

AMENDMENT NO. 5 TO THE OPSEU PENSION PLAN

B E T W E E N:

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS
REPRESENTED BY THE SECRETARY OF THE MANAGEMENT BOARD OF
CABINET**

(“ONTARIO”)

PARTY OF THE FIRST PART

- and -

THE ONTARIO PUBLIC SERVICE EMPLOYEES' UNION

(“OPSEU”)

PARTY OF THE SECOND PART

WHEREAS Ontario and OPSEU are the sponsors of the OPSEU Pension Plan and may amend the OPSEU Pension Plan from time to time;

NOW, THEREFORE, Ontario and OPSEU agree as follows:

- 1. The definition of “average year’s maximum pensionable earnings” in Article 2 of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

“average year’s maximum pensionable earnings”, with respect to any member or former member, means the average of the Year’s Maximum Pensionable Earnings under the *Canada Pension Plan* for the year in which the member or former member ceases or ceased to be a member of the Plan and for each of the four preceding years;

- 2. Section 4.3 of the OPSEU Pension Plan is hereby amended by adding the following:**

4.3.1 Contributions by Members from December 1, 1999 to November 30, 2002

Notwithstanding section 4.2, and subject to section 4.6, beginning with the pay period that includes December 1, 1999, and ending with the pay period immediately prior to the pay period that includes December 1, 2002, every member shall contribute to the Fund from the salary paid to the member for the calendar year,

- (a) 4 per cent of the amount of salary that does not exceed the Year’s Basic Exemption as prescribed by the *Canada Pension Plan*;**

- (b) 2.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and
 - (c) 4 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.
- 3. **Section 4.6 of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**
 - 4.6 Contributions by Employer**

Subject to section 4.7, section 4.8 and Article 6, on each payment date, the employer shall pay into the Fund an amount equal to the aggregate amount of all contributions deducted from the members under section 4.2, or that would have been deducted under section 4.2 but for the application of sections 4.3 and 4.3.1, in the month ended next before the month in which the payment date occurs, or made by or on behalf of members in respect of the month ended next before the month in which the payment date occurs.
- 4. **Subsection 4.8(2) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**
 - (2) Despite section 4.6, when a member's salary rate in any pay period, commencing with the first pay date in January 1995, exceeds the threshold salary rate for the year, the employer's contribution under 4.6 shall be reduced by two times the member's contribution under section 4.2, and under sections 4.3 and 4.3.1 where applicable, on the annual salary rate in excess of the threshold salary rate for the year, however the total reduction in any year shall not exceed the maximum contribution reduction amount defined in subsection 4.8(1).
- 5. **Section 7.1 of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**
 - 7.1 Leave of Absence With Pay**

If a member has been granted a leave of absence from employment and continues to receive a part or all of his or her salary during the leave, the member shall make the contributions required by sections 4.2, 4.3 or 4.3.1.
- 6. **Subsection 7.2(6) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

- (6) If a member is granted a leave of absence for less than one month and receives no salary during the leave, the member shall make contributions to the Fund during the leave or after the end of the leave, and shall contribute, in accordance with sections 4.2, 4.3, and 4.3.1, an amount equal to the amount the member would have contributed if the leave had not been granted.

7. Clause 7.4(3)(b) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

- (b) the following contribution rate:
 - (i) for periods of prior service between April 1, 1994 and March 31, 1997, and between December 1, 1999 and November 30, 2002, the Member's contribution rate in effect during these periods; and
 - (ii) for periods of prior service between January 1, 1990 and March 31, 1994, and between April 1, 1997 and November 30, 1999, and for any period of prior service on or after December 1, 2002, the Member's contribution rate specified in section 4.2; and
 - (iii) for service prior to January 1, 1990, the Member's contribution rate as determined under the *Public Service Superannuation Act*, as amended, and under the *Superannuation Benefits Act*, as amended, or any predecessor Acts; and

8. Clause 7.4(5)(b) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

- (b) the following contribution rate:
 - (i) for periods of prior service between April 1, 1994 and March 31, 1997, twice the Member's contribution rate in effect during that period; and
 - (ii) for periods of prior service between December 1, 1999 and November 30, 2002, the sum of the respective employer's and Member's contribution rates in effect during that period; and
 - (iii) for periods of prior service between January 1, 1990 and March 31, 1994, and between April 1, 1997 and November 30, 1999, and for any period of prior service on or after December 1, 2002, twice the Member's contribution rate specified in section 4.2; and

- (iv) for service prior to January 1, 1990, twice the Member's contribution rate as determined under the *Public Service Superannuation Act*, as amended, and under the *Superannuation Benefits Act*, as amended, or any predecessor Acts; and

9. Subsection 10.9(3) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

- (3) The annual amount of pension payable to a former member who, on ceasing to be a member, has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the member ceases to be a member, who has not attained sixty-five years of age, shall be computed in accordance with subsection (1) as though the reference to sixty consecutive months in determining the former member's average annual salary were a reference to thirty-six consecutive months and shall be paid, subject to the reduction required by subsection (6), until the former member attains sixty-five years of age, and upon the occurrence of this event, the former member's pension shall be recomputed in accordance with subsection (1) without reference to this subsection.

10. Subsection 10.9(4) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

- (4) When a former member,
 - (a) who is in receipt of a pension attains sixty-five years of age; or
 - (b) who is not in receipt of a pension commences to receive a pension on or after attaining sixty-five years of age,

the annual amount of pension computed under subsection (1) shall be reduced by the product of

- (c) 0.675 per cent of the lesser of,
 - (i) the former member's average annual salary, and
 - (ii) the former member's average year's maximum pensionable earnings; and
- (d) the number of years, including any fraction of a year, of the former member's credit in the Plan for service on or after the 1st day of January, 1966 to a maximum of thirty-five years.

11. Section 10.9 of the OPSEU Pension Plan is hereby amended by adding the following subsections:

(5.1) Notwithstanding subsection (5), for every former member who ceases membership in the Plan on or after attaining fifty-five years of age, and who commences to receive a pension during the period from December 1, 1999 to November 30, 2004, the annual amount of pension provided for in subsection (1) shall, after computation in accordance with subsection (1), be reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension is to commence and ending with the last day of the month of the earliest of the following dates:

- (a) the date the member would attain sixty-five years of age,
- (b) the date that the former member would have met the requirements of section 10.2 if the former member had been a member of the Plan after the date of cessation of Plan membership,
- (c) the date that the former member would have met the requirements of section 10.3 if the former member had been a member of the Plan after the date of cessation of Plan membership,

and when the reduction required by subsection (4) is calculated, the reduction required by this subsection applies only to the annual amount of pension payable after giving effect to the reduction required by subsection (4) and shall, if applicable, be recalculated on that basis.

(5.2) For the purpose of subsection 5.1, in determining the date that the member would have met the requirements of paragraph (b) or (c), the former member's age at the date of pension commencement and the former member's credit in the Plan at the date of cessation of Plan membership shall be used.

12. Subsection 10.9(6) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

(6) The annual amount of every pension provided for in subsection (3) shall, after computation in accordance with subsection (3), be reduced as required by the *Public Service Superannuation Act*, as it read on the 31st day of December, 1965, and the reduction shall continue until the former member attains sixty-five years of age, and upon the occurrence of this event, the former member's pension shall be recomputed in accordance with subsection (1) and reduced as required by subsection (4), and the annual amount of

pension payable after that reduction shall be further reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension commenced and ending with the last day of the month when the former member attained sixty years of age.

13. Subsection 10.9(7) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

- (7) If the annual amount of pension computed in accordance with subsection (1),
- (a) less the reduction required by subsection (4) and, if applicable, subsection (6); and
 - (b) plus the annual amount of pension that the former member would have received from the *Canada Pension Plan* if that pension commenced only on the former member's attaining sixty-five years of age, other than the part of that pension derived from contributions made to the *Canada Pension Plan* after the former member ceased to be a member of the Plan,
- that is payable to a former member who,
- (c) has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the former member ceased to be a member of the Plan; and
 - (d) has attained sixty-five years of age,

is less than the annuity or annual amount of allowance that would be payable to the former member under the *Public Service Superannuation Act*, as it read on the 31st day of December, 1965, in respect of the former member's credit in the Plan, the amount of the difference shall be added to the annual amount of the pension computed in accordance with subsection (1) that is payable after making the reductions required by subsection (4) and, if applicable, subsection (6).

14. Subsection 10.9(10) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

- (10) If, on the first day of the month when payment of the pension to a former member is to commence, the former member has a spouse from whom the former member is not living separate and apart, and that spouse was not the spouse of the former member when the former member ceased to be a

member of the Plan, the annual amount of the former member's pension computed in accordance with this section, other than this subsection, shall be reduced in such manner as the Board approves to reflect the following rules:

1. Determine the present value of the pension payable to the former member on the assumption that no survivor pension is payable to the spouse.
2. Determine the reduction in the amount of the former member's annual amount of pension computed in accordance with this section, other than this subsection, that is required in order to provide to the spouse of the former member, at the present value determined under paragraph 1, the survivor pension provided by subsection 10.13(1).
3. Reduce the annual amount of the former member's pension computed in accordance with this section, other than this subsection, by the amount of the reduction determined under paragraph 2.

15. Section 10.9 of the OPSEU Pension Plan is hereby amended by adding the following subsection:

- (12) If, on December 1, 1999, a former member, or surviving spouse or child of the former member, is in receipt of a pension under the Plan, the annual amount of pension payable as of December 1, 1999, shall be recalculated, effective on that day, in accordance with the definition of "average year's maximum pensionable earnings" in Article 2, this section 10.9, and sections 10.13, 10.14, 10.16 and 10.17, whichever are applicable, as these provisions read on December 1, 1999.

16. Section 10.12 of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

10.12 If a person is entitled to be paid a pension the annual amount of which, before the reductions mentioned in subsections 10.9(5), (5.1), and (6), is not more than,

- (a) 2 per cent of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; or
- (b) such greater amount as is permitted by the *Pension Benefits Act*,

in the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, the Board may pay the commuted value of the pension to the person.

17. Subsection 10.13(3) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

- (3) Despite subsection (1), a member or former member and the spouse of the member or former member from whom the member or former member is not living separate and apart, may waive the spouse's entitlement to a survivor pension under subsection (1), by delivering to the Board within twelve months prior to the month when payment of the pension to the member or former member is to commence a written direction in the form approved by the Board and signed by both of them or a certified copy of a domestic contract, within the meaning of Part IV of the *Family Law Act*, containing the election or waiver.

18. Clause 10.13(6)(b) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

- (b) Subject to clause (c), where a member or former member dies, and the member or former member had no spouse who is entitled to a pension under this plan on the date of his or her death, and the former member was not predeceased by a spouse to whom a survivor pension would have been paid under this section, section 10.14 or 10.17, an annual amount of pension equal to 60 per cent of the annual pension that the member or former member is or would be entitled to receive in the month when the former member died, shall be paid to or among such of the child or children of the former member on whose death the survivor pension became payable as are, at the death of the member or former member, under eighteen years of age until each child attains that age or dies under that age, and the share of the children who attain that age or die under that age accrues to the child or children, if any remaining under that age.

19. Subsection 10.17(1) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

- (1) If a member who has ten or more years of credit in the Plan or has ten or more years of continuous membership in the Plan dies while a member of the Plan, or dies after ceasing to be a member of the Plan and before the beginning of the month when payment of his or her pension is to commence, an annual amount of pension equal to sixty per cent of the member's or former member's pension computed in accordance with section 10.9 as though the member or former member had attained sixty-five years of age

and on the basis only of his or her credit in the Plan for employment or services before 1987 is payable,

- (a) to the spouse of the member or former member from whom the member or former member, at his or her death and at the cessation of his or her membership in the Plan, was not living separate and apart; or
- (b) if no payment under clause (a) can be made, to or among such of the child or children of the member or former member as are, at the death of the member or former member, under eighteen years of age until each child attains that age or dies under that age, and the share of each of the children who attains that age or dies under that age accrues to the child or children, if any, remaining under that age.

20. Section 17.2 of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

17.2 Pension Benefit

- (1) Subject to subsection (2), every member who,
 - (a) before April 1, 2002, attains credit in the Plan for a period of time that when added to the member's age on that date totals eighty years;
 - (b) not later than ninety-two calendar days from the last day of the later of the month during which the member attained the credit set out in clause (a) and the month in which this Article commenced to apply to the member's employer, delivers a written notice of resignation to his or her deputy minister or other person to whom he or she reports which specifies an effective date of resignation that is not later than,
 - (i) ninety-two calendar days from the last day that the notice under this clause could be delivered, or
 - (ii) the last day of a leave of absence which has been approved or to which the member is entitled and which commenced not later than ninety-two calendar days from the last day that the notice under this clause could be delivered; and
 - (c) resigns from employment not later than,

- (i) ninety-two calendar days after the last day the notice mentioned in clause (b) could be delivered, or
- (ii) the last day of the leave of absence mentioned in subclause (b)(ii),

is entitled to a pension computed in accordance with the Plan, but without any reduction by subsection 10.9(5), 10.9(5.1) or 10.9(6) of the Plan.

(2) Subsection (1) does not apply to the following persons

- (a) a member who
 - (i) has been given notice of release from employment because his or her employer or Deputy Minister has considered it necessary by reason of shortage of work or funds or the abolition of a position or other material change in organization, and
 - (ii) has not waived all entitlement to benefits, payments, opportunities for assignments to other positions or other considerations resulting from the notice of release from employment; and
- (b) a person who would otherwise be eligible for a pension under subsection (1) before April 1, 2000 but who, on or after July 1, 1998, transfers to the Plan credit for their service with an employer to whom the Plan does not extend, in accordance with Article 15, unless the person pays to the Board such amount, as is determined by the Board, on such terms and conditions as are fixed by the Board, in respect of the difference between the actuarial value of a pension determined under this Article and the actuarial value of the pension to which the member is otherwise entitled under this Plan; and
- (c) a person who would otherwise be eligible for a pension under subsection (1) between April 1, 2000 and March 31, 2002, but who, on or after December 1, 1999, transfers to the Plan credit for their service with an employer to whom the Plan does not extend, in accordance with Article 15, unless the person pays to the Board such amount, as is determined by the Board, on such terms and conditions as are fixed by the Board, in respect of the difference between the actuarial value of a pension determined under this Article and the

actuarial value of the pension to which the member is otherwise entitled under this Plan.

Dated at Toronto, Ontario this 26th day of November, 1999.

SIGNED IN THE PRESENCE OF

HER MAJESTY THE QUEEN IN
RIGHT OF THE PROVINCE OF
ONTARIO AS REPRESENTED
BY THE SECRETARY OF THE
MANAGEMENT BOARD OF
CABINET

Synia Moustacalis
Witness

SYNIA MOUSTACALIS
Print Name

By: *Michelle Rowe*
Secretary of Management Board of Cabinet and
Deputy Minister of Management Board Secretariat

ONTARIO PUBLIC SERVICE
EMPLOYEES' UNION

Heather Gavin
Witness

Heather Gavin.
Print Name

By: *Leah Dul*
President, OPSEU