to that individual under this Part, he or she may prior to the end of such six month period elect to repay to the pension fund, in a lump sum, an amount equal to the sum of all pension payments made under this Part. If a re-elected MLA makes such a repayment, his or her pension under this Part shall cease, and:
    - (a) he or she must have his or her rights under this Part reinstated as nearly as possible to the position held at the time the pension commenced payment under this Part; and

- (b) the re-elected MLA will again become an active member of the Plan who makes contributions and accrues benefits in accordance with this Part effective as of the date he or she became a re-elected MLA.
- (6) An election under subsection (5) is irrevocable.
- (7) This section does not apply to a person who is receiving a pension under this Part as a beneficiary.

#### **Purchase of Pre-April 1, 2007 Service by Former MLAs**

- 119** (1) In this section “former MLA” means a person who:
- (a) is a plan participant;
  - (b) ceased to be a member of the Legislative Assembly or a person who holds a position on the Executive Council prior to April 1, 2007; and
  - (c) as of April 1, 2007 was not a member of the Legislative Assembly or a person who holds a position on the Executive Council.
- (2) Unless a former MLA is elected as a member of the Legislative Assembly or becomes a person who holds a position on the Executive Council after April 1, 2007, no contributions are payable in respect of a former MLA pursuant to subsection 110(1).
- (3) A former MLA may in accordance with subsection 110(2) have all or part of his or her period of legislative service after June 18, 1996 and before April 1, 2007 during which he or she had not attained latest retirement age recognized under this Part as pensionable and contributory service.
- (4) If a former MLA has all or part of his or her legislative service recognized as pensionable and contributory service in accordance with subsection 110(2) he or she is entitled to benefits in respect of that legislative service in accordance with this Part, provided that despite any other provision of this Plan or this Part any benefit payable in respect of such legislative service cannot commence earlier than January 1<sup>st</sup> of the year in which such legislative service is recognized as pensionable and contributory service in accordance with subsection 110(2).

#### **General**

- 120** (1) Parts 10 and 11 apply to the benefits payable under this Part, making such changes to those provisions as are necessary to apply them to the benefits payable under this Part.

### **PART 16 – EMPLOYER WITHDRAWAL**

#### **Definitions and Interpretation**

- 121** (1) The definitions in section 96, except where a contrary definition is set out in this Part, apply to this Part.
- (2) Any term defined in any section in this Part has that meaning throughout this Part.

**Application of this Part**

- 122** (1) This Part contains the terms and conditions for the withdrawal from this Plan by an employer contemplated by section 12.1 of the Public Service Pension Plan Joint Trust Agreement.

**Trustee Initiated Withdrawal**

- 123** (1) If the board determines that:
- (a) all or a substantial portion of an employer's employees who are active members will terminate employment or have terminated employment with that employer (the "withdrawing employer");
  - (b) the group of active members who will terminate or have terminated employment with the withdrawing employer identified by the board pursuant to paragraph (a) (the "**withdrawing group**") make up no less than 1% of the Plan's then active members (or such other percentage of the active members as the board then considers appropriate); and
  - (c) all or a substantial portion of the withdrawing group have not or will not become immediately employed by another entity that is an employer that participates in this Plan;

the board may by written notice to that effect to the withdrawing employer require the withdrawing employer to give the notices described in this section and make the payments described in section 125.

- (2) Forthwith after being required to do so by the board pursuant to subsection (1), the withdrawing employer must give each member of the withdrawing group a written notice advising him or her of the following:
- (a) the date the member terminated employment or will terminate employment with the withdrawing employer (the member's "**participation termination date**");
  - (b) the member's cessation of benefit accruals under this Plan on his or her participation termination date; and
  - (c) the implications of the termination of employment with the withdrawing employer on the member's accrued benefits under this Plan.
- (3) The withdrawing employer must give the board and every trade union certified as a bargaining agent for any of the active members who are part of the withdrawing group a copy of the form of notice given pursuant to subsection (2) at the same time it gives the notices to the members. If the withdrawing employer fails to give the written notices to the members and the trade union(s) that represent any of those members in a timely manner, the board may give such notices, and all expenses it incurs doing so will be considered expenses which can be recovered from the withdrawing employer pursuant to subsection 125(6).
- (4) As of the participation termination date of each member of the withdrawing group, he or she:
- (a) [Repealed]
  - (b) will not be required to make further contributions pursuant to section 5, except contributions accrued up to and including the participation termination date and not yet paid to the pension fund; and
  - (c) may thereafter participate in the plans and programs constituted under the Public Service Pension Plan Post-Retirement Group Benefit Rules only on the basis that he or she must pay 100% of the premium for coverage under those plans.

**Employer Initiated Withdrawal**

- 124** (1) An employer (the “**terminating employer**”) may give written notice to the board that it desires to have the active members employed by it (the “**terminating group**”) withdraw from this Plan in accordance with this section. The notice to the board must:
- (a) state that the terminating employer wishes to withdraw the terminating group in accordance with this section;
  - (b) subject to subsection (3), identify the active members who make up the terminating group;
  - (c) subject to subsection (4), specify the date (the “**termination date**”) as of which the terminating group will withdraw from this Plan in accordance with this section;
  - (d) state whether the terminating group’s accrued benefits will remain in the this Plan, or whether the terminating employer requests a transfer of assets in respect of the terminating group’s accrued benefits to another pension plan pursuant to section 126; and
  - (e) include a copy of the written notice the terminating employer will provide to the active members who make up the withdrawing group pursuant to subsection (2).
- (2) Concurrently with the giving of the notice to the board described in subsection (1), the terminating employer must give each active member who forms part of the proposed terminating group, and every trade union that is certified as a bargaining agent for any active member who forms part of the proposed terminating group, written notice of the following:
- (a) the terminating employer’s desire to withdraw the proposed terminating group from this Plan in accordance with this section;
  - (b) the termination date specified for the terminating group by the terminating employer;
  - (c) that, if the withdrawal proceeds, the active members who make up the terminating group will cease to accrue benefits under this Plan on the termination date;
  - (d) a description of the implications of the intended withdrawal on the members’ accrued benefits under this Plan; and
  - (e) whether the terminating employer is requesting a transfer of assets in respect of the terminating group’s accrued benefits under the Plan to another pension plan.
- (3) A terminating group must consist of all active members employed by the terminating employer on the termination date.
- (4) Unless the board and a terminating employer otherwise agree, a terminating group’s termination date must occur on the last day of a pay period, and must occur no earlier than 180 days following the date on which the terminating employer gives the notices described in subsections (1) and (2).
- (5) As of a terminating group’s termination date, the active members who make up the terminating group:
- (a) will be deemed for all purposes of this Plan to have terminated employment with the terminating employer, and
  - (b) will not be required to make any further contributions pursuant to section 5, except contributions accrued up to and including the terminating group’s termination date and not yet paid to the pension fund;
- (6) Any active member who terminates employment with the terminating employer after the date the terminating employer gives notice pursuant to subsection (1) may thereafter participate in



the plans and programs constituted under the Public Service Pension Plan Post-Retirement Group Benefit Rules only on the basis that he or she must pay 100% of the premiums for coverage under those plans.

- (7) Despite subsection (1), within 180 days of receiving a notice pursuant to subsection (1) the board may, in its absolute and unfettered discretion, choose to reject the notice, in which event the notice will for all purposes of the Plan, other than subsection 125(6), and any other provision of this Plan needed to give full effect to subsection 125(6), be deemed to have not been given.

### Financial Responsibilities of Departing Employers

#### 125

- (1) In this section,
- (a) “**departing employer**” means a withdrawing employer or a terminating employer; and
  - (b) “**departing group**” means a withdrawing group or a terminating group.
- (2) Whenever the board makes a determination pursuant to subsection 123(1) or receives a written notice pursuant to subsection 124(1), the board must cause an actuarial valuation of the Plan (the “withdrawal valuation”) to be performed. In the case of a withdrawing group, the withdrawal valuation will be performed as of a date specified by the board. In the case of a terminating group, the withdrawal valuation will be performed as of the terminating group’s termination date. The date as of which the withdrawal valuation is prepared is referred to in this section as the “valuation date”.
- (3) Based on the results of the withdrawal valuation, the actuary will determine whether the aggregate rate of contributions required in respect of the Plan’s basic benefits pursuant to sections 5 and 6 will increase after the departing group’s valuation date as a result of the withdrawal of the departing group. If it does, the departing employer must pay to the pension fund for deposit to the basic account the amount determined by the actuary as being necessary to cause the aggregate rate of contributions required in respect of the Plan’s basic benefits pursuant to sections 5 and 6 to remain the same after the departing group’s valuation date as it was on the date the board made the determination pursuant to subsection 123(1) or the date the terminating employer gave the notice pursuant to subsection 124(1), as the case may be.
- (4) Based on the result of the withdrawal valuation, the actuary must also determine the funded position of the inflation adjustment account on a current contribution basis before and after the departing group’s valuation date. Such funded position shall be measured by the ratio of  $(A + B) \div C$ , where
- A = the actuarial value of the current assets in the inflation adjustment account,
  - B = the present value of the future contributions expected to be made to the inflation adjustment account at the rate of contributions to that account then specified in sections 5 and 6, and
  - C = the amount required to index the basic benefits payable under the Plan pursuant to section 73 at a rate equal to 100% of the projected increase in the consumer price index.

If the funded position of the inflation adjustment account measured on this basis immediately after the departing group’s valuation date is less than it was immediately prior to that date, the departing employer must pay to the pension fund for deposit into the inflation adjustment account the amount determined by the actuary which, when added as an asset to the inflation adjustment account, will cause its funded position, determined as aforesaid, to remain the

same immediately after the departing group's valuation date as it was immediately prior to such date.

- (5) All amounts payable by a departing employer pursuant to subsection (3) or (4) must be adjusted for the period between the departing group's valuation date and the date payments are made pursuant to subsection (3) or (4). Such adjustments must be made by the board on the advice of an actuary, and must reflect:
  - (a) interest calculated and compounded monthly at an annual rate of interest equal to the discount rate used in the withdrawal valuation for present value calculation purposes; and
  - (b) any expenses related to the withdrawal, to the extent the departing employer does not pay such expenses directly or pursuant to subsection (6).
- (6) Regardless of whether a departing employer is required to make payments to the pension fund pursuant to subsection (3) or (4), the board may require a departing employer to indemnify the board against all costs and expenses it incurs implementing the terms of this Part and evaluating the actuarial impact of the departing employer's withdrawal from the Plan. Any amount required to so indemnify the board will be deemed to be contributions payable to the pension fund, and is payable by the departing employer to the pension fund forthwith upon being so notified by the board. Any amount payable pursuant to this subsection must be adjusted in accordance with subsection (5) for the period between the date the board notifies the departing employer and the date the payment is made.
- (7) Despite subsection (2), the board may in lieu of causing a formal actuarial valuation of the Plan to be performed pursuant to subsection (2) cause the actuary to perform an informal actuarial valuation based on the last formal valuation of the Plan, but updated to take into account known changes in the value of the assets of the Plan and the like.

#### **Transfer of Assets and Liabilities to Successor Pension Plan**

- 126** (1) If a terminating employer:
- (a) requests a transfer of assets in respect of a terminating group's accrued benefits under this Plan to another pension plan (the "other plan"), and gives notice to that effect to the board and the members of the terminating group in accordance with subsections 124 (1) and (2),
  - (b) discharges to the board's satisfaction all of its obligations under subsections 125 (3), (4), (5) and (6) in respect of the terminating group, and
  - (c) enters into an arrangement satisfactory to the board to reimburse the board for all costs incurred by the board in connection with the proposed transfer, including an arrangement whereby the assets to be transferred to the other plan will be reduced by the amount of such costs,

the following will occur as of the end of the fiscal year that follows the fiscal year in which the terminating group's termination date occurs, or such earlier date as is acceptable to the board, which date will be the terminating group's "**withdrawal date**":

- (d) unless the board and the terminating employer otherwise agree, any member who formed part of the terminating group on its termination date but who as of its withdrawal date has ceased to be employed by the terminating employer will cease to form part of the terminating group;
- (e) the board will have an actuarial valuation of the Plan prepared as of the terminating group's withdrawal date, and cause an actuary to calculate:

- (i) the “**terminating group’s basic percentage**” of the assets of the pension fund, which percentage will equal the value of the actuarial liabilities associated with the basic benefits of the members who make up the terminating group, determined by the actuary on a going concern basis as of the withdrawal date using funding assumptions, divided by the greater of:
  - A the value of the actuarial liabilities associated with all the basic benefits of the Plan, determined on the basis set out above; and
  - B the value of the assets of the basic account of the pension fund;
- (ii) the “**terminating group’s IAA percentage**” of the assets of the pension fund, which percentage will equal the amount required to index the basic benefits of the members who make up the terminating group at a rate equal to 100% of the projected increase in the consumer price index, divided by the greater of:
  - A the amount required to index the basic benefits of all members of the Plan pursuant to section 73 at a rate equal to 100% of the projected increase in the consumer price index; and
  - B the value of the assets of the inflation adjustment account;
- (f) for greater certainty, in determining the actuarial liabilities and the value of the assets referred to in paragraph (e), the actuary will make no allowance for any contributions or service after the terminating group’s withdrawal date, or for any cost of living benefits which might be granted pursuant to section 73 after the terminating group’s withdrawal date;
- (g) when:
  - (i) the terminating group’s basic percentage and IAA percentage have been calculated in accordance with paragraph (e);
  - (ii) the terminating employer has provided the board with proof satisfactory to the board that the other plan provides benefits to each member of the terminating group for his or her pre-termination date service that are substantially identical to or more valuable than the benefits he or she had accrued under this Plan for that service;
  - (iii) the terminating employer has provided the board with proof satisfactory to the board that the other plan is structured in such a manner so that the assets transferred to it from the pension fund in respect of the terminating group will be held in trust solely for the terminating group;
  - (iv) the terminating employer and the trustee(s) (or other legal fundholder(s)) of the other plan’s assets have jointly and severally indemnified the board and all other persons involved in the administration of the Plan against any claims by or in respect of any of the individuals who make up the terminating group, on such terms and conditions as are satisfactory to the board; and
  - (v) the regulatory approvals needed to permit a transfer of assets from the pension fund to the trustee(s) (or other legal fundholder(s)) of the other plan’s assets have been obtained;

the terminating group’s basic percentage of the assets of the basic account of the pension fund and the terminating group’s IAA percentage of the assets of the inflation adjustment account of the pension fund must be transferred from the pension fund to the trustee(s) (or other legal fundholder(s)) of the other plan’s assets;

- (h) once the amounts determined pursuant to paragraph (g) have been paid from the pension fund to the trustee(s) (or other legal fundholder(s)) of the other plan's assets, the board and the pension fund are relieved and discharged of all obligations, liabilities and duties to and in respect of the terminating employer and individuals who make up the terminating group.
- (2) The amounts to be transferred from the pension fund pursuant to subsection (1) must be adjusted for the period between the terminating group's withdrawal date and the date the transfer of assets takes place. Such adjustments must be made by the board on the advice of an actuary, and must reflect:
- (a) changes in the market value of the assets of the pension fund during the period;
  - (b) relevant cash flows (including benefit payments) during the period; and
  - (c) any expenses related to the withdrawal, to the extent the withdrawing employer does not pay such expenses directly or pursuant to paragraph (1)(c).
- (3) Whenever a transfer of assets from the pension fund occurs pursuant to subsection (1), the amounts determined in respect of the basic and inflation adjustment accounts pursuant to paragraph 1(g) must be deducted from the balance of each such account as of the terminating group's withdrawal date, and such deductions must be adjusted in accordance with subsection (2), and all subsequent calculations of the balances in those accounts pursuant to subsections 75(2) and (3) must reflect such deductions and adjustments.
- (4) To better ensure compliance with all the requirements of this section, the board may enter into an asset and liability transfer agreement with the terminating employer or the trustee(s) or other legal fundholder(s) of the other plan's assets, or both or all of them, which confirms the terms upon which assets will be transferred in accordance with this section to the other plan. Such agreement may provide for the terms upon which the board's books and records relating to the entitlements of the terminating group under the Plan will be transferred to the terminating employer or to the trustee(s) or other legal fundholder of the other plan's assets.
- (5) Despite subsection 124(6), members of a terminating group in respect of which assets are transferred to an other plan pursuant to this section will not be entitled to participate in any of the programs or plans constituted under the Public Service Pension Plan Post-Retirement Group Benefit Rules.

## **PART 17 – EMPLOYMENT IN MORE THAN ONE GROUP OR WITH MORE THAN ONE EMPLOYER**

### **Definitions and Interpretation**

- 127** (1) In this Part,
- “**ambulance paramedic group**” means the group of members who satisfy the requirements of section 102(1);
  - “**benefit group**” means the ambulance paramedic group, the correctional group, or the general group;
  - “**correctional group**” means the group of members who are correctional employees;
  - “**general group**” means the group comprised of all members who are not members of the ambulance paramedic group or the correctional group;
- (2) The definitions in section 96, except where a contrary definition is set out in this Part, apply to this Part.

- (3) If there is a conflict between a provision in this Part and any other provision of this Plan, the provision in this Part prevails.

#### **Allocation of pre-June 25, 2014 service to benefit groups**

- 128**
- (1) If a member is participating in only the general group on June 24, 2014, for all purposes of the Plan the member's service on or prior to that date is deemed to be general group service.
  - (2) If a member is participating in only the correctional group on June 24, 2014, for all purposes of the Plan all of the member's service on or prior to that date is deemed to be correctional group service.
  - (3) If a member is participating in only the ambulance paramedic group on June 24, 2014, for all purposes of the Plan all of the member's service on or prior to that date is deemed to be ambulance paramedic group service.
  - (4) Despite subsections (1), (2), and (3), if a member is participating in two or more benefit groups on June 24, 2014, for the purposes of the Plan all of the member's service on or prior to that date is deemed to be service with the benefit group that maximizes the benefit to the member.

#### **Concurrent Employment**

- 129**
- (1) If in a calendar month an active member accrues service with two or more employers, or an active member accrues service in more than one benefit group with a single employer, the following rules apply:
    - (a) If an active member accrues service in the same benefit group with two or more employers, the member's pensionable service in respect of that month and that benefit group equals the lesser of i) one month of pensionable service, and ii) the sum of the periods of pensionable service otherwise determined pursuant to subsection 12(2) in respect of the employment with those employers in that benefit group;
    - (b) Despite paragraph (a), if the sum of a member's periods of pensionable service in respect of all benefit groups exceeds one month, the member's period of pensionable service recognized in respect of those benefit groups for that calendar month must be proportionately reduced so the sum of such periods equals one month.
    - (c) If the sum of a member's period of contributory service in respect of all benefit groups exceeds one month, the member's period of contributory service must be proportionately reduced so the sum of such periods equals one month.
    - (d) The member's salary in respect of that month equals the sum of all salary received by the member in all benefit groups in that month.
    - (e) The member's contributions pursuant to sections 5 and 6 in respect of that month equals the sum of all contributions made pursuant to sections 5 and 6 in respect of the salary received by the member for employment in all benefit groups in that month.

#### **Application of 35 Year Limits**

- 130**
- For the purposes of determining whether a member has satisfied the Plan's 35 years of pensionable service limit in respect of any benefit group, including the 35 year limits in sections 5(4)(b), 6(3)(b), 41(3)(b) and 54, the member's pensionable service is deemed to equal the sum of the member's pensionable service recognized in respect of every benefit group.

**Payment of contributions and benefits upon accrual of service in different benefit groups**

- 131** (1) If a member participates in two or more benefit groups at any time after June 24, 2014, the following rules apply:
- (a) Active member and employer contributions must be paid to the pension fund pursuant to sections 5, 6 and, if a member is part of the ambulance paramedic group, section 102 in respect of every benefit group in which a member participates, which contributions must be calculated having regard solely to the salary received by the member while participating in that benefit group.
  - (b) Amounts payable in respect of enrollment arrears pursuant to section 9, payroll arrears pursuant to section 10, the purchase of periods of leaves of absence pursuant to section 19, the purchase of a period of reduced pay pursuant to section 19.3, the purchase of periods of non-contributory service pursuant to section 28 must be calculated for each benefit group having regard solely to salary received by the member while participating in that benefit group.
  - (c) A member is not entitled to any benefits pursuant to Part 4 or 5 until the member has terminated employment in respect of every benefit group in which the member participates. Without limitation, if a member has terminated employment in respect of a benefit group (the “first benefit group”) and is actively participating in another benefit group, the member is deemed to have not terminated employment in respect of the first benefit group so long as the member is actively participating in another benefit group.
  - (d) When a member has terminated employment in respect of every benefit group in which the member participated, the member is entitled to receive in accordance with Parts 4 and 5 a single benefit, the amount of which equals the aggregate of the member’s benefit entitlements from each benefit group in which the member participated. A member’s benefit entitlement in respect of a benefit group must be calculated having regard to the member’s pensionable service in that benefit group, and the terms of the plan, except as modified below.
    - (i) The member’s highest average salary is to be determined having regard to the salary the member received for employment in all benefit groups.
    - (ii) The member’s contributory service is to be determined having regard to the member’s service in all benefit groups.
    - (iii) Subject to paragraph (iv), in determining a member’s entitlement in respect of any benefit group, for the purposes of paragraph 42(1)(c) and section 50, a member’s earliest retirement age is deemed to be the earliest retirement age of the last benefit group from which a member terminates employment.
    - (iv) If a member simultaneously terminates employment from two or more benefit groups, for the purposes of paragraph (iii) the member is deemed to have last terminated employment from the benefit group which has the youngest earliest retirement age and pensionable age.