

A - Teachers Pension Act.pdf

Teachers' Pension Act

R.S.O. 1990, CHAPTER T.1

Consolidation Period: From April 19, 2016 to the [e-Laws currency date](#).

Last amendment: 2016, c. 5, Sched. 29.

Legislative History: 1991, c. 52, s. 1-8; 1993, c. 39; 1998, c. 34, s. 98-103; 2005, c. 31, Sched. 21; 2006, c. 33, Sched. Z. 8; 2009, c. 18, Sched. 29; 2009, c. 34, Sched. V; 2016, c. 5, Sched. 29.

CONTENTS

1.	Definitions
2.	Pension plan continued
3.	Objects of the Board
3.1	Authorized subsidiaries
4.	Pension fund
5.	Contributions by the Crown
6.	Board continued
7.	Composition of the Board
8.	Powers, etc., of the Board
10.	Joint management
11.	Agreement for member responsibility
12.	Investments authorized
12.1	Agreement respecting authorized subsidiaries
13.	Continued application
14.	Payment of pensions, predecessor Acts

Definitions

1. (1) In this Act,

“active plan member”, of the pension plan, means a person who is making the contributions required of an active member of the plan or a person on whose behalf contributions required of an active member of the plan are being made; (“participant actif”)

“Board” means the Ontario Teachers’ Pension Plan Board; (“Conseil”)

“pension fund” means, unless the context requires otherwise, the pension fund maintained to provide benefits in respect of the Ontario Teachers’ Pension Plan; (“caisse de retraite”)

“pension plan” means, unless otherwise provided, the Ontario Teachers’ Pension Plan; (“régime de retraite”)

“Schedule 1” means Schedule 1 to the *Teachers’ Pension Act, 1989* as amended from time to time. (“annexe 1”) R.S.O. 1990, c. T.1, s. 1; 1991, c. 52, s. 1; 1993, c. 39, s. 1; 1998, c. 34, s. 98 (1); 2009, c. 18, Sched. 29, s. 1.

Interpretation

(2) Expressions in this Act have the same meaning as under the *Pension Benefits Act* unless the context requires otherwise. 1998, c. 34, s. 98 (2).

Section Amendments with date in force (d/m/y)

1991, c. 52, s. 1 - 1/01/1992; 1993, c. 39, s. 1 - 31/12/1992; 1998, c. 34, s. 98 (1, 2) - 1/05/1999

2009, c. 18, Sched. 29, s. 1 (1, 2) - 5/06/2009

Pension plan continued

2. (1) A pension plan known as the Ontario Teachers’ Pension Plan is continued under the name Ontario Teachers’ Pension Plan in English and Régime de retraite des enseignantes et des enseignants de l’Ontario in French. R.S.O. 1990, c. T.1, s. 2 (1).

Defined benefits plan

(2) The pension plan is a defined benefit plan within the meaning of the *Pension Benefits Act*. R.S.O. 1990, c. T.1, s. 2 (2).

Plan documents

(3) The terms of the pension plan are as set out in Schedule 1 and in such other governing documents as may be created or adopted under this Act or that Schedule. R.S.O. 1990, c. T.1, s. 2 (3).

Sufficiency of assets

(4) The assets of the pension fund, including the present value of additional contributions to be made by the Minister of Education, shall be maintained at a level that, at the time of a valuation of the pension plan prepared by the plan actuary for filing with the Superintendent of Financial Services, is reasonably sufficient in the opinion of the actuary to meet the liabilities of the pension plan on a continuing basis. 1991, c. 52, s. 2; 1993, c. 39, s. 2; 1998, c. 34, s. 99; 2005, c. 31, Sched. 21, s. 1.

Section Amendments with date in force (d/m/y)

1991, c. 52, s. 2 - 1/01/1992; 1993, c. 39, s. 2 - 31/12/1992; 1998, c. 34, s. 99 - 1/05/1999
2005, c. 31, Sched. 21, s. 1 - 15/12/2005

Objects of the Board

3. The objects of the Board are to administer the pension plan and manage the pension fund in accordance with this Act, the *Pension Benefits Act* and the *Income Tax Act* (Canada). 2009, c. 18, Sched. 29, s. 2.

Section Amendments with date in force (d/m/y)

2009, c. 18, Sched. 29, s. 2 - 5/06/2009

Authorized subsidiaries**Definition**

3.1 (1) In this section,

“pension plan” means the Ontario Teachers’ Pension Plan or any other pension plan. 2009, c. 18, Sched. 29, s. 2.

Authorized by agreement

(2) If authorized by an agreement between the Minister of Education and the executive of The Ontario Teachers’ Federation under section 12.1, the Board may incorporate or cause to be incorporated and may make and maintain an investment in one or more corporations that, after the investment is made, are authorized subsidiaries of the Board. 2009, c. 18, Sched. 29, s. 2.

Authorized subsidiary

(3) For the purposes of this section, a corporation is an authorized subsidiary of the Board if,

- (a) the corporation carries on business with a view to profit;
- (b) the business of the corporation is limited to providing one or more eligible services to one or more persons and entities described in subsection (6); and
- (c) the Board has beneficial ownership of shares of the corporation representing more than 50 per cent of the shareholders’ equity of the corporation. 2009, c. 18, Sched. 29, s. 2.

Authority re investment entity

(4) An authorized subsidiary of the Board may, for the purpose of providing eligible services, incorporate, establish, manage or operate one or more corporations, trusts, partnerships or other entities as investment entities. 2009, c. 18, Sched. 29, s. 2.

Eligible services

(5) For the purposes of this section, each of the following is an eligible service if it is carried out in compliance with all applicable laws:

1. Providing advice to an administrator of a pension plan regarding the administration of the pension plan or the investment policies for the pension fund maintained to provide benefits in respect of that pension plan.

2. Providing advice to a client on investing in, holding, buying or selling securities or other assets.
3. Buying, selling, holding and managing investments for a client, with or without discretionary authority granted by the client to manage the client's investment portfolio.
4. Activities and services ancillary to the services listed in paragraphs 1 to 3, including,
 - i. activities relating to the distribution or sale to clients of securities issued by an investment entity referred to in subsection (4), and
 - ii. entering into derivative contracts in which the return is based in whole or in part on the performance of all or part of the pension fund maintained to provide benefits in respect of the Ontario Teachers' Pension Plan or of any of the pension fund's investments.
5. Providing administrative services to an administrator of a pension plan. 2009, c. 18, Sched. 29, s. 2.

Clients

- (6) An authorized subsidiary may provide services described in subsection (5) only to one or more of the following:
1. The Board.
 2. The administrator of another pension plan, whether the pension plan is in or outside Canada.
 3. The Government of Canada or the government of a province or territory of Canada, or
 - i. a Crown corporation, Crown agency or wholly-owned entity of the Government of Canada or of the government of a province or territory of Canada, or
 - ii. a corporation established by federal or provincial statute.
 4. A municipal corporation or a municipal or public body performing a function of government in Canada.
 5. A board, within the meaning of the *Education Act*, or a school board or similar authority that operates under comparable legislation in another province of Canada.
 6. A college of applied arts and technology established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*, a university that receives regular and ongoing operating funding from Ontario for purposes of post-secondary education or an educational institution in another province in Canada that receives regular and ongoing operating funding from the province.
 7. An educational institution outside Canada.
 8. An endowment fund for a university, college or educational institution referred to in paragraph 6 or 7.
 9. A registered charity within the meaning of the *Income Tax Act* (Canada).
 10. A national, federal, state, provincial, territorial or municipal government of or in any jurisdiction outside Canada or any entity owned or controlled by that government.
 11. An investment entity referred to in subsection (4).
 12. A client or class of clients prescribed by the regulations or that satisfies conditions prescribed by the regulations. 2009, c. 18, Sched. 29, s. 2.

Investing in or through investment entity of authorized subsidiary

(7) With the approval of the Board, assets of the pension fund maintained to provide benefits in respect of the Ontario Teachers' Pension Plan may be invested, directly or indirectly,

- (a) in an investment entity referred to in subsection (4); or
- (b) in an investment in which assets of an investment entity referred to in subsection (4) are also invested. 2009, c. 18, Sched. 29, s. 2.

Regulations

- (8) The Minister of Finance may make regulations,
 - (a) prescribing clients or classes of clients for the purposes of paragraph 12 of subsection (6);
 - (b) prescribing conditions that must be satisfied by a client or class of clients for the purposes of paragraph 12 of subsection (6). 2009, c. 18, Sched. 29, s. 2.

Section Amendments with date in force (d/m/y)

2009, c. 18, Sched. 29, s. 2 - 5/06/2009

Pension fund

4. The pension fund is continued. R.S.O. 1990, c. T.1, s. 4.

Contributions by the Crown

5. (1) The Minister of Finance shall pay from the Consolidated Revenue Fund an amount equal to contributions under the pension plan payable by the Minister of Education. R.S.O. 1990, c. T.1, s. 5 (1); 1993, c. 39, s. 3 (1); 2005, c. 31, Sched. 21, s. 2 (1).

Matching contributions

(1.1) The total amount of the contributions payable by the Minister of Education and the employers who contribute under the pension plan in respect of any year shall not exceed the amount of contributions payable by or on behalf of active plan members in respect of credited service for that year. 1991, c. 52, s. 3; 1993, c. 39, s. 3 (1); 2005, c. 31, Sched. 21, s. 2 (2).

Idem

(1.2) For the purpose of subsection (1.1), payments made under subsections (3) and (7) shall not be included in determining the total amount of contributions payable by the Minister of Education and the employers who contribute under the plan. 1991, c. 52, s. 3; 1993, c. 39, s. 3 (1); 1998, c. 34, s. 100 (1); 2005, c. 31, Sched. 21, s. 2 (3); 2009, c. 34, Sched. V, s. 1 (1).

Payments for long term income protection

(2) For the purposes of subsection (1.1), no additional payments made on or after January 1, 1992 by the Minister of Education or employers who contribute under the pension plan in respect of active plan members receiving payments under a long term income protection agreement shall be included in determining the total amount of contributions payable by the Minister of Education and the employers who contribute under the plan. 2006, c. 33, Sched. Z.8, s. 1 (1).

Payments re foregone inflation adjustments

(2.1) For the purposes of subsection (1.1), no additional payments made on or after January 1, 2010 by the Minister of Education or employers who contribute under the pension plan in connection with the foregone inflation adjustments described in subsection (2.2) shall be included in determining the total amount of contributions payable by the Minister of Education and the employers who contribute under the plan. 2009, c. 34, Sched. V, s. 1 (2).

Same

(2.2) Foregone inflation adjustments are the inflation adjustments foregone in accordance with subsections 80 (3a) and (3b) of Schedule 1, as it reads on January 1, 2010, and the contributions to be made by the Minister of Education and the employers in connection with those adjustments are the contributions required by subsections 25 (2d) and 26 (1d) of Schedule 1, as it reads on January 1, 2010. 2009, c. 34, Sched. V, s. 1 (2).

Deficiency

(3) If in a year the amount of cash and assets capable of sale in the pension fund is insufficient to meet the payments out of the fund in the year after the sale of the assets capable of sale, the Minister of Finance shall pay from the Consolidated Revenue Fund an amount sufficient to make up the deficiency. R.S.O. 1990, c. T.1, s. 5 (3); 1993, c. 39, s. 3 (1).

Limitation

(4) Subsection (3) ceases to apply if an agreement mentioned in subsection 11 (1) is in force. R.S.O. 1990, c. T.1, s. 5 (4).

(5), (6) REPEALED: 1993, c. 39, s. 3 (2).

Solvency deficiency

(7) If a solvency deficiency is disclosed by a solvency valuation under the *Pension Benefits Act*, the Minister of Education may, during the five years following the date of the valuation, make additional contributions to the pension plan. 1991, c. 52, s. 3; 1993, c. 39, s. 3 (1); 2005, c. 31, Sched. 21, s. 2 (4).

Contributions for 2008

(8) Despite subsection (1.1), the total amount of contributions payable in respect of 2008 by the Minister of Education and the employers who contribute under the pension plan may exceed the amount of contributions payable by or on behalf of active plan members in respect of credited service for that year. 2006, c. 33, Sched. Z.8, s. 1 (2).

Section Amendments with date in force (d/m/y)

1991, c. 52, s. 3 - 1/01/1992; 1993, c. 39, s. 3 (1, 2) - 31/12/1992; 1998, c. 34, s. 100 (1, 2) - 1/05/1999

2005, c. 31, Sched. 21, s. 2 (1-4) - 15/12/2005

2006, c. 33, Sched. Z.8, s. 1 (1) - 1/01/1992; 2006, c. 33, Sched. Z.8, s. 1 (2) - 20/12/2006

2009, c. 34, Sched. V, s. 1 (1, 2) - 1/01/2010

5.1 REPEALED: 1998, c. 34, s. 101.

Section Amendments with date in force (d/m/y)

1998, c. 34, s. 101 - 1/05/1999

Board continued

6. (1) The Ontario Teachers' Pension Plan Board is continued as a corporation without share capital under the name Ontario Teachers' Pension Plan Board in English and Conseil du régime de retraite des enseignantes et des enseignants de l'Ontario in French. R.S.O. 1990, c. T.1, s. 6 (1).

Application of Corporations Act

(2) The *Corporations Act* does not apply with respect to the Board. R.S.O. 1990, c. T.1, s. 6 (2).

Composition of the Board

7. The composition of the Board shall be as is set out in the pension plan. R.S.O. 1990, c. T.1, s. 7.

Powers, etc., of the Board

8. (1) The powers and duties of the Board shall be as set out in this Act, the pension plan and any agreements under sections 10 and 12.1, except that in the event of any conflict between the pension plan and an agreement under section 10, the agreement under section 10 prevails. 2009, c. 18, Sched. 29, s. 3 (1).

Protection from liability

(2) No action or other proceeding for damages shall be commenced or continued against a member of the Board or against a member of a committee of the Board for an act done in good faith in the execution or intended execution of a power or duty under this Act, the pension plan or an agreement between the Minister of Education and the executive of The Ontario Teachers' Federation in respect of the plan. 1991, c. 52, s. 4; 2005, c. 31, Sched. 21, s. 3.

Exception re protection from liability

(3) Subsection (2) does not apply to,

- (a) a member of the Board or to a member of a committee of the Board for any act done in relation to the activities of an authorized subsidiary or investment entity referred to in section 3.1; and
- (b) an authorized subsidiary and an investment entity referred to in section 3.1. 2009, c. 18, Sched. 29, s. 3 (2).

Section Amendments with date in force (d/m/y)

1991, c. 52, s. 4 - 1/01/1992

2005, c. 31, Sched. 21, s. 3 - 15/12/2005

2009, c. 18, Sched. 29, s. 3 (1,2) - 5/06/2009

9. REPEALED: 1991, c. 52, s. 5.

Section Amendments with date in force (d/m/y)

1991, c. 52, s. 5 - 1/01/1992

Joint management

10. (1) The Minister of Education and the executive of The Ontario Teachers' Federation may enter into an agreement that provides for the following matters:

- 1. The joint management of the pension plan by the Minister and the executive of the Federation.
- 2. The composition of the Board, the appointment of the members of the Board and the delineation of the powers and duties of the Board.

3. The sharing of entitlement to gains or surplus under the plan and of liability for deficiencies in the pension fund by the Minister, the employers who contribute under the plan and the active plan members.
4. The amendment of the plan, including the amendment of Schedule 1, by agreement between the Minister and the executive of the Federation.
5. The resolution of disputes between the Minister and the executive of the Federation with respect to amendments to the plan.
6. Any other matter to which the Minister and the executive of the Federation agree. 1991, c. 52, s. 6; 1993, c. 39, s. 5; 2005, c. 31, Sched. 21, s. 4 (1).

Filing of amendment

(2) An agreement amending the pension plan under paragraph 4 of subsection (1) shall be filed with the Superintendent of Financial Services and the amendment to the plan comes into force on the date of filing or on such later date as may be set out in the agreement. 1991, c. 52, s. 6; 2005, c. 31, Sched. 21, s. 4 (2).

Conflict with *Pension Benefits Act*

(3) To the extent that an amendment to the pension plan conflicts with the *Pension Benefits Act* in a matter in which the conflict is not authorized by this Act or Schedule 1, the amendment is void. 1991, c. 52, s. 6.

Suspension of pension payments during re-employment

- (4) On or after January 1, 1990, the pension plan may provide for the suspension of pension payments to a person,
 - (a) if, after the beginning of the month in which the person begins to receive the pension, the person becomes employed by, or is otherwise engaged, directly or indirectly, to provide services for compensation for an employer who participates in the pension plan; and
 - (b) if payment of the pension is suspended on account of the employment or engagement described in clause (a). 2016, c. 5, Sched. 29, s. 1.

Same

(5) For greater certainty, the employment or engagement described in clause (4) (a) may be, or may include, the provision of services, other than as a teacher, to the Ministry of Education. 2016, c. 5, Sched. 29, s. 1.

Reduction of pension benefits, retroactivity

(6) An amendment to the pension plan, on or after January 1, 1990, providing for the suspension of pension payments to a person in the circumstances described in subsection (4) may reduce, on or after January 1, 1990, the commuted value of the person's pension as a result of the suspension of payments. 2016, c. 5, Sched. 29, s. 1.

Conflict with the *Pension Benefits Act*, retroactivity

(7) On and after January 1, 1990, subsections (4), (5) and (6) and provisions of the pension plan that are referred to in those subsections prevail over the *Pension Benefits Act* to the extent of any conflict. 2016, c. 5, Sched. 29, s. 1.

Immunity

(8) No cause of action arises against the Crown or any of the Crown's ministers, agents, appointees and employees, against The Ontario Teachers' Federation or any of its executives and employees, against the Board or any of its executives and employees,

- (a) as a direct or indirect result of the enactment of subsections (4) to (7);
- (b) as a direct or indirect result of provisions of the pension plan that are referred to in subsections (4) to (7); or
- (c) as a direct or indirect result of anything done or not done in order to comply with provisions of the pension plan that are referred to in subsections (4) to (7), including any denial of a pension payment that would otherwise have been payable to any person or any reduction in the amount of such a pension payment. 2016, c. 5, Sched. 29, s. 1.

Same

(9) Without limiting the generality of subsection (8), that subsection applies to an action or other proceeding claiming any remedy or relief, including specific performance, injunction, declaratory relief or any form of damages or any other remedy or relief, or a claim to be compensated for any losses, including loss of earnings or revenue. 2016, c. 5, Sched. 29, s. 1.

Same

(10) No proceeding, including but not limited to any proceeding in contract, restitution, tort, trust, fiduciary obligation or otherwise, that is directly or indirectly based on or related to anything referred to in clause (8) (a), (b) or (c) may be brought or maintained against any of the persons described in subsection (8). 2016, c. 5, Sched. 29, s. 1.

Section Amendments with date in force (d/m/y)

1991, c. 52, s. 6 - 1/01/1992; 1993, c. 39, s. 5 - 31/12/1992

2005, c. 31, Sched. 21, s. 4 (1, 2) - 15/12/2005

2016, c. 5, Sched. 29, s. 1 - 19/04/2016

Agreement for member responsibility

11. (1) The Minister of Education and the executive of The Ontario Teachers' Federation may enter into an agreement that provides,

- (a) that the pension plan will continue;
- (b) that the entitlement to gains or surplus and the liability for deficiencies in the pension fund are permanently assumed by the active plan members;
- (c) that the liability of the Crown to contribute under the plan is limited to a specified amount or to a specified percentage of member contributions under the plan;
- (d) that the members may amend the plan, subject to the restrictions described in clauses (b) and (c). 1991, c. 52, s. 7; 1993, c. 39, s. 6; 2005, c. 31, Sched. 21, s. 5 (1).

Filing of agreement

(2) An agreement under subsection (1) shall be filed with the Superintendent of Financial Services and comes into force on the date of filing or on such later date as may be set out in the agreement. 1991, c. 52, s. 7; 2005, c. 31, Sched. 21, s. 5 (2).

Repeal of Schedule 1

(3) **Schedule 1 is repealed on the day the agreement under subsection (1) comes into force. 1991, c. 52, s. 7.**

Section Amendments with date in force (d/m/y)

1991, c. 52, s. 7 - 1/01/1992; 1993, c. 39, s. 6 - 31/12/1992; 1998, c. 34, s. 102 - 18/12/1998

2005, c. 31, Sched. 21, s. 5 (1, 2) - 15/12/2005; 2005, c. 31, Sched. 21, s. 6 (1) - 31/12/2004

2009, c. 18, Sched. 29, s. 4 - 5/06/2009

Investments authorized

12. (1) Despite the *Pension Benefits Act* and the regulations thereunder, the receipt and holding by the Board of debentures issued or transferred under section 12 of the *Teachers' Pension Act, 1989*, being chapter 92, shall not be considered imprudent or unreasonable or contrary to the *Pension Benefits Act* and the regulations thereunder, and the nature, amount and terms of the debentures may be taken into account by the Board and any committee of the Board in determining future investments of the assets of the pension plan. R.S.O. 1990, c. T.1, s. 12 (1).

Transfer Teachers' Pensions

(2) Section 81 of the *Pension Benefits Act* does not apply to the transfers described in section 12 of the *Teachers' Pension Act, 1989*, being chapter 92. R.S.O. 1990, c. T.1, s. 12 (2).

Agreement respecting authorized subsidiaries

12.1 The Minister of Education and the executive of The Ontario Teachers' Federation may enter into an agreement granting to the Board the power to incorporate or cause to be incorporated and to make and maintain investments in one or more corporations if, after the investments are made in each such corporation, the corporation is an authorized subsidiary under section 3.1. 2009, c. 18, Sched. 29, s. 4.

Section Amendments with date in force (d/m/y)

1998, c. 34, s. 102 - 18/12/1998

2005, c. 31, Sched. 21, s. 6 (1) - 31/12/2004; 2005, c. 31, Sched. 21, s. 6 (2, 3) - 31/12/2004; 2005, c. 31, Sched. 21, s. 6 (4) - 1/07/2006

2009, c. 18, Sched. 29, s. 4 - 5/06/2009

12.2 REPEALED: 2005, c. 31, Sched. 21, s. 7.

Section Amendments with date in force (d/m/y)

1998, c. 34, s. 102 - 18/12/1998

2005, c. 31, Sched. 21, s. 7 - 31/12/2004

Continued application

13. (1) The *Teachers' Superannuation Act, 1983*, being chapter 84, as it read on the 31st day of December, 1989, continues to apply to the computation or payment of every allowance, annuity, pension or deferred pension or payment to the payment of which a person became entitled under that Act before that date, and continues to apply in respect of every person who, within the meaning of that Act, ceased to be a contributor on or before that date and is entitled to a deferred allowance under that Act. R.S.O. 1990, c. T.1, s. 13 (1).

Idem

(2) The *Teachers' Superannuation Act, 1983*, being chapter 84, as it read on the 31st day of December, 1989, continues to apply in respect of every person who is entitled to a survivor benefit, death benefit, right or allowance with respect to contributions made by a person referred to in subsection (1). R.S.O. 1990, c. T.1, s. 13 (2).

Payment of pensions, predecessor Acts

14. Every allowance, pension or deferred pension or other payment under the *Teachers' Superannuation Act, 1983*, being chapter 84, or a predecessor Act or under the *Superannuation Adjustment Benefits Act*, being chapter 490 of the Revised Statutes of Ontario, 1980, or a predecessor Act, including any payment authorized to be made from the Consolidated Revenue Fund, that, before the 1st day of January, 1990, a person was receiving, was entitled to receive, or was entitled to receive with the payment thereof deferred until the year 1990 or later, shall be paid out of the pension fund in accordance with the Act under which entitlement to the payment arose. R.S.O. 1990, c. T.1, s. 14.

Français

[Back to top](#)

B - Schedule 1 to Teachers Pension Act (Plan text).pdf

ONTARIO TEACHERS' PENSION PLAN

SCHEDULE 1 to the *TEACHERS' PENSION ACT*

PART I INTERPRETATION

Definitions

1. (1) In this Schedule,

"active member" means a person employed in education who is making contributions under the plan and includes a person receiving payments under a long term income protection agreement and by whom or on whose behalf contributions are being made in accordance with subsection 21 (1); (Last amended August 4, 2011 – Effective September 1, 2011)

"active member on LTIP" means an active member as described in section 6;

"administrator" means the Ontario Teachers' Pension Plan Board; (Last amended June 28, 1990 - Effective June 28, 1990)

"average salary", of a member, means the average salary determined in accordance with section 15;

"benefit" means an amount payable under the pension plan, including a pension, a commuted value or a lump-sum payment; (Last amended May 5, 2010 – Effective September 1, 2002)

"board of education" has the same meaning as "board" in subsection 1 (1) of the *Education Act*;

"child" has the same meaning as in subsection 1 (1) of the *Family Law Act*;

"date of disability", of an active member on LTIP, means the date on which the member ceases to be employed in education as a result of the disability;

"dependent child" means a child of a deceased member who was dependent on the member for support at the time of the member's death, and who,

- (a) is less than eighteen years of age, or
- (b) is eighteen or more years of age but less than twenty-five years of age and is in full-time attendance at a school or university, having been in such attendance substantially without interruption since the child reached eighteen years of age or since the member died, whichever occurred later, or
- (c) is disabled, having been disabled without interruption since the member died;

(Last amended May 5, 2010 – Effective January 1, 1992)

"designated organization" means an organization designated under subsection 119 (2);

"designated private school" means a school designated under subsection 119 (1);

"employed in education" means employed as described in section 2, 6, 7, 8 or 9; (Last amended October 10, 1995 - Effective January 1, 1990)

"employer-approved leave" means a leave of absence, with or without pay, to which the member's employer consents; (Last amended July 21, 2014 – Effective September 1, 2014)

"long term income protection agreement" means an agreement to provide long term income protection in the event of a member's long term disability that is entered into by an insurer within the meaning of section 1 of the *Insurance Act* and,

- (a) the Minister of Education;
- (b) a board of education;
- (c) the Ontario Teachers' Federation established under the *Teaching Profession Act*;
- (d) an affiliated body described in the *Teaching Profession Act*; or
- (e) an authority approved by the administrator.

(Last amended August 4, 2011 – Effective September 1, 2011)

"member" means a person who, as a result of his or her employment in education, is entitled to benefits or to a refund of contributions under the pension plan;

"re-employed pensioner" means a member who, after

- (a) ceasing to be employed in education before, on or after September 1, 2012, and
- (b) the beginning of the month in which the member's retirement pension under the plan begins,

is employed by or otherwise engaged, directly or indirectly, to provide services for compensation for an employer who participates in the pension plan; (Last amended June 20, 2012 – Effective September 1, 2012)

"school day" has the same meaning as "school day" in subsection 1 (1) of the *Education Act* as amended from time to time; (Last amended July 21, 2014 – Effective September 1, 2014)

"school year" means the twelve-month period that normally begins on the 1st day of September, however, for a member whose school year commences prior to September 1st, the administrator may determine the days that the member is required to work prior to September 1st to be in the subsequent school year; (Last amended September 8, 2006 – Effective September 1, 2006)

"short absence" means an employer-approved leave of five or fewer consecutive school days; (Last amended July 21, 2014 – Effective September 1, 2014)

"spouse" means either of two persons who,

- (a) are married to each other, or
- (b) are not married to each other and are living together in a conjugal relationship,
 - (i) continuously for a period of not less than three years, or

- (ii) in a relationship of some permanence, if they are the natural or adoptive parents of a child, both as defined in the *Family Law Act*;

(Last amended September 8, 2006 – Effective June 10, 2003)

"standard interest rate" means the interest rate determined under section 89;

"statutory leave" means any leave of absence within the meaning of the *Employment Standards Act, 2000* as amended from time to time; (Last amended September 8, 2006 – Effective September 4, 2001)

"Year's Maximum Pensionable Earnings", in relation to a year, means the Year's Maximum Pensionable Earnings prescribed under the *Canada Pension Plan*.

Qualification as a
teacher

- (2) A person is considered to be qualified as a teacher for the purposes of membership in the pension plan,
 - (a) if the person has obtained teacher certification from one of the Ministry of Education or the Ontario College of Teachers; or
 - (b) if a board of education holds a letter of permission granted by the Minister of Education in respect of the person.

(Last amended November 27, 2000 – Effective May 20, 1997)

Employment

- (3) A person is considered to be employed,
 - (a) full-time, if the person is required to work throughout each work day of a year or of a session; and
 - (b) part-time, if the person is required to work on a regular but not full-time basis.

Idem

- (4) A person is considered to be employed on an occasional basis as a teacher and not part-time if the person is an occasional teacher within the meaning of section 1 of the *Education Act*.

PART II PARTICIPATION

A. Membership in the Plan

Eligibility for
membership

- 2. (1) Every person is eligible to be an active member of the pension plan who is qualified as a teacher and is employed,
 - (a) as a teacher, as determined by the administrator, in a school within the meaning of subsection 1 (1) of the *Education Act*;

- (b) as a teacher in a school outside Ontario under an approved teacher exchange system;
- (c) as a teacher by the minister of a ministry of the Government of Ontario;
- (d) as a teacher in a school or a class operated by the Toronto and Region Conservation Authority;
or
- (e) by a board of education.

(Last amended June 20, 2012 – Effective January 1, 2012)

Idem

- (2) Every person is eligible to be an active member of the pension plan who is qualified as a teacher and is employed in a designated private school or a designated organization. (Last amended December 21, 2007 – Effective September 1, 2008)

Idem

- (2a) Every person is eligible to be an active member of the pension plan who is qualified as a teacher and has taken a statutory leave from employment in education which leave began prior to the 1st day of September, 2010. (Last amended December 30, 2009 - Effective September 1, 2010)

Idem

- (2b) Every person is eligible to be an active member of the pension plan who is qualified as a teacher and is receiving payments for loss of earnings in respect of employment in education under the *Workplace Safety and Insurance Act*. (Last amended September 8, 2006 – Effective September 1, 2006)

Exception

- (3) No person is eligible to be an active member of the pension plan,
 - (a) if the person is regularly employed outside Ontario and is performing services in Ontario under an approved teacher exchange system; or
 - (b) beyond November 30th of the calendar year in which the person attains seventy-one years of age, or beyond such other time as is permitted under the *Income Tax Act* (Canada).

(Last amended June 20, 2012 – Effective January 1, 2012)

Commencement of
membership

- 3. (1) Every person employed as described in subsection 2 (1) full-time or part-time becomes an active member of the plan on the later of,
 - (a) the 1st day of January, 1990;
 - (b) the date the employment contract begins; or
 - (c) the date on which the person becomes qualified as a teacher.

(Last amended June 20, 2012 – Effective January 1, 2012)

Idem

- (2) Subject to subsection 5 (1), every person employed as described in subsection 2 (2) full-time or part-time becomes an active member of the plan on the day that is the latest of,
 - (a) the 1st day of January, 1990;
 - (b) the date the employment contract begins; or
 - (c) the date the designation of the private school or the organization is effective.

Idem

- (3) Every person employed in education on an occasional basis becomes an active member of the plan on the person's first day of employment in a school year. (Last amended February 20, 1997 - Effective January 1, 1997)

(3a) Revoked. (Last amended February 20, 1997 - Effective January 1, 1997)

Commencement of
membership, re-employed
pensioner

- (4) Revoked. (Last amended October 23, 2008 – Effective January 1, 2009)

Idem

- (4a) Revoked. (Last amended October 23, 2008 – Effective January 1, 2009)

Idem

- (5) Revoked. (Last amended October 23, 2008 – Effective January 1, 2009)

Idem

- (6) Revoked. (Last amended October 23, 2008 – Effective January 1, 2009)

Election re occasional
employee

4. (1) Revoked. (Last amended February 20, 1997 - Effective January 1, 1997)

Obligations

- (2) Revoked. (Last amended October 10, 1995 - Effective September 1, 1996)

Election re designated
private schools, etc.

5. (1) A person employed at a designated private school or a designated organization on the date the designation becomes effective may elect not to become an active member of the plan.

Time for election

- (2) An election under this section is not effective unless delivered in writing to the governing body of the designated private school or designated organization and to the administrator,
- (a) not later than three months after the effective date of designation for the private school or organization, if the person is qualified as a teacher when the designation takes effect; or
 - (b) not later than three months after the date the person becomes qualified as a teacher, if the person is not so qualified on the effective date of designation for the private school or organization.

Not applicable

- (3) This section does not apply to a person who is an active member of the plan or to a person who is receiving a pension under the plan on the date the designation becomes effective. (Last amended September 8, 2006 – Effective September 1, 2002)

Further election

- (4) This section applies with necessary modifications to a person employed at a designated private school or a designated organization on September 1, 2008, who becomes eligible for active plan membership on that date in accordance with subsection 2 (2). The required election must be delivered by December 1, 2008. (Last amended December 21, 2007 – Effective September 1, 2008)

Active member on
LTIP

6. (1) An active member who begins to receive payments under a long term income protection agreement continues as an active member of the plan until the earlier of:
- (a) the date the member ceases to receive payments under the long term income protection agreement;
 - (b) the date the member begins receiving a benefit under the pension plan; or

- (c) the end of the calendar year in which the member attains seventy-one years of age, or such other time as is permitted under the *Income Tax Act* (Canada).

(Last amended August 4, 2011 – Effective September 1, 2011)

Idem

- (1a) For the purposes of subsection (1), an active member who has been approved for payments under a long term income protection agreement but is not receiving payments by reason of the application of offset or all-source maximum provisions of the long term income protection agreement shall be deemed to receive payments under a long term income protection agreement. (Last amended August 4, 2011 – Effective September 1, 2001)

Idem

- (1b) For the purposes of subsection (1) and subject to the limits set forth therein, an active member who receives payment in the form of a lump sum under a long term income protection agreement shall be deemed to receive payments under a long term income protection agreement for the period determined by the administrator. (Last amended August 4, 2011 – Effective September 1, 2011)

Evidence of
medical condition

- (1c) The administrator may at any time require a member described in subsection (1b) to furnish evidence, in such form as the administrator directs, that the member is disabled as defined under Regulation 8500 (1) of the *Income Tax Act* (Canada) throughout the period of active membership on LTIP. The period of active membership on LTIP of a member described in subsection (1b) shall terminate at the end of the month in which the administrator notifies the member that the administrator is not satisfied that the member is disabled. (Last amended August 4, 2011 – Effective September 1, 2011)

Return to
employment

- (1d) If a member described in subsection (1b) becomes employed in education, other than as an active member on LTIP, and the percentage of full-time basis of that employment is equal to or greater than the percentage of full-time basis upon which the member was employed immediately prior to becoming disabled, the member shall be deemed to have ceased to receive payments under a long term income protection agreement on the date that the member commences that period of employment in education. (Last amended August 4, 2011 – Effective September 1, 2011)

Eligibility

- (2) Revoked. (Last amended April 2, 2001 – Effective September 1, 2001)

Idem

- (3) Revoked. (Last amended April 2, 2001- Effective September 1, 2001)

Definition

- (4) Revoked. (Last amended August 4, 2011 – Effective September 1, 2011)

Active membership,
university faculty

7. (1) A member who, during an employer-approved leave, becomes employed on the staff of a faculty of education of an Ontario university on or after the 1st day of January, 1990 is an active member of the plan. (Last amended July 21, 2014 – Effective September 1, 2014)

Limitation

- (2) A person is eligible for active membership under this section for a maximum of five school years.

Not applicable

- (3) This section does not apply to a person who is employed on the staff of a faculty of education of an Ontario university that is designated under section 119. (Last amended September 8, 2006 – Effective September 1, 2002)

Transitional re
universities

8. (1) A person who, on the 1st day of January, 1990, is qualified as a teacher and is employed full-time on the staff of a faculty of education of an Ontario university is an active member of the plan as long as the person continues in full-time or part-time employment at such a faculty.

Idem, part-time
employee

- (2) A person who, on the 1st day of January, 1990, is qualified as a teacher and is employed part-time on the staff of a faculty of education of an Ontario university is an active member of the plan as long as the person continues either part-time or full-time employment at such a faculty.

Not applicable

- (3) This section does not apply to a person who is employed on the staff of a faculty of education of an Ontario university that is designated under section 119. (Last amended September 8, 2006 – Effective September 1, 2002)

Transitional re
Ryerson, CAATs

9. (1) This section applies with respect to a person who,
- (a) is qualified as a teacher and is employed by Ryerson University; or
- (b) was deemed, under a predecessor of this Act, to be employed in education by a college of applied arts and technology. (Last amended May 5, 2010 – Effective July 1, 2002)

Idem, full-time employee

- (2) A person who, on the 1st day of January, 1990, has been employed full-time by Ryerson University or a college of applied arts and technology continuously since the 1st day of September, 1984 is an active member of the pension plan as long as the person continues in full-time employment either at Ryerson or at such a college. (Last amended May 5, 2010 – Effective July 1, 2002)

Idem, part-time employee

- (3) A person who, on the 1st day of January, 1990, has been employed part-time by Ryerson University or a college of applied arts and technology continuously since the 1st day of September, 1984 is an active member of the pension plan as long as the person continues in part-time or full-time employment either at Ryerson or at such a college. (Last amended May 5, 2010 – Effective July 1, 2002)

B. Credit for Service

Credited service

10. (1) An active member receives one year of credited service for working a full-time school year. (Last amended June 28, 1990 - Effective June 28, 1990)
- (1a) For the purpose of determining credited service of an active member under this section, for the period to August 31, 2001, the administrator may use one or more standard calendars. (Last amended April 15, 1998 - Effective January 1, 1990)

Idem,
partial year

- (2) An active member receives credited service for part of a year in the proportion that the number of hours or days worked by the member during the school year bears to the number of hours or days in a full-time school year. (Last amended June 28, 1990 - Effective June 28, 1990)

Credited service
during statutory leave

- (2a) Despite subsections (1) and (2) an active member who makes contributions during a statutory leave which began prior to the 1st day of September, 2010 receives credited service for the number of days which the member would have worked during that leave to earn the amount of pensionable salary attributed to the member in calculating the member's contributions during the leave. (Last amended December 30, 2009 - Effective September 1, 2010)

Credited service
during LTIP

(2b) (a) Despite subsections (1) and (2), an active member who is receiving payments under a long term income protection agreement and in respect of whom required contributions are being made in accordance with subsection 21 (1) shall receive credited service for the period that the member's employer reports the member would have worked if the member had worked throughout the school year. (Last amended August 4, 2011 – Effective September 1, 2011)

(b) Despite subsections (1) and (2), an active member who receives payment in the form of a lump sum under a long term income protection agreement and in respect of whom required contributions are being made in accordance with subsection 21 (1) shall receive credited service for the period to which the lump sum payment relates, as determined by the administrator in accordance with subsection 6 (1b). (Last amended August 4, 2011 – Effective September 1, 2011)

Credited service
during WSIB

(2c) Despite subsections (1) and (2), an active member who is receiving payments for loss of earnings under the *Workplace Safety and Insurance Act* and in respect of whom required contributions are being made, shall receive credited service for the period that the member's employer reports the member would have worked if the member had worked throughout the school year. (Last amended September 8, 2006 – Effective September 1, 2006)

Idem

(2d) Despite subsection (2b), for the period of September 1, 2001 to August 31, 2006, where the credited service of an active member as described in subsection 6 (1a) is subject to the certification of a Past Service Pension Adjustment under the *Income Tax Act* (Canada), an active member shall receive credited service only once the administrator has obtained a certificate from the Minister of National Revenue. (Last amended August 4, 2011 – Effective September 1, 2011)

Credited service
during sick leave

(2e) Despite subsections (1) and (2), an active member who is receiving sick leave payments, and in respect of whom required contributions are being made, shall receive credited service for the period that the member's employer reports the member would have worked if not for the sick leave. (Last amended December 19, 2012 – Effective September 1, 2012)

Credited service during
unpaid professional
activity days

(2f) Despite subsections (1) and (2), an active member who is subject to unpaid professional activity days, and in respect of whom required contributions are being made, shall receive credited service for the period that the member's employer reports the member would have worked if not for the unpaid professional activity days. (Last amended April 2, 2013 – Effective September 1, 2012)

Credited service during
a short absence

(2g) Despite subsections (1) and (2), an active member who is on a short absence, and in respect of whom required contributions are being made, shall receive credited service for the period that the member's employer reports the member would have worked if not for the short absence. (Last amended July 21, 2014 – Effective September 1, 2014)

Idem, more than
full-time school year

(3) Where an active member works more than a full-time school year he or she is not entitled to credited service for hours or days worked which are in excess of a full-time school year if he or she is entitled to a refund of contributions under s. 28, whether or not the refund is paid. (Last amended June 28, 1990 - Effective June 28, 1990)

Limitation

- (4) Except for periods of lockout or legal strike or the strikes declared illegal by the Ontario Labour Relations Board on May 26, 2015 for the following periods:
 - (a) Durham District School Board – April 20, 2015 – May 26, 2015
 - (b) Rainbow District School Board – April 27, 2015 – May 26, 2015
 - (c) Peel District School Board – May 4, 2015 – May 26, 2015,
 a person shall not receive credited service for employment unless contributions in respect of the employment are made by or on behalf of that person. (Last amended September 22, 2015 - Effective April 20, 2015)

Idem

- (5) No person is entitled to receive more than one year of credited service in respect of the person's employment during one school year.

Idem

- (6) Subject to subsection (7), no person is entitled to accumulate more than thirty-five years of credited service under the plan in respect of a period prior to the 1st day of January, 1992. (Last amended February 28, 1992 - Effective January 1, 1992)

Exception

- (7) A member who accumulates thirty-five years of credited service may continue to accumulate credited service until the month in which he or she reaches the age which, when added to the member's credited service equals ninety. (Last amended February 28, 1992 - Effective January 1, 1992)

Idem

- (8) Despite subsection (7) a member may accumulate credited service greater than the limit set out therein with respect to a period after the 31st day of December, 1991. (Last amended June 1, 1995 - Effective June 1, 1995)

Partial year

- 11. (1) The length of a member's qualifying service determined under this section applies for the purpose of determining the member's entitlement to a benefit but does not apply for the purpose of calculating the amount of the benefit. (Last amended October 10, 1995 - Effective September 1, 1995)

Idem

- (2) If a member accumulates more than ten days but less than or equal to one year of credited service as determined under sections 10, 96, 97 or 97a during one school year, the member's qualifying service shall be considered to equal one year. (Last amended May 5, 2010 - Effective September 1, 2001)

Idem

- (2a) If the administrator is unable to determine in which of two successive school years the credited service of a member described in subsection (2) took place, it shall be deemed to have taken place in the earlier year. (Last amended October 10, 1995 - Effective September 1, 1995)

Idem

- (3) If a member described in subsection (2), or a survivor of a member, receives a pension during the school year, the member shall receive qualifying service only for those months which the member, or survivor of the member, as the case may be, does not receive a pension. (Last amended October 10, 1995 - Effective September 1, 1995)

Idem

- (4) If a member described in subsection (2) becomes employed in education for the first time on or after the 1st day of January, 1990, the member shall receive qualifying service only for that portion of the school year during which the member is an active member. (Last amended October 10, 1995 - Effective September 1, 1995)

Idem

- (5) Revoked. (Last amended October 10, 1995 - Effective September 1, 1995)

Purchases of credit

- (6) Subsection (2) shall include credited service accumulated by a member for a school year under section 94 or 95 in respect of periods on or after the 1st day of September, 2010, provided that the member has completed a purchase of the entire eligible absence period in respect of that school year. (Last amended August 4, 2011 – Effective September 1, 2010)

Partial purchases of credit

- (7) If a member referred to in subsection (6) does not complete a purchase of the entire eligible absence period for a school year, the member shall only receive qualifying service in respect of the purchase equal to the member's credited service in respect of the absence. (Last amended December 30, 2009 - Effective September 1, 2010)

Limitation

- (8) A member is not entitled to accumulate more than one year of qualifying service under this section in respect of a school year. (Last amended December 30, 2009 - Effective September 1, 2010)

Idem

- (9) If a member accumulates ten days or less of credited service in respect of a school year, the member shall receive qualifying service for that school year equal to the member's credited service for that school year. (Last amended December 30, 2009 - Effective September 1, 2010)

C. Calculation of Pensionable Salary

Pensionable salary

12. (1) A member's pensionable salary for a school year is the remuneration paid to the member respecting employment in education and excludes,
- (a) remuneration for services other than for employment in education;
 - (b) perquisites related to employment;
 - (c) payments related to accumulated sick leave or other employment benefit credits;
 - (d) payments related to retirement or termination of employment;
 - (e) payments to reimburse the member for expenses incurred during the course of employment;
 - (f) payments related to employment or for loss of earnings under the *Workplace Safety and Insurance Act* during a period in which the member is already an active member under section 6; (Last amended May 5, 2010 – Effective September 1, 2006)
 - (g) payments related to employment during a period in which the member is already an active member by virtue of receiving payments for loss of earnings under the *Workplace Safety and Insurance Act*; and (Last amended September 8, 2006 – Effective September 1, 2006)
 - (h) any remuneration paid to the member respecting employment in education that exceeds an annual rate of pay of six times the Year's Maximum Pensionable Earnings in effect each year. (Last amended December 21, 2006 – Effective January 1, 2007)

Idem

- (2) Pensionable salary excludes the amounts described in clauses (1) (a) to (h) whether paid under a contract or gratuitously by an employer. (Last amended December 21, 2006 – Effective January 1, 2007)

Idem

- (3) The pensionable salary of a member who receives board or lodging related to employment in education shall be deemed to be such amount, having regard for the value of the board or lodging, as is determined by the administrator.

Idem

- (4) The pensionable salary of a member who is entitled to a refund under s. 28 (overpayment) shall be reduced by the amount of remuneration for which the contributions could have been refunded, whether or not the refund is paid. (Last amended June 28, 1990 - Effective June 28, 1990)

Pensionable salary
during statutory leave

- (5) The pensionable salary of an active member who makes contributions for a statutory leave which began prior to the 1st day of September, 2010 is the remuneration that the member's employer reports that the member would have earned if the member had not taken a statutory leave. (Last amended December 30, 2009 - Effective September 1, 2010)

Pensionable salary
during WSIB

- (5a) The pensionable salary of an active member who is receiving payments for loss of earnings under the *Workplace Safety and Insurance Act* is the remuneration that the member's employer reports that the member would have earned if the member had not been receiving such payments under the *Workplace Safety and Insurance Act*. (Last amended September 8, 2006 – Effective September 1, 2006)

Pensionable salary
during sick leave

- (5b) For the purposes of subsection 10 (2e), the pensionable salary of an active member who is receiving sick leave payments is the remuneration that the member's employer reports that the member would have earned if not for the sick leave. (Last amended December 19, 2012 – Effective September 1, 2012)

Pensionable salary during
unpaid professional
activity days

- (5c) For the purposes of subsection 10 (2f), the pensionable salary of an active member who is subject to unpaid professional activity days is the remuneration that the member's employer reports that the member would have earned if not for the unpaid professional activity days. (Last amended April 2, 2013 – Effective September 1, 2012)

Pensionable salary during
a short absence

- (5d) For the purposes of subsection 10 (2g), the pensionable salary of an active member who is on a short absence is the remuneration that the member's employer reports that the member would have earned if not for the short absence. (Last amended July 21, 2014 – Effective September 1, 2014)

Pensionable salary

- (6) Revoked. (Last amended June 29, 1994 - Effective January 1, 1992)

Deferred salary
leave plans

- 12a.** (1) This section applies to a member who participates in a deferred salary leave plan entered into in writing between the member and his or her employer. (Last amended April 2, 2001- Effective September 1, 2001)

Deemed pensionable
salary

- (2) Despite subsection 12 (1) the pensionable salary of a member referred to in subsection (1) is the amount that the member's employer advises the administrator would have been paid to the member but for the member's participation in a deferred salary leave plan. (Last amended June 29, 1994 - Effective January 1, 1992)

Coming into force

- (3) Revoked. (Last amended April 2, 2001- Effective September 1, 2001)

Pensionable salary re
active member on LTIP

13. (1) The pensionable salary of an active member on LTIP is the remuneration that the member's employer reports the member would have earned if the member had worked throughout the school year in which the member began receiving LTIP benefits. (Last amended April 2, 2001- Effective September 1, 2001)

Idem

- (2) Revoked. (Last amended April 2, 2001- Effective September 1, 2001)

Idem

- (3) Despite subsection (1), for the period of September 1, 2001 to August 31, 2011, the pensionable salary of an active member as described in subsection 6 (1a) shall be the greater of:
- (a) the pensionable salary determined in accordance with subsection (1) and increased in accordance with subsections 15 (4) to (4c); and
 - (b) the pensionable salary determined in accordance with subsection 12 (5a).
- (Last amended August 4, 2011 – Effective September 1, 2011)

Pensionable salary re
purchases of credit prior
to September 1, 2010

14. (1) The pensionable salary of a member who purchases credited service under section 94, 95 or 96 for an absence is the amount of remuneration that, in the opinion of the member's employer, the member would have earned had he or she not taken the absence. (Last amended April 2, 2001 - Effective September 1, 2001)

Idem re pensionable
salary for purchases
on or after
September 1, 2010

- (1a) Despite subsection (1), the pensionable salary for a purchase of credited service under section 94, 95 or 96, where the member has not completed payment prior to the 1st day of September, 2010 for the entire eligible absence period, is an amount based upon the annual pensionable salary that, in the opinion of the administrator, the member earned prior to the start of the absence as adjusted in accordance with this section. (Last amended October 19, 2012 – Effective September 1, 2010)

Adjusted pensionable
salary

- (1b) For the purposes of subsection (1a), a member's pensionable salary for an absence is adjusted after the school year in which the member began the absence by multiplying the pensionable salary for that year by the accumulated adjustment ratio determined in the manner set out in subsection (1d). (Last amended June 20, 2012 – Effective September 1, 2010)

Exception

- (1c) Despite subsection (1b), where an absence begins on the first day of the member's school year, the pensionable salary is adjusted in the manner set out in subsection (1b) beginning with the school year in which the member began the absence. (Last amended December 30, 2009 - Effective September 1, 2010)

Accumulated
adjustment ratio

- (1d) A member's accumulated adjustment ratio for purposes of subsection (1b) is the product of the basic ratio for each school year beginning with the school year following the school year in which the member began the absence and ending with the school year for which the accumulated adjustment ratio is being determined. (Last amended December 30, 2009 - Effective September 1, 2010)

Exception

- (1e) Despite subsection (1d), where an absence begins on the first day of the member's school year, the member's accumulated adjustment ratio for purposes of subsection (1b) is the product of the basic ratio for each school year beginning with the school year in which the member began the absence and ending with the school year for which the accumulated adjustment ratio is being determined. (Last amended December 30, 2009 - Effective September 1, 2010)

Basic ratio

- (1f) The basic ratio for a school year referred to in subsections (1d) and (1e) is a factor provided by the Minister. (Last amended December 30, 2009 - Effective September 1, 2010)

Alternative
basic ratio

- (1g) In the event that the basic ratio described in subsection (1f) is not provided by the Minister before the date that the cost for the purchase of credited service is calculated, the basic ratio for a school year referred to in subsections (1d) and (1e) is the ratio expressed to three decimal places that the average for the consumer price index over the last twelve months of the twenty-four month period ending with the 31st day of July in the preceding school year bears to the average for the consumer price index over the first twelve months of that period. (Last amended December 30, 2009 - Effective September 1, 2010)

Idem

- (1h) For the purposes of subsection (1g), "consumer price index" means the Consumer Price Index for Canada as published by Statistics Canada under the authority of the *Statistics Act* (Canada). (Last amended December 30, 2009 - Effective September 1, 2010)

Transition

- (1i) Revoked. (Last amended October 19, 2012 - Effective September 1, 2010)

Grandfathering the portion
of an absence previously
considered complete

- (1j) Despite subsection (1a), where, in the opinion of the administrator, payment was considered to be complete as of the 1st day of September, 2010 for a portion of the entire eligible absence period, the pensionable salary for that portion of the absence is determined in accordance with subsection 14(1). (Last amended October 19, 2012 - Effective September 1, 2010)

Idem re pensionable
salary for the remaining
portion of an employer
approved leave

- (1k) Despite subsection (1a), where, in the opinion of the administrator, payment was considered to be complete as of the 1st day of September, 2010 for a portion of the entire eligible absence period, the pensionable salary for any remaining subsequent portion of the entire eligible absence period that is an employer-approved leave is determined in accordance with subsection (1j), and adjusted, with necessary modifications, in accordance with subsections (1b) to (1h). (Last amended October 19, 2012 - Effective September 1, 2010)

Idem

- (2) The pensionable salary of a member who purchases credited service under section 103 is the amount of the member's remuneration for employment during the applicable period.
- (3) The pensionable salary described in subsection 14(2) shall not be used in the calculation of the average salary of the member. (Last amended June 29, 1994-Effective January 1, 1992)

Average salary

- 15. (1)** The average salary of a member,
- (a) with more than five years' qualifying service is the average of the member's annual pensionable salary for the five school years during which it was highest; and

- (b) with five years' or less qualifying service is the average of the member's annual pensionable salary. (Last amended October 10, 1995 - Effective September 1, 1995)

Part-time or occasional
employee

- (2) For the purpose of determining the average salary of a member employed more than ten days but less than a full-time school year or an active member on LTIP whose LTIP payments are based upon a less than full-time salary, the annual pensionable salary of the member is calculated using the formula,

$$(A/B) \times C$$

in which,

"A" is the amount of the member's pensionable salary for the school year,

"B" is the lesser of,

- (a) the number of days of credited service accumulated by the member during the school year, and
- (b) the number of days in a full-time school year, and

"C" is the number of days in a full-time school year except,

- (a) in the first year of the member's employment in education when it is the number of days between the first day worked by the member and the end of the school year, or
- (b) in the final year of active membership when it is the number of days in a full-time school year between the beginning of the school year and the date the member's pension or the pension of a survivor of the member begins. (Last amended February 20, 1997 - Effective January 1, 1997)

Employee working
less than full final year

- (2a) For the purpose of determining the average salary of a member employed more than ten days but less than a full-time school year during his or her final year of active membership, the pensionable salary of the member as determined under subsection (2) for that final year shall be increased by an amount calculated using the formula,

$$A \times B/C$$

in which,

"A" is the member's pensionable salary for the school year in which it was sixth highest,

"B" is the number of days in a full-time school year between the date the member's pension or the pension of a survivor of the member begins and the end of the school year, and

"C" is the number of days in a full-time school year. (Last amended February 20, 1997 - Effective January 1, 1997)

Purchases of credit

- (2b) Subsections (2) and (2a) shall apply, with necessary modifications, to credited service accumulated by a member for a school year under section 94 or 95 in respect of periods on or after the 1st day of September, 2010, provided that the member has completed a purchase of the entire eligible absence period in respect of that school year. (Last amended August 4, 2011 – Effective September 1, 2010)

Restriction

- (3) Revoked.
- (a) Revoked.
- (b) Revoked. (Last amended October 10, 1995 - Effective September 1, 1995)

Inflation adjusted
pensionable salary

- (4) For the purposes of this section, the pensionable salary for an active member on LTIP is increased after the school year in which the member began receiving LTIP benefits by multiplying the pensionable salary for that year, as determined under section 13, by the accumulated adjustment ratio determined in the manner set out in subsection (4a). (Last amended April 2, 2001 – Effective September 1, 2001)

Idem

- (4a) A member's accumulated adjustment ratio for purposes of subsection (4) is the product by multiplication of the basic ratio for each school year beginning with the school year following the school year in which the member began receiving LTIP benefits and ending with the school year for which the accumulated adjustment ratio is being determined. (Last amended April 2, 2001 – Effective September 1, 2001)

Idem

- (4b) The basic ratio for a school year referred to in subsection (4a) is the ratio expressed to three decimal places that the average for the consumer price index over the last twelve months of the twenty-four month period ending with the 30th day of September in that school year bears to the average for the consumer price index over the first twelve months of that period. (Last amended April 2, 2001 – Effective September 1, 2001)

Idem

- (4c) For the purposes of subsection (4b), "consumer price index" means the Consumer Price Index for Canada as published by Statistics Canada under the authority of the *Statistics Act* (Canada). (Last amended April 2, 2001 – Effective September 1, 2001)

Idem

- (4d) Subsections (4) to (4c) do not apply for the period of September 1, 2001 to August 31, 2011 in respect of a member who is an active member as described in subsection 6 (1a) and whose pensionable salary is determined in accordance with subsection 12 (5a). (Last amended August 4, 2011 – Effective September 1, 2011)

D. TransitionalTransitional re
membership

16. (1) Every person who has credit in the Teachers' Superannuation Fund on the 31st day of December, 1989 and who is not entitled to an allowance under a predecessor of this Act becomes an active member of the pension plan upon completing one day of employment in education on or after the 1st day of January, 1990.

Idem, active member
on LTIP

- (2) Every person who was making contributions or on whose behalf contributions were being made on the 31st day of December, 1989 under an agreement referred to in section 4 of the *Teachers' Superannuation Act, 1983* or under a predecessor of that section is considered to be an active member on LTIP.

Transitional re
credited service

17. Every active member shall be considered to have accumulated credited or qualifying service under the pension plan in an amount equal to the credited or qualifying service that he or she had accumulated under a predecessor of this Act. (Last amended October 10, 1995 - Effective September 1, 1995)

Re-employed
pensioners

18. A re-employed pensioner making contributions under the pension plan or a predecessor of this Act on or after the 1st day of September, 1989 up to the 1st day of January, 1990 is entitled to a refund of contributions, if any, made in respect of the first ninety-five days or less of employment during that period.

PART III CONTRIBUTIONS

A. Member Contributions

Amount of member's
contributions

19. (1) Every active member who is required to contribute to the *Canada Pension Plan* or to the *Quebec Pension Plan* shall contribute for a year, for salary paid after 2011,
- (a) 10.4 per cent of that portion of the member's pensionable salary up to and including the amount of the Year's Maximum Pensionable Earnings as prescribed under the *Canada Pension Plan*; and
- (b) 12 per cent of that portion of the member's pensionable salary that exceeds the amount of the Year's Maximum Pensionable Earnings. (Last amended August 4, 2011 – Effective January 1, 2012)

Idem

- (2) Every active member who is not required to contribute to the *Canada Pension Plan* or to the *Quebec Pension Plan* shall contribute 12 per cent of the member's pensionable salary for the year, for salary paid after 2011. (Last amended August 4, 2011 – Effective January 1, 2012)

Maximum amount of
contributions, R.S.C.
1952, C. 148

- (2a) If a member's contributions calculated under this section for a period after the 31st day of December, 1991 exceeds the lesser of the maximum contribution permitted under the *Income Tax Act* (Canada) and the maximum contribution determined by the actuary, it shall be reduced to an amount equal to the lesser maximum. (Last amended December 21, 2006 – Effective January 1, 2007)

Deemed required to
contribute to CPP

- (2b) An active member who at any time after the end of the month in which he or she attains the age of 65 years and before the end of the month in which he or she attains the age of 70 years receives a Canada Pension Plan retirement pension shall contribute for salary paid after 2011 the contributions set out in paragraphs (1) (a) and (b) if an election under paragraph 12 (1) (c) of the *Canada Pension Plan* is not in effect at the time of the salary payment. (Last amended June 20, 2012 – Effective January 1, 2012)

Pensionable salary

- (3) Revoked. (Last amended October 23, 1991 - Effective October 23, 1991)

Additional
contributions

- (4) In addition to the contributions required under subsection (1) or (2), every active member shall contribute 2.0 per cent of the member's pensionable salary for the year, for salary paid during the year 2007. (Last amended December 21, 2006 – Effective January 1, 2007)

Idem

- (5) In addition to the contributions required under subsection (1) or (2), every active member shall contribute 2.3 per cent of the member's pensionable salary for the year, for salary paid during the year 2008. (Last amended December 21, 2006 – Effective January 1, 2007)

Idem

- (6) In addition to the contributions required under subsection (1) or (2), every active member shall contribute 2.1 per cent of the member's pensionable salary for the year, for salary paid after 2008 but before 2012. (Last amended August 4, 2011 – Effective January 1, 2012)

Idem

- (7) In addition to the contributions required under subsection (1), (2) or (2b), every active member shall contribute 0.4 per cent of the member's pensionable salary for the year, for salary paid during the year 2012. (Last amended June 20, 2012 – Effective January 1, 2012)

Idem

- (8) In addition to the contributions required under subsection (1), (2) or (2b), every active member shall contribute 0.75 per cent of the member's pensionable salary for the year, for salary paid during the year 2013. (Last amended June 20, 2012 – Effective January 1, 2012)

Idem

- (9) In addition to the contributions required under subsection (1), (2) or (2b), every active member shall contribute 1.1 per cent of the member's pensionable salary for the year, for salary paid after 2013 but before 2027. (Last amended June 20, 2012 – Effective January 1, 2012)

Contributions by
members working
more than full-time

- 19a.** An active member who is employed on a full-time basis to work a full-time school year is not required to make a contribution for any employment during that school year in excess of a full-time school year. (Last amended June 28, 1990 - Effective June 28, 1990)

Member contributions
during statutory leaves

- 19b.** An active member shall, during a statutory leave which began prior to the 1st day of September, 2010, contribute the applicable amount set out in section 19 unless the member has notified the employer in writing that she or he elects not to participate in the pension plan during the statutory leave. (Last amended December 30, 2009 - Effective September 1, 2010)

Member contributions
during statutory
leaves on or after
September 1, 2010

- 19c.** A member shall, during a statutory leave which begins on or after the 1st day of September, 2010, contribute the applicable amount set out in section 94 unless the member has notified the employer in writing that she or he elects not to participate in the pension plan during the statutory leave. (Last amended December 30, 2009 - Effective September 1, 2010)

Collection of member contributions

- 20.** (1) The employer of an active member shall deduct the amount the member is required to contribute under section 19 from the salary paid to the member.

Transfer of amount deducted

- (2) An employer shall deliver to the administrator or deposit to the account of the pension fund on or before the last day of each month in which a member's salary is paid the amount deducted for the member's contribution.

Interest payable

- (3) An employer shall pay interest on amounts in arrears from the date the payment is due to the day before it is made, calculated at the standard interest rate. (Last amended September 8, 2006 - Effective January 1, 2003)

Idem

- (3a) An employer shall pay additional interest at the rate of 4 per cent compounded annually on amounts in arrears after the last day of the month following the month in which the employer billing occurs. (Last amended September 8, 2006 – Effective January 1, 2003)

Report to administrator

- (4) An employer shall make such reports to the administrator as the administrator requires in respect of member contributions.

Member contributions not to be collected

- (5) An employer shall not deduct from the salary paid to an active member employed on a full-time basis for a full-time school year an amount greater than the contributions payable under section 19 by an employee who works a full-time school year unless the member directs the employer to do so. (Last amended June 28, 1990 - Effective June 28, 1990)

Idem

- (6) An employer who is provided with evidence that an active member is employed on a full-time basis for a full-time school year by another employer shall not make any deduction from the salary paid to that member for contributions under section 19 unless the member directs the employer to do so. (Last amended June 28, 1990 - Effective June 28, 1990)

Status of contributions

- (7) A contribution which an active member directs his or her employer to deduct under subsection (5) or (6) is considered to be a required contribution for the purpose of sections 25 and 26. (Last amended June 28, 1990 - Effective June 28, 1990)

Underpayment of contributions

- 20a.** (1) A member who has for any year contributed an amount less than that calculated under section 19 shall, upon being notified of the amount of the undercontribution, pay as a lump sum an amount equal to the undercontribution. (Last amended February 28, 1992 - Effective January 1, 1992)

Interest

- (2) A member referred to in subsection (1) shall pay interest calculated at the standard rate on the amount of the undercontribution from the day the member is notified to the day before the undercontribution is paid. (Last amended February 28, 1992 - Effective January 1, 1992)

Contributions re active members on LTIP

- 21.** (1) The amount of the required contribution for an active member on LTIP is,
- (a) 6.9 per cent of the pensionable salary of a member who becomes disabled before the 1st day of January, 1991, and
 - (b) 8.9 per cent of the pensionable salary of a member who becomes disabled after the 31st day of December, 1990,

except that payment of the required contribution is waived for a member who becomes disabled after the 31st day of August, 2001. (Last amended April 2, 2001 – Effective September 1, 2001)

Inflation adjusted
pensionable salary

(2) Revoked. (Last amended April 2, 2001 – Effective September 1, 2001)

Idem

(2a) Revoked. (Last amended April 2, 2001 – Effective September 1, 2001)

Idem

(2b) Revoked. (Last amended April 2, 2001 – Effective September 1, 2001)

Idem S.C. 1970 - 1971
- 1972 c. 15

(2c) Revoked. (Last amended April 2, 2001 – Effective September 1, 2001)

(2d) If a member's contribution calculated under subsection (1) for a period after the 31st day of December, 1991 exceeds the lesser of the maximum contribution to a registered pension plan permitted under the *Income Tax Act* (Canada) and the maximum contribution determined by the actuary, it shall be reduced to an amount equal to the lesser maximum. (Last amended June 1, 1995 - Effective June 1, 1995)

Restriction re election

(3) Revoked. (Last amended October 23, 1991 - Effective October 23, 1991)

Notice of status

(4) An active member on LTIP shall give notice on the first day of each school year to his or her employer or former employer that the member continues to be an active member on LTIP.

Minister's payments re
active member on
LTIP

22. The contributions required under subsection 21 (1) from an active member on LTIP who is receiving benefits under a long term income protection plan established under the *Public Service Act* shall be paid on behalf of the member by the Minister.

Collection re active
member on LTIP

23. (1) The required contribution for an active member on LTIP shall be paid to the person who was his or her employer on the date of disability.

Idem

(2) Payments under subsection (1) must be made on or before the fifteenth day of the month following the month in which each payment under the long term income protection agreement is made to the member.

Increased
contributions

(3) Revoked. (Last amended April 2, 2001 – Effective September 1, 2001)

Transfer of
contribution

(4) An employer to whom a payment in respect of an active member on LTIP is to be made under this section shall, whether or not the payment is made, deliver to the administrator on or before the last day of each month in which the member's LTIP payment is required the amount of the member's required contribution. (Last amended April 2, 2001 – Effective September 1, 2001)

Idem

(5) Revoked. (Last amended April 2, 2001 – Effective September 1, 2001)

Interest payable

(6) Interest is payable on payments in arrears made to the employer or by the employer from the date the payment is due to the day before it is made, calculated at the standard interest rate plus 4 per cent. (Last amended February 28, 1992 - Effective January 1, 1992)

Cause of action

- (7) An employer may maintain an action for the recovery of an amount paid to the administrator under subsection (4) if the employer has not received the corresponding payment of required contributions for an active member on LTIP.

Collection re member
on statutory leave

- 23a.** (1) An active member who has taken a statutory leave which began prior to the 1st day of September, 2010 and has not notified his or her employer in writing that she or he elects not to participate in the pension plan during the leave, shall pay the member's contribution to the member's employer on or before the normal pay day of the employer. (Last amended December 30, 2009 - Effective September 1, 2010)
- (2) An employer to whom a payment in respect of an active member referred to in subsection (1) is to be made shall, whether or not the payment is made, deliver to the administrator on or before the last day of each month of the member's statutory leave the amount of the member's required contribution. (Last amended October 23, 1991 - Effective October 23, 1991)
- (3) Interest is payable on payments due from the employer which are in arrears from the date the payment is due to the day before it is made, calculated at the standard interest rate. (Last amended May 5, 2010 – Effective January 1, 2003)
- (3a) An employer shall pay additional interest at the rate of 4 per cent compounded annually on amounts in arrears after the last day of the month following the month in which the employer billing occurs. (Last amended May 5, 2010 – Effective January 1, 2003)
- (4) An employer may maintain an action for the recovery of an amount paid to the administrator together with interest thereon at the standard interest rate under this section if the employer has not received the corresponding payment of required contributions from the active member who has taken a statutory leave. (Last amended October 23, 1991 - Effective October 23, 1991)

B. Employer Contributions

Liability for
contributions

- 24.** (1) Employer contributions in respect of an active member employed as described in subsection 2 (1) shall be paid by the Minister.

Idem

- (2) Subsection (1) does not apply with respect to any contribution in relation to which the member is required under this pension plan to make the contribution that would otherwise be made by the Minister.

Idem

- (3) Employer contributions in respect of an active member employed as described in subsection 2 (2) or section 7, 8 or 9 shall be paid by the employer of the member.

Idem

- (4) Employer contributions in respect of an active member on LTIP shall be paid by the person making the employer contributions in respect of the member immediately before the date of disability.
- (5) No employer contribution, other than an eligible contribution under the *Income Tax Act* (Canada), shall be made to the plan. (Last amended June 29, 1994 - Effective January 1, 1992)

Contributions by the
Minister

25. (1) The Minister shall contribute in each year an amount equal to the required contributions made during the year before the preceding year by or on behalf of those members for whom the Minister is required to make employer contributions.

Idem, active
members on LTIP

- (2) In addition to the amount required under subsection (1), the Minister shall contribute in each year, in respect of the year before the preceding year, 4 per cent of the pensionable salaries of active members on LTIP who become disabled before the 1st day of January, 1991. (Last amended June 3, 2009 – Effective January 1, 2010)

Idem

- (2a) In addition to the amounts required under subsections (1) and (2), the Minister shall contribute in each year, in respect of the year before the preceding year:

- (a) an amount equal to the required contributions that would have been made by or on behalf of active members on LTIP who became disabled after the 31st day of August, 2001, but for the waiver in subsection 21(1); and
- (b) an amount equal to the required contributions that would have been made by or on behalf of active members on LTIP to increase the member's pensionable salary under section 15, if contributions were required on such increase in pensionable salary. (Last amended June 3, 2009 – Effective January 1, 2010)

Additional
contributions

- (2b) In respect of the year 2008, the Minister shall contribute, in addition to the amounts required under this section, an amount equal to 0.8 per cent of the pensionable salaries of active members in respect of whom required contributions were made during that year in accordance with section 19 and for whom the Minister is required to make employer contributions. (Last amended December 21, 2006 – Effective January 1, 2007)

Idem

- (2c) In respect of the year 2008, the Minister shall contribute, in addition to the amounts required under this section, an amount equal to 0.8 per cent of the pensionable salaries of members who purchase credit under the pension plan in respect of that year and for whom the Minister is required to make employer contributions. (Last amended December 21, 2007 – Effective January 1, 2007)

Idem

- (2d) In addition to the amounts required under this section, the Minister shall contribute in each year a proportional amount of the difference, as calculated by the administrator, between the inflation adjustments that were included in pensions, commuted values and lump sum payments (other than reciprocal transfers) that were paid in the year before the preceding year and the inflation adjustments that would have been included in such benefits but for the combined application of subsections 80(3a) and (3b). The Minister's proportional amount shall be based on the pensionable salaries of active members for whom the Minister is required to make employer contributions, in respect of the year before the preceding year, as a percentage of the pensionable salaries of all active members for that year. (Last amended September 17, 2013 - Effective January 1, 2014)

Idem

- (2e) For greater certainty, if inflation adjustments have ever been made in accordance with subsection 80(3d), the Minister's contributions pursuant to subsection 25(2d) shall be determined as if inflation adjustments had never been made in accordance with subsection 80(3d). (Last amended September 17, 2013 - Effective January 1, 2014)

Due date

- (3) The Minister's contribution is due on the first business day following the 1st day of January in each year and not as required under the *Pension Benefits Act*. (Last amended June 28, 1990 - Effective June 28, 1990)

Interest payable

- (4) Interest on the Minister's contribution is payable for the period beginning on the 1st day of June of the year that was two years before the date on which a payment is due and ending on the day before the payment is made, calculated at the standard interest rate in effect on that 1st day of June.

- (4a) Despite subsections (3) and (4), \$500,000,000 of the Minister's contribution due on January 4, 1993 shall be made on April 1, 1993 with interest at the rate of 11.25% per annum applied from January 4, 1993 to March 31, 1993. (Last amended May 29, 1992 - Effective May 29, 1992)

Idem, transitional

- (5) Interest payable in respect of a period before the 1st day of January, 1990 shall be calculated,

- (a) up to that date, in accordance with the *Teachers' Superannuation Act, 1983*;

- (b) on and after that date, at the standard interest rate in effect on the 1st day of January, 1990.

Delivery

- (6) The Minister shall deliver contributions to the administrator or deposit them to the account of the pension fund.

Order of Lieutenant
Governor in Council

- (7) To reduce the time between the date of payment mentioned in subsection (3) and the payment of contributions by or on behalf of those members for whom the Minister is required to make employer contributions, the Lieutenant Governor in Council may, despite subsections (1) and (4), by order require the Minister to make payments for such number of months in the preceding year as are specified in the order in respect of contributions in those months by or on behalf of those members for whom the Minister is required to make employer contributions.

Idem

- (8) An order made under subsection (7) shall revise the period of time mentioned in subsection (1) in respect of which contributions by the Minister are computed so that it reflects the additional contributions required to be made by the Minister.

Idem

- (9) An order under subsection (7) shall adjust the date from which interest is to be calculated under subsection (4) to reflect the reduced time between the last month in which contributions are made by or on behalf of those members for whom the Minister is required to make employer contributions and the month when the Minister pays an amount equal to those contributions.

Contributions by
employers

- 26. (1) An employer shall contribute in each month an amount equal to the required contributions made during the month by or on behalf of those members for whom the employer is required to make employer contributions.

Idem, active
members on LTIP

- (1a) In addition to the amount required under subsection (1), an employer shall contribute:

- (a) an amount equal to the required contributions that would have been made by or on behalf of active members on LTIP who became disabled after the 31st day of August, 2001, but for the waiver in subsection 21(1); and

- (b) an amount equal to the required contributions that would have been made by or on behalf of active members on LTIP to increase the member's pensionable salary under section 15, if contributions were required on such increase in pensionable salary. (Last amended April 2, 2001 – Effective September 1, 2001)

Additional
contributions

- (1b) In respect of the year 2008, an employer shall contribute, in addition to the amounts required under this section, an amount equal to 0.8 per cent of the pensionable salaries of active members in respect of whom required contributions are made during that year in accordance with section 19 and for whom the employer is required to make employer contributions. (Last amended December 21, 2006 – Effective January 1, 2007)

Idem

- (1c) In respect of the year 2008, an employer shall contribute, in addition to the amounts required under this section, an amount equal to 0.8 per cent of the pensionable salaries of members who purchase credit under the pension plan in respect of that year and for whom the employer is required to make employer contributions. (Last amended December 21, 2007 – Effective January 1, 2007)

Idem

- (1d) In addition to the amounts required under this section, an employer shall contribute in each year a proportional amount of the difference, as calculated by the administrator, between the inflation adjustments that were included in pensions, commuted values and lump sum payments (other than reciprocal transfers) that were paid in the year before the preceding year and the inflation adjustments that would have been included in such benefits but for the combined application of subsections 80(3a) and (3b). The employer's proportional amount shall be based on the pensionable salaries of active members for whom the employer was required to make employer contributions, in respect of the year before the preceding year, as a percentage of the pensionable salaries of all active members for that year. (Last amended September 17, 2013 – Effective January 1, 2014)

Idem

- (1e) For greater certainty, if inflation adjustments have ever been made in accordance with subsection 80(3d), an employer's contributions pursuant to subsection 26(1d) shall be determined as if inflation adjustments had never been made in accordance with subsection 80(3d). (Last amended September 17, 2013 - Effective January 1, 2014)

Due date

- (2) An employer's contribution is due on the last day of the month.

Idem

- (2a) Notwithstanding subsection (2), an employer's contribution under subsection (1d) is due on the first business day following the 1st day of January in each year. (Last amended June 3, 2009 – Effective January 1, 2010)

Interest payable

- (3) Interest on an employer's contribution is payable from the date the payment is due to the day before it is made, calculated at the standard interest rate. (Last amended September 8, 2006 - Effective January 1, 2003)

Idem

- (3a) An employer shall pay additional interest at the rate of 4 per cent compounded annually on amounts in arrears after the last day of the month following the month in which the employer billing occurs. (Last amended September 8, 2006 – Effective January 1, 2003)

Idem

- (3b) Notwithstanding subsection (3), interest on an employer's contribution under subsection (1d) is payable from June 1st of the year before the preceding year to the day before the payment is made, calculated at the standard interest rate in effect on that June 1st. (Last amended June 3, 2009 - Effective January 1, 2010)

Delivery

- (4) An employer shall deliver contributions to the administrator or deposit them to the account of the pension fund.

C. Refund of Overpayments

Refund error

27. The administrator shall refund contributions or other payments made in error or not permitted under the pension plan, together with interest, if the administrator received the contributions or other payments.

Overpayment of contributions

28. (1) This section applies to an active member who,
- (a) (i) works more than a full-time school year during the school year, or
 - (ii) was employed on an occasional basis in addition to an absence purchased on a contributions plus interest basis in accordance with section 94; and (Last amended April 2, 2001 – Effective September 1, 2001)
 - (b) has made contributions greater than those required under s. 19 of a member working a full-time school year. (Last amended June 28, 1990 - Effective June 28, 1990)

Idem

- (2) An active member described in subsection (1) is entitled to a refund of contributions calculated in accordance with subsection (4). (Last amended June 28, 1990 - Effective June 28, 1990)

Refund to employer

- (3) Despite section 78 of the *Pension Benefits Act*, a person who has made employer contributions in respect of a member described in subsection (1) is entitled to a refund of employer contributions equal to the amount of the refund to which the member is entitled. (Last amended June 28, 1990 - Effective June 28, 1990)

Amount of refund

- (4) The refund of contributions is calculated using the formula,

$$(A + B + C \dots) \times N$$

in which, "A", "B", "C" ... is the series in which each variable is the amount of salary paid to the member at each different rate of salary earned by the member during the school year and/or the amount of salary attributable to the credit purchase in accordance with section 94, beginning with the lowest rate of salary and ending with the highest provided that the number of days for which salary is accumulated by the addition of variables does not exceed the number of days in excess of a full-time school year for which the member makes contributions, and

"N" is the per cent referred to in clause 19 (1) (b), plus any additional per cent of salary that was paid by the member in accordance with section 19 in respect of the salary being refunded, expressed as a decimal fraction. (Last amended December 21, 2006 – Effective January 1, 2007)

- (4a) For the purposes of subsection (4), credit purchased on an actuarial cost basis, or transferred into the plan in accordance with section 104, will be deemed to be the highest rate of salary. (Last amended December 20, 1999 - Effective September 1, 1998)

Interest payable

- (5) Interest is payable on a refund of contributions from the last day of the school year until the day before it is paid. (Last amended February 28, 1992 - Effective January 1, 1992)

Lump sum

- (6) A refund of contributions shall be paid as a lump sum. (Last amended June 28, 1990 - Effective June 28, 1990)

Refund, re-employed pensioners

29. Despite subsection 63 (4) of the *Pension Benefits Act*, a person described in subsection 46 (3) of the *Teachers' Superannuation Act, 1983* who became re-employed in education for less than twenty days between the 1st day of September, 1986 and the 31st day of August, 1989 is entitled to the refund described in that section.

PART IV PAYMENTS UPON TERMINATION OF MEMBERSHIP

A. Vesting

Vesting of benefits

30. (1) Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

Idem

- (2) Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

Payment of deferred pension

- (3) A member who terminates membership in the pension plan on or after July 1, 2012 is entitled to a deferred pension calculated and paid in accordance with Part V. (Last amended June 19, 2012 – Effective July 1, 2012)

Payment of benefits upon death of member

- (3a) Benefits payable in respect of a member who terminates membership in the pension plan as a result of the member's death on or after July 1, 2012, and before the commencement of payment of the deferred pension to which the member was entitled on the date of death, shall be calculated and paid in accordance with Part VII. (Last amended December 13, 2012 – Effective July 1, 2012)

Limit

- (4) No person is entitled to more than one deferred pension in respect of the same period of employment.

Entitlement on termination of membership

31. (1) Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

Idem

- (2) Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

Limitation

- (3) Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

Idem, transitional

- (4) Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

Rights of former members

32. Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

B. Refunds and Transfers

Refund re post-1986
contributions

33. Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

Refund re pre-1987
contributions

34. (1) Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

Refund at or after
sixty-five years of age

- (2) Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

Refund re pre-1987
deferred pension

35. (1) Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

Before reaching
forty-five years of age

- (2) Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

On or after forty-five
years of age

- (3) Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

Reduction in deferred
pension

- (4) Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

50 per cent rule

36. (1) A member entitled to a deferred pension relating to employment after the 31st day of December, 1986 is entitled to a refund, paid in a lump sum, upon ceasing to be employed in education, of the amount by which the member's required contributions plus interest for the period after that date exceeds one half of the commuted value of the deferred pension for that period. (Last amended June 19, 2012 – Effective July 1, 2012)

Exclusion

- (2) Subsection (1) does not apply with respect to a member's contributions and credited service for which no corresponding employer contribution is required under section 25 or 26. (Last amended June 1, 1995 - Effective June 1, 1995)
- (3) A member who receives a refund under subsection (1), who elects to receive a deferred pension and who subsequently becomes re-employed in education or completes a purchase of credited service, must repay the refund together with interest thereon before the pension commences. (Last amended September 8, 2006 - Effective September 1, 2001)
- (4) Revoked. (Last amended September 8, 2006 - Effective September 1, 2002)
- (5) Revoked. (Last amended September 8, 2006 - Effective September 1, 2002)
- (6) Revoked. (Last amended September 8, 2006 - Effective September 1, 2002)
- (7) The member or survivor benefit, as the case may be, shall be actuarially reduced to reflect the unpaid portion of the repayment not completed under subsection (3) with interest thereon to the commencement date of the benefit. The actuarial reduction will be offset by any lump sum payment that would otherwise be payable to the member. (Last amended September 8, 2006 – Effective September 1, 2002)

Transfer re deferred
pension

37. (1) A member entitled to a deferred pension who ceases to be employed in education is entitled to a transfer of the commuted value of the deferred pension, paid in a lump sum, to another retirement savings arrangement in accordance with section 42 of the *Pension Benefits Act* and to a refund or transfer of excess contributions, calculated under section 36, subject to the limitations of the *Income Tax Act* (Canada). (Last amended June 19, 2012 – Effective July 1, 2012)
- (2) A member who is entitled to an immediate payment of a pension benefit is not entitled to a refund or transfer under this section. (Last amended September 8, 2006 – Effective June 1, 1995)
- (3) A member who is entitled to a transfer under this section shall deliver a completed termination options application, including all supporting documentation, to the administrator within six months of the member's termination of membership in the plan. (Last amended September 8, 2006 – Effective January 1, 1995)
- (4) A termination options application completed after the deadline specified in subsection (3) shall be considered a new notification of intention to terminate membership in the plan and the member's entitlement to a transfer under this section shall be determined as of the new termination of membership date. (Last amended September 8, 2006 – Effective January 1, 1995)

Application for refund,
etc.

38. (1) Revoked. (Last amended June 19, 2012 – Effective July 1, 2012)

Payment of refund

- (2) Revoked. (Last amended June 19, 2012 – Effective July 1, 2012)

PART V RETIREMENT PENSIONS

A. Entitlement to Pension

One pension only

39. (1) No member is entitled to more than one retirement pension under the pension plan in respect of the same period of credited service.

Idem

- (2) A member receiving a disability pension under the pension plan is not eligible to receive a retirement pension.

Retirement

- (3) No member is entitled to begin to receive a retirement pension or a disability pension while the member is employed in education until the end of the calendar year in which the member attains seventy-one years of age, or until such other time as is required under the *Income Tax Act* (Canada). (Last amended June 20, 2012 – Effective January 1, 2012)

Normal retirement
date

40. The normal retirement date of a member is the first day of the month following the date on which the member reaches sixty-five years of age.

Entitlement to pension
(2 year rule)

41. (1) Revoked. (Last amended June 19, 2012 – Effective July 1, 2012)

Commencement

- (2) Revoked. (Last amended June 19, 2012 – Effective July 1, 2012)

Amount of pension
(2 year rule)

- (3) Revoked. (Last amended June 19, 2012 – Effective July 1, 2012)

Maximum pension
payable, R.S.C. 1952,
c. 148

- (3a) Revoked. (Last amended June 19, 2012 – Effective July 1, 2012)

Payment, pre-1987
service

- (4) Revoked. (Last amended June 19, 2012 – Effective July 1, 2012)

Limitation on pensions
less than \$2,400

- (5) Revoked. (Last amended June 19, 2012 – Effective July 1, 2012)

Entitlement to pension
(10 year rule),
transitional

- 42.** (1) Revoked. (Last amended June 19, 2012 – Effective July 1, 2012)

Commencement

- (2) Revoked. (Last amended June 19, 2012 – Effective July 1, 2012)

Amount of pension
(10 year rule)

- (3) Revoked. (Last amended June 19, 2012 – Effective July 1, 2012)

Maximum pension
payable, R.S.C. 1952,
c. 148

- (3a) Revoked. (Last amended June 19, 2012 – Effective July 1, 2012)

Entitlement to pension
(immediate vesting)

- 42a.** (1) A member who terminates membership in the pension plan on or after July 1, 2012 is entitled to receive a retirement pension for the member's lifetime calculated under subsection (3). (Last amended June 19, 2012 – Effective July 1, 2012)

Commencement

- (2) A retirement pension under this section begins as of the member's normal retirement date. (Last amended June 19, 2012 – Effective July 1, 2012)

Amount of pension

- (3) Subject to subsection (4), the amount of the retirement pension, before adjustment for inflation, is calculated using the formula,

$$(A \times B) - C$$

in which,

"A" is 2 per cent of the member's average salary,

"B" is the number of years of the member's credited service, and

"C" is the amount, if any, calculated under section 81 (CPP reduction). (Last amended June 19, 2012 – Effective July 1, 2012)

Payment of pensions,
predecessor Acts

- (4) The retirement pension of a member who ceased to be employed in education prior to January 1, 1990 shall be calculated, with necessary modifications, in accordance with the terms of the *Teachers' Superannuation Act, 1983*, or a predecessor Act, and shall be paid out of the pension fund in accordance with the Act under which the member ceased to be employed in education. (Last amended June 19, 2012 – Effective July 1, 2012)

Maximum pension
payable, R.S.C. 1952,
c. 148

- (5) If the amount of the retirement pension calculated under subsection (3) in respect of a period after the 31st day of December, 1991 is greater than the maximum pension payable by a registered pension plan under the *Income Tax Act* (Canada), it shall be reduced to an amount equal to the maximum. (Last amended June 19, 2012 – Effective July 1, 2012)

Limitation on pensions
less than \$2,400

- (6) Subject to section 84, where the annual amount of the retirement pension calculated under subsection (3) or (4) is less than \$2,400 the member is entitled to a pension in that lesser amount and not to a pension in the amount of \$2,400 as provided for by Order in Council 1453/74. (Last amended June 19, 2012 – Effective July 1, 2012)

Exception

- (7) Subsection (6) shall not apply to a member who has at least ten years of credited service in whole or in part before the 1st day of January, 1987 on the date he or she ceased to be employed in education. (Last amended June 19, 2012 – Effective July 1, 2012)

Limitation

- (8) For greater certainty, subsection 76 (2) of the *Teachers' Superannuation Act, 1983* shall not apply to the retirement pension of a member who did not have at least ten years of credited service on the date he or she ceased to be employed in education. (Last amended June 19, 2012 – Effective July 1, 2012)

Entitlement to pension
(special early
retirement)

43. (1) A member who has accumulated at least that number of years of qualifying service that, when added to the member's age upon termination of employment in education, totals ninety years is entitled to a retirement pension for the member's lifetime calculated under subsection (4). (Last amended October 10, 1995 - Effective September 1, 1995)

- (1a) A member who ceases to be employed in education on or after June 1, 1998, and who has accumulated at least that number of years of qualifying service that, when added to the member's age upon termination of employment in education, totals eighty-five years is entitled to a retirement pension for the member's lifetime calculated under subsection (4). (Last amended April 2, 2001 – Effective April 1, 2001)

Idem (35 year rule)

- (2) A member who ceases to be employed in education after the 31st day of May, 1987 and before the 1st day of September, 1990 and who has thirty-five years of qualifying service is entitled to a retirement pension for the member's lifetime calculated under subsection (4). (Last amended October 10, 1995 - Effective September 1, 1995)
- (2a) A member who has accumulated thirty-five or more years of credited service is entitled to a retirement pension for the member's lifetime calculated under subsection (4). (Last amended February 20, 1997 - Effective January 1, 1997)

Commencement

- (3) A retirement pension under this section begins as of the beginning of the month following the date the member ceases to be employed in education or, at the election of the member, of any month thereafter that is not later than:

- (a) the end of the calendar year in which the member attains seventy-one years of age, or
- (b) such other time as is required under the *Income Tax Act* (Canada).

(Last amended June 20, 2012 – Effective January 1, 2012)

Amount of pension

- (4) The amount of the retirement pension, before adjustment for inflation, is calculated using the formula,

$$(A \times B) - C$$

in which,

"A" is 2 per cent of the member's average salary,

"B" is the number of years of the member's credited service, and

"C" is the amount, if any, calculated under section 81 (CPP reduction).

Maximum pension
payable, R.S.C. 1952,
c. 148

- (4a) If the amount of the retirement pension calculated under subsection (4) in respect of a period after the 31st day of December, 1991 is greater than the maximum pension payable by a registered pension plan under the *Income Tax Act* (Canada), it shall be reduced to an amount equal to the maximum. (Last amended February 28, 1992 - Effective January 1, 1992)

Early retirement
option

44. (1) A member entitled to a deferred pension under section 42a may elect to begin to receive a retirement pension on the first day of any month that is ten years before the member's normal retirement date. (Last amended June 19, 2012 – Effective July 1, 2012)

Idem

- (1a) A member who ceases to be employed in education on or after June 30, 2001 and who is entitled to a deferred pension under section 42a may elect to begin to receive a retirement pension on the first day of any month that is within fifteen years of the member's normal retirement date. (Last amended June 19, 2012 – Effective July 1, 2012)

Amount of early
retirement pension

- (2) The amount of the annual retirement pension, before adjustment for inflation, of a member who elects early retirement under subsection (1) and who elects to begin to receive the pension on the first day of the month following the later of: the cessation of employment in education; or the last day of credited service in the plan, shall be calculated using the formula,

$$[A \times B \times (1 - C)] - D$$

in which,

"A" is 2 per cent of the member's average salary,

"B" is the number of years of the member's credited service,

"C" is an amount equal to the lesser of,

- (a) 0.05 times the number of years by which the member's age is less than sixty-five on the date the pension is to begin, and
- (b) 0.025 times the difference between ninety and the sum of,
 - (i) the number of years of the member's qualifying service determined under section 11, and
 - (ii) the member's age on the date the pension is to begin, and

"D" is the amount, if any, calculated under section 81 (CPP reduction).

"C" in the above formula shall not be less than the minimum reduction on early retirement applicable to registered pension plans under the *Income Tax Act* (Canada). (Last amended June 19, 2012 – Effective July 1, 2012)

Maximum pension
payable, R.S.C. 1952,
c. 148

(2a) Revoked. (Last amended February 20, 1997 - Effective January 1, 1997)

(2b) The amount of the annual retirement pension, before adjustment for inflation, for a member who ceases to be employed in education on or after June 1, 1998, where the member elects early retirement under subsection (1) or (1a) and elects to begin to receive the pension on the first day of the month following the later of: the cessation of employment in education; or the last day of credited service in the plan, shall be calculated using the formula set out in subsection (2) except that:

"C" is an amount equal to the lesser of,

- (a) 0.05 times the number of years by which the member's age is less than sixty-five on the date the pension is to begin, and
- (b) 0.025 times the difference between eighty-five and the sum of,
 - (i) the number of years of the member's qualifying service determined under section 11, and
 - (ii) the member's age on the date the pension is to begin,

however, "C" shall not be less than the minimum reduction on early retirement applicable to registered pension plans under the *Income Tax Act* (Canada). (Last amended April 2, 2001 – Effective April 1, 2001)

(3) The amount of the annual retirement pension, before adjustment for inflation, of a member who elects early retirement under subsection (1) on a deferred pension shall be calculated using the formula,

$$[A \times B \times (1 - C)] - D$$

in which,

"A" is 2 per cent of the member's average salary,

"B" is the number of years of the member's credited service,

"C" is an amount equal to the lesser of,

- (a) 0.05 times the number of years by which the member's age is less than sixty-five on the date the pension is to begin, and
- (b) 0.05 times the difference between ninety and the sum of,
 - (i) the number of years of the member's qualifying service determined under section 11, and
 - (ii) the member's age on the date the pension is to begin, and

"D" is the amount, if any, calculated under section 81 (CPP reduction).

"C" in the above formula shall not be less than the minimum reduction on early retirement applicable to registered pension plans under the *Income Tax Act* (Canada). (Last amended June 19, 2012 – Effective July 1, 2012)

- (3a) The amount of the annual retirement pension, before adjustment for inflation, for a member who ceases to be employed in education on or after June 1, 1998, where the member elects early retirement under subsection (1) or (1a) on a deferred pension shall be calculated using the formula set out in subsection (3) except that:

"C" is an amount equal to the lesser of,

- (a) 0.05 times the number of years by which the member's age is less than sixty-five on the date the pension is to begin, and
- (b) 0.05 times the difference between eighty-five and the sum of,
 - (i) the number of years of the member's qualifying service determined under section 11, and
 - (ii) the member's age on the date the pension is to begin,

however, "C" shall not be less than the minimum reduction on early retirement applicable to registered pension plans under the *Income Tax Act* (Canada). (Last amended April 2, 2001 – Effective April 1, 2001)

Maximum pension
payable, R.S.C. 1952,
c. 148

- (4) If the amount of the retirement pension determined under subsection (2), (2b), (3), (3a) or (5), in respect of a period after the 31st day of December, 1991 is greater than the maximum pension payable by a registered pension plan under the *Income Tax Act* (Canada) after taking into account the reduction (if any) on early retirement applicable to registered pension plans under the *Income Tax Act* (Canada) it shall be reduced to an amount equal to such maximum. (Last amended May 27, 1998 - Effective June 1, 1998)

Commutated value

- (5) Despite subsections (3) and (3a), the commuted value of the retirement pension received on early retirement shall be not less than the commuted value of the retirement pension to which the member would be entitled on the normal retirement date based upon the member's credited service up to the early retirement date. (Last amended May 27, 1998 - Effective June 1, 1998)

Postponed pension option

45. (1) A member may elect to begin to receive his or her retirement pension in any month after the member's normal retirement date, but not later than:

- (a) the end of the calendar year in which the member attains seventy-one years of age, or
- (b) such other time as is required under the *Income Tax Act* (Canada).

(Last amended June 20, 2012 – Effective January 1, 2012)

Amount of late retirement pension

- (2) The amount of the annual retirement pension, before adjustment for inflation, of a member who elects late retirement as described in subsection (1) is calculated using the formula,

$$(A \times B) - C$$

in which,

"A" is 2 per cent of the member's average salary,

"B" is the number of years of the member's credited service, and

"C" is the amount, if any, calculated under section 81 (CPP reduction).

- (2a) If the amount of the retirement pension calculated under subsection (2) in respect of a period after the 31st day of December, 1991 is greater than the maximum pension payable by a registered pension plan under the *Income Tax Act* (Canada), it shall be reduced to an amount equal to the maximum. (Last amended June 29, 1994 - Effective January 1, 1992)

Re-employed pensioner election

46. (1) Prior to commencing re-employment for the first time after commencement of pension, a pensioner may elect to become an active member for the purpose of a pension recalculation in accordance with subsection (2), in which case the pension is suspended immediately upon the re-employment. (Last amended October 23, 2008 – Effective January 1, 2009)

Recalculation of pension

- (2) If a re-employed pensioner accumulates one year or more of credited service after becoming an active member, other than by means of a purchase of credited service or by the annualization of a partial year of credited service under section 11, and, if the re-employed pensioner makes an application to the administrator, the amount of the pensioner's retirement pension shall be recalculated in accordance with the terms of the pension plan in force on the date of the application.

- (2a) A re-employed pensioner making application under subsection (2) shall repay any refund previously made under section 36 together with interest thereon before the pension commences. (Last amended April 15, 1998 - Effective June 1, 1995)

(2b) Revoked. (Last amended September 8, 2006 – Effective September 1, 2002)

(2c) Revoked. (Last amended September 8, 2006 – Effective September 1, 2002)

(2d) Revoked. (Last amended September 8, 2006 – Effective September 1, 2002)

(2e) The member or survivor benefit, as the case may be, shall be actuarially reduced to reflect the unpaid portion of the repayment not completed under subsection (2a) with interest thereon to the commencement date of the benefit. The actuarial reduction will be offset by any lump sum payment that would otherwise be payable to the member. (Last amended September 8, 2006 – Effective September 1, 2002)

Exception

(3) A re-employed pensioner who does not accumulate one year of credited service after becoming an active member is entitled when the re-employment ceases,

(a) to the resumption of the retirement pension to which the pensioner was entitled immediately before becoming re-employed; and

(b) to the refund of the member's required contributions, together with interest thereon, made during the re-employment.

Pension suspension

(3a) Except for a pensioner whose pension is suspended immediately under subsection (1), no retirement pension is payable to a re-employed pensioner as of the month following the member's fifty-first day of re-employment in a school year. (Last amended May 6, 2010 – Effective September 1, 2012)

Pension resumption

(3b) A re-employed pensioner whose pension is suspended in accordance with subsection (3a) is entitled, when the re-employment ceases, to the resumption of the retirement pension to which the pensioner was entitled immediately before becoming re-employed. (Last amended October 23, 2008 – Effective January 1, 2009)

Notice of re- employment

(3c) A re-employed pensioner shall notify the administrator promptly upon exceeding the limits under subsection (3a). (Last amended October 23, 2008 – Effective January 1, 2009)

Reporting of re-employment

(3d) An employer shall report to the administrator any service provided to the employer by a re-employed pensioner. (Last amended May 6, 2010 – Effective September 1, 2012)

Idem

(3e) At the request of the administrator, a re-employed pensioner shall report to the administrator the number of days, if any, that the member provides services to an employer as a re-employed pensioner. If the member does not report within a reasonable time after the request, the administrator shall cease to pay the pension until the report is given. (Last amended May 6, 2010 – Effective September 1, 2012)

Repayment

(4) A re-employed pensioner who receives pension payments to which the pensioner is not entitled shall repay the amount so received, together with interest thereon, before becoming entitled to further payments under the pension plan.

“Re-employed
pensioner” limitation

- (5) The term “re-employed pensioner” shall include a member who provides services, other than as a teacher, to a ministry of the Government of Ontario only if:

- (a) the ministry is the Ministry of Education, and
- (b) the member’s retirement pension under the plan begins after September 1, 2010.

(Last amended November 28, 2015 – Effective September 1, 2010)

Idem

- (6) Revoked. (Last amended November 28, 2015 – Effective September 1, 2015)

B. Payment of Retirement Pensions

Application for
retirement pension

47. (1) A member who wishes to begin receiving a retirement pension shall apply to the administrator.

Deemed application

- (2) A member who does not apply to begin receiving a retirement pension shall be deemed to do so on November 30th of the calendar year in which the member attains seventy-one years of age, or at such other time as is required under the *Income Tax Act* (Canada). (Last amended June 20, 2012 – Effective January 1, 2012)

Payment of pension

48. (1) The administrator shall begin payment of a member's retirement pension not later than the later of,
- (a) the month following the month in which the member ceases to be employed in education; or
 - (b) the month following the month in which application for the pension is complete.

Monthly instalments

- (2) The administrator shall pay a retirement pension in monthly instalments on the last day of the month.

Interest payable

- (3) The administrator shall pay interest on late payments, from the first day of the month following the month in which the member’s pension begins. (Last amended June 20, 2012 – Effective January 1, 2012)

Notice of
re-employment

49. (1) Revoked. (Last amended October 23, 2008 – Effective January 1, 2009)

Failure to give notice

- (2) Revoked. (Last amended October 23, 2008 – Effective January 1, 2009)

Repayment of pension

- (3) Revoked. (Last amended October 23, 2008 – Effective January 1, 2009)

PART VI DISABILITY PENSIONS

A. Entitlement to Disability Pension

Entitlement to
disability pension

- 50.** (1) This section applies to a member with at least ten years of qualifying service who becomes disabled while employed in education and who, as a result of the disability, ceases before the normal retirement date to be employed in education. (Last amended October 10, 1995 - Effective September 1, 1995)

Full disability pension

- (2) If the administrator finds that a member described in subsection (1) is incapable of further employment, the member is entitled to a full disability pension for the member's lifetime.

Partial disability
pension

- (3) If the administrator finds that a member described in subsection (1) is incapable of further employment in education, the member is entitled to a partial disability pension for the member's lifetime.

Eligibility

- (4) A member who has previously terminated his or her membership and who returns to membership and purchases credited service for previous employment in education is not eligible to receive a disability pension until the member accumulates two additional years of credited service.

Idem

- (5) Subsection 11 (2) (partial year) does not apply for the purpose of determining a member's accumulation of the two additional years of credited service under subsection (4).

Effect of
re-employment

- 51.** (1) A member receiving a full disability pension who becomes employed ceases to be entitled to a full disability pension.

Idem

- (2) A member receiving a disability pension who becomes employed in education ceases to be entitled to a disability pension. (Last amended June 1, 1995 - Effective June 1, 1995)

Reduced partial
disability pension

- (3) Revoked. (Last amended February 28, 1992 - Effective January 1, 1992)

Application

- (4) This section applies with respect to a member who is receiving a disability pension on or after the 1st day of January, 1990.

Amount of full
disability pension

- 52.** (1) The amount of the annual full disability pension, before adjustment for inflation, for a member is calculated using the formula,

$$(A \times B) - C$$

in which,

"A" is 2 per cent of the member's average salary,

"B" is the number of years of the member's credited service under the plan, and

Amount of partial
disability pension

"C" is the amount, if any, calculated under section 81 (CPP reduction).

- (2) The amount of a partial disability pension, before adjustment for inflation, for a member is calculated using the formula,

$$[(A \times B) (1 - C)] - D$$

in which,

"A" and "B" have the same meaning as in the formula for calculating the amount of a full disability pension,

"C" is an amount equal to 0.025 times the lesser of,

- (a) the number of years by which the member's age on the date the pension begins is less than 65, and
- (b) ninety minus the sum of,
 - (i) the number of years of the member's qualifying service determined under section 11, and
 - (ii) the member's age on the date the pension begins, and

"D" is the amount, if any, calculated under section 81 (CPP reduction).

"C" in the above formula shall not be less than the minimum reduction on early retirement applicable to registered pension plans under the *Income Tax Act* (Canada). (Last amended April 15, 1998 - Effective January 1, 1992)

- (2a) The amount of a partial disability pension, before adjustment for inflation, for a member who ceases to be employed in education on or after June 1, 1998, is calculated using the formula set out in subsection (2), except that:

"C" is an amount equal to 0.025 times the lesser of,

- (a) the number of years by which the member's age on the date the pension begins is less than sixty-five, and
- (b) eighty-five minus the sum of,
 - (i) the number of years of the member's qualifying service determined under section 11, and
 - (ii) the member's age on the date the pension begins,

however, "C" shall not be less than the minimum reduction on early retirement applicable to registered pension plans under the *Income Tax Act* (Canada). (Last amended April 2, 2001 – Effective April 1, 2001)

Maximum pension
payable, R.S.C. 1952,
c. 148

- (2b) If the amount of the full or partial disability pension determined under either subsection (1), (2), or (2a), as applicable, in respect of a period after the 31st day of December, 1991 is greater than the maximum pension payable by a registered pension plan under the *Income Tax Act* (Canada) after taking into account the reduction (if any) on early retirement applicable to registered pension plans under the *Income Tax Act* (Canada), it shall be reduced to an amount equal to such maximum. (Last amended May 27, 1998 - Effective June 1, 1998)

Limitation

- (3) Revoked. (Last amended February 28, 1992 - Effective January 1, 1992)

Amount of reduced
partial disability
pension

- (4) Revoked. (Last amended February 28, 1992 - Effective January 1, 1992)

Resumption of
disability pension

53. (1) Subject to subsection (2), if a member becomes re-employed in education and ceases to receive a disability pension under the pension plan or a predecessor Act, the member is entitled upon ceasing the re-employment to the resumption of the original disability pension without adjustment of the amount of the pension and to a refund of the member's contributions made during the period of re-employment, together with interest thereon. (Last amended June 1, 1995 - Effective June 1, 1995)

Idem

- (2) A member described in subsection (1) who completes the equivalent of two years of full-time employment in education after becoming re-employed and then ceases to be so employed shall make a fresh application for a pension, and the terms of the pension plan on the date the application is made shall apply with respect to the member's entitlement to a pension.
- (3) A member making application under subsection (2) shall repay any refund previously made under section 36 together with interest thereon before the pension commences. (Last amended September 8, 2006 – Effective September 1, 2006)
- (4) The member or survivor benefit, as the case may be, shall be actuarially reduced to reflect the unpaid portion of the repayment not completed under subsection (3) with interest thereon to the commencement date of the benefit. The actuarial reduction will be offset by any lump sum payment that would otherwise be payable to the member. (Last amended September 8, 2006 – Effective September 1, 2006)

Change of disability
status re survivor
pension

54. (1) This section applies if a member receiving a partial disability pension dies while the administrator is considering whether the member is entitled to a full disability pension based upon fresh medical evidence concerning the member's disability. (Last amended February 28, 1992 - Effective January 1, 1992)

Determination by
the administrator

- (2) Having regard to the facts established at the date of the member's death, the administrator shall determine whether the member would have been entitled, immediately before the date of death, to a full disability pension.

Deemed receipt

- (3) For the purpose of calculating the amount of a survivor pension, child's pension or beneficiary's pension, if the administrator determines that the member would have been entitled to a full disability pension, the member shall be deemed to have been receiving it on the date of death.

- (4) Despite subsection 3, where the benefit otherwise payable to a survivor exceeds the maximum payable under the regulations of the *Income Tax Act* (Canada), the amount in excess shall not be paid. (Last amended June 29, 1994 - Effective January 1, 1992)

B. Payment of Disability Pension

Application for
disability pension

55. (1) A member shall apply for a disability pension within two years after the date when the member ceases, as a result of the disability, to be employed in education.

Idem

- (2) The administrator shall accept an application for a disability pension that is made after the time described in subsection (1) if the administrator is satisfied,
- (a) that the delay in making the application resulted from a delay in diagnosing the disability; or
 - (b) that the member was unable, because of the effects of the disability, to make the application within the time described in subsection (1).

Proof of disability

- (3) No application for a disability pension shall be considered by the administrator until the administrator has received,
- (a) the certificate of a medical doctor licensed in Ontario designated by the administrator, certifying that the applicant became mentally or physically disabled while employed in education and indicating the nature and degree of the disability; and
 - (b) a report of the medical referee of the administrator containing such recommendations as the medical referee considers proper with regard to the granting of a disability pension to the applicant. (Last amended April 15, 1998 - Effective January 1, 1992)

Disability pension,
predecessor Acts

56. (1) This section applies with respect to a person who ceased to be employed in education before the 1st day of January, 1990 as a result of a mental or physical incapacity and who did not apply for a disability allowance under a predecessor of this Act.

Application

- (2) Section 55 applies with necessary modifications to an application by a person described in subsection (1).

Entitlement

- (3) The person is entitled to a disability allowance determined in accordance with the *Teachers' Superannuation Act, 1983*.

Idem

- (4) Clause 17 (1) (d) or 18 (1) (d) of the *Teachers' Superannuation Act, 1983* does not apply if the administrator accepts an application under subsection 55 (2).

Commencement of
disability pension

57. (1) Subject to subsection (2), a member's disability pension shall begin as of the first day of the month following the month in which the member ceases to be employed in education.

Idem

- (2) No disability pension shall begin as of a date earlier than one year before the date the administrator receives the completed application for the pension.

Reduced partial disability pension	(3) Revoked. (Last amended February 28, 1992 - Effective January 1, 1992)
Monthly instalments	(4) The administrator shall pay a disability pension in monthly instalments.
Due date	(5) Disability pension payments are due on the last day of the month.
Interest payable	(6) Interest shall be paid on overdue pension payments if the administrator does not begin paying a pension by the end of the month in which the member becomes entitled to receive it.
Interest payable	(7) Interest on each overdue monthly pension payment, calculated at the standard rate, shall be paid from the date the payment was due to the day before it was made. (Last amended February 28, 1992 - Effective January 1, 1992)
Evidence of medical condition	58. (1) The administrator may at any time require a member who is receiving a disability pension to furnish evidence, in such form as the administrator directs, of the member's mental or physical condition.
Failure to furnish evidence	(2) If the member fails to furnish evidence within a reasonable time that his or her condition continues to be of a nature that entitles the member to receive the disability pension, the administrator shall terminate payment of the pension.
Review by administrator	(3) If the administrator terminates payment of a full disability pension, the member may request the administrator to review the decision to terminate payment.
Idem	(4) If the administrator is satisfied upon reviewing a decision to terminate payment that the member is entitled to a disability pension under section 50 or 51, the administrator shall pay the disability pension.
Application	(5) This section does not apply with respect to a member who has reached normal retirement age.
Notice of re-employment	59. (1) A member receiving a disability pension shall notify the administrator in writing promptly upon becoming employed or changing employment.
Failure to give notice	(2) A member who fails to comply with subsection (1) is not entitled to receive a disability pension payment during a period when notice should have been given under that subsection.
Repayment of pension	(3) A member who receives pension payments to which the member is not entitled shall repay the amount so received, together with interest thereon, before becoming entitled to further payments under the pension plan.

PART VII BENEFITS UPON DEATH

A. Upon the Death of a Member not Entitled to a Pension

Refund of
contributions

- 60.** Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

Refund of
post-1986
contributions

- 60a.** (1) Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

Application

- (2) Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

Refund of
pre-1987
contributions

- 60b.** (1) Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

Application

- (2) Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

B. Upon the Death of a Member Entitled to a Deferred Pension

Pre-retirement
(spousal) death
benefit

- 61.** (1) If a member who is entitled to a deferred pension dies before commencement of payment of the deferred pension, the person who is the spouse of the member on the date of death is entitled to receive,
- (a) the benefit described in section 62, in respect of the member's employment, if any, before the 1st day of January, 1987; and
 - (b) the benefit described in section 63, in respect of the member's employment, if any, on or after the 1st day of January, 1987.

(Last amended May 5, 2010 – Effective June 1, 1995)

Application

- (2) Subsection (1) does not apply if the member and the spouse are living separate and apart on the date of death of the member.

Further
application

- (3) Revoked. (Last amended August 4, 2011 – Effective March 1, 2007)

Idem

- (4) Revoked. (Last amended August 4, 2011 – Effective March 1, 2007)

Idem

- (5) Revoked. (Last amended August 4, 2011 – Effective March 1, 2007)

Idem

- (6) Revoked. (Last amended August 4, 2011 – Effective March 1, 2007)

Pre-1987 (spousal)
death benefit

- 62.** (1) This section applies with respect to that portion of the death benefit that relates to a member's employment before the 1st day of January, 1987.

Survivor pension

- (2) The spouse of a member with ten years or more qualifying service is entitled to the survivor pension described in subsection (3) for the lifetime of the spouse. (Last amended October 10, 1995 - Effective September 1, 1995)

Pre-1987 survivor
pension

- (3) The amount of the survivor pension, before adjustment for inflation, shall be based upon the member's credited service for employment before the 1st day of January, 1987 and shall be one half of the amount of the pension, before adjustment for inflation,
- (a) that would have been paid to the member at the date of death, if the member was at least sixty-five years of age on the date of death; or
 - (b) that would have been paid to the member as of the first day of the month following the month in which he or she would have reached sixty-five years of age, if the member was less than sixty-five years of age on the date of death.

Commutation of
pension

- (3a) If the spouse of a member elects to receive payment of the benefit described under clause 63 (4) (a), then the spouse of the member shall receive a lump sum payment equal to the commuted value of the survivor pension calculated in accordance with subsection (3), and not the survivor pension calculated in accordance with subsection (3). (Last amended December 13, 2012 - Effective July 1, 2012)

Refund of contributions
(10 year rule)

- (3b) If the commuted value of the survivor pension calculated in accordance with subsection (3) is less than the amount of the member's contributions for employment before the 1st day of January, 1987 together with interest thereon, then the spouse of the member is entitled to a refund, paid in a lump sum, of the member's contributions for employment before the 1st day of January, 1987 together with interest thereon, and not to the benefit described in either subsection (3) or (3a). (Last amended December 13, 2012 - Effective July 1, 2012)

Refund of
contributions

- (4) The spouse of a member who dies with less than ten years of qualifying service is entitled to a refund of the member's contributions for employment before the 1st day of January, 1987 together with interest thereon. (Last amended June 19, 2012 - Effective July 1, 2012)

Post-1986 (spousal)
death benefit

- 63.** (1) This section applies with respect to that portion of the death benefit that relates to a member's employment on or after the 1st day of January, 1987.

Benefit

- (2) Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

Refund of
contributions

- (3) Revoked. (Last amended September 8, 2006 - Effective September 1, 1995)

Idem

- (4) The spouse of a member is entitled to receive,

- (a) a lump sum payment equal to the commuted value of the deferred pension to which the member was entitled for credited service for employment on or after the 1st day of January, 1987; or
- (b) a survivor pension for the lifetime of the spouse, the commuted value of which is at least equal to the commuted value of a pension for credited service for the member's employment on or after the 1st day of January, 1987, calculated as if the member had become entitled to a retirement pension on the date of death.

(Last amended June 19, 2012 - Effective July 1, 2012)

Election

- (5) The spouse may elect the form of benefit to be paid under subsection (4) and a spouse who does not do so within twelve months after the death of the member shall be deemed to have elected to receive a survivor pension. (Last amended May 5, 2010 – Effective January 1, 2008)

Deemed election

- (5a) The spouse of a member who dies within twelve months after the death of the member without electing the form of benefit to be paid under subsection (4) shall be deemed to have elected to receive payment of the benefit described under clause (4) (a). (Last amended December 13, 2012 - Effective July 1, 2012)

Survivor pension

- (6) A spouse who elects to receive a survivor pension may elect to begin to receive the pension at any time up to the end of the calendar year in which the spouse attains seventy-one years of age, or up to such other time as is required under the *Income Tax Act* (Canada), provided that the pension shall not begin before the month following the month in which the administrator has received all supporting documentation required to pay the pension. (Last amended June 20, 2012 – Effective January 1, 2012)

Pre-retirement child's pension

- 64. (1) This section applies with respect to the dependent children of a member entitled to a deferred pension who died before commencement of payment of the deferred pension and,
 - (a) who had a spouse who became entitled to a survivor pension who subsequently died; or
 - (b) who did not have a spouse entitled to a survivor pension.

(Last amended May 5, 2010 – Effective June 1, 1995)

Entitlement to child's pension

- (2) Subject to subsections (3), (3a) and (3b), each dependent child of a member is entitled upon the death of the spouse or the member, as the case may be, to receive a child's pension calculated under subsections (4a) and (4b) while the child remains a dependent child. (Last amended December 13, 2012 - Effective July 1, 2012)

Exception re: post-1986 spousal death benefit

- (3) No child's pension is payable in respect of the credited service of a deceased member for which the spouse of the member received the lump sum payment described in clause 63 (4) (a).

Exception re: post-1986 benefit to spouse's estate

- (3a) No child's pension is payable in respect of the credited service of a deceased member for which the spouse's estate is entitled to payment of the benefit described under clause 63 (4) (a). (Last amended December 13, 2012 - Effective July 1, 2012)

Exception re: pre-1987
spousal death benefit

- (3b) No child's pension is payable in respect of the credited service of a deceased member for which the spouse of the member is entitled to payment of the benefit described under either subsection 62 (3), 62 (3a) or 62 (3b). (Last amended December 13, 2012 - Effective July 1, 2012)

Amount of
child's pension

- (4) Revoked. (Last amended June 19, 2012 - Effective July 1, 2012)

Pre-1987 (child)
death benefit

- (4a) (a) This subsection applies with respect to that portion of the death benefit that relates to a member's employment before the 1st day of January, 1987. (Last amended June 19, 2012 - Effective July 1, 2012)

Survivor pension

- (b) The dependent child of a member with ten years or more qualifying service is entitled to the child's pension described in subsection (4a) (c) while the child remains a dependent child. (Last amended June 19, 2012 – Effective July 1, 2012)

Pre-1987 child's
pension

- (c) The amount of the child's pension, before adjustment for inflation, shall be based upon the member's credited service for employment before the 1st day of January, 1987 and shall be one half of the amount of the pension, before adjustment for inflation,
- (i) that would have been paid to the member at the date of death, if the member was at least sixty-five years of age on that date; or
 - (ii) that would have been paid to the member as of the first day of the month following the month in which he or she would have reached sixty-five years of age, if the member was less than sixty-five years of age on the date of death.

(Last amended June 19, 2012 - Effective July 1, 2012)

Post-1986 (child)
death benefit

- (4b) (a) This subsection applies with respect to that portion of the death benefit that relates to a member's employment on or after the 1st day of January, 1987. (Last amended June 19, 2012 - Effective July 1, 2012)

Benefit

- (b) The amount of the child's pension, before adjustment for inflation, shall be based upon the member's credited service for employment on or after the 1st day of January, 1987 and shall be one half of the amount of the pension, before adjustment for inflation,
- (i) that would have been paid to the member at the date of death, if the member was at least sixty-five years of age on that date; or
 - (ii) that would have been paid to the member as of the first day of the month following the month in which he or she would have reached sixty-five years of age, if the member was less than sixty-five years of age on the date of death.

(Last amended June 19, 2012 - Effective July 1, 2012)

Idem

- (5) The child's pension shall be shared equally among the member's dependent children.

Share accrues to others

- (6) The share of the child's pension of each of the children who ceases to be a dependent child accrues to the remaining dependent children, if any.

Benefit to beneficiary

65. (1) A beneficiary designated by a member entitled to a deferred pension is entitled to the benefit described in subsection (2),

- (a) if the member dies before commencement of payment of the deferred pension; and
- (b) if, on the date of death, the member does not have a spouse entitled to a benefit payable on his or her death.

(Last amended December 13, 2012 - Effective July 1, 2012)

Amount of benefit

- (2) Subject to subsection (3), a beneficiary designated by a member is entitled to receive,
- (a) a refund of the member's contributions for employment before the 1st day of January, 1987 together with interest thereon; and
 - (b) a lump sum payment equal to the commuted value of the deferred pension to which the member was entitled for credited service for employment on or after the 1st day of January, 1987.

(Last amended December 13, 2012 - Effective July 1, 2012)

Residual entitlement

- (3) If a person is entitled to a child's pension under section 64 on the death of the member, the beneficiary is entitled to a refund of the amount by which the amount calculated under clause (2) (a) exceeds the commuted value of the amount payable under subsection 64 (4a), together with interest thereon, and a refund of the amount by which the amount calculated under clause (2) (b) exceeds the commuted value of the amount payable under subsection 64 (4b), together with interest thereon. (Last amended December 13, 2012 - Effective July 1, 2012)

Benefit to member's estate

66. (1) The estate of a member entitled to a deferred pension who dies before commencement of payment of the deferred pension is entitled to the payments described in this section. (Last amended May 5, 2010 – Effective June 1, 1995)

Idem, no others entitled

- (2) Subject to subsection (3), if no spouse or designated beneficiary is entitled to a benefit on the death of the member, the estate is entitled to,
- (a) a refund of the member's contributions for employment before the 1st day of January, 1987 together with interest thereon; and
 - (b) a lump sum payment equal to the commuted value of the deferred pension to which the member was entitled for credited service for employment on or after the 1st day of January, 1987.

(Last amended December 13, 2012 - Effective July 1, 2012)

Residual entitlement

- (3) If a person is entitled to a child's pension under section 64 on the death of the member, the estate is entitled to a refund of the amount by which the amount calculated under clause (2) (a) exceeds the commuted value of the amount payable under subsection 64 (4a), together with interest thereon, and a refund of the amount by which the amount calculated under clause (2) (b) exceeds the commuted value of the amount payable under subsection 64 (4b), together with interest thereon. (Last amended December 13, 2012 - Effective July 1, 2012)

(4) Revoked. (Last amended December 13, 2012 - Effective July 1, 2012)

(5) Revoked. (Last amended December 13, 2012 - Effective July 1, 2012)

Benefit to
spouse's estate

- 66a.** (1) Where the member had a spouse who elected to receive the benefit described under clause 63 (4) (b), and who subsequently dies after the payments described under clause 63 (4) (b) have commenced, the spouse's estate is entitled to a refund of the amount by which the member's contributions made in respect of credited service on or after January 1, 1987, together with interest thereon, minus any payments made under section 36, together with interest thereon, and minus the commuted value of the amount payable under subsection 64 (4b), together with interest thereon, exceed the amount paid to the spouse under clause 63 (4) (b), together with interest thereon. (Last amended December 13, 2012 - Effective July 1, 2012)
- (2) Where the member had a spouse who elected to receive the benefit described under clause 63 (4) (b), and who subsequently dies before the payments described under clause 63 (4) (b) have commenced, the spouse's estate is entitled to the amount determined under clause 63 (4) (a), together with interest thereon. (Last amended December 13, 2012 - Effective July 1, 2012)
- (3) Where the member had a spouse who died after becoming entitled to a survivor pension under subsection 62 (3), the spouse's estate is entitled to a refund of the amount by which the member's contributions for employment before the 1st day of January, 1987, together with interest thereon, exceed the amount paid to the spouse under subsection 62 (3), together with interest thereon. (Last amended December 13, 2012 - Effective July 1, 2012)

Payment of benefits,
predecessor Acts

- 66b.** (1) Benefits paid upon the death of a member who ceased to be employed in education prior to January 1, 1990 and who is entitled to a deferred pension on the date of death shall be calculated, with necessary modifications, in accordance with the terms of the *Teachers' Superannuation Act, 1983*, or a predecessor Act, and shall be paid out of the pension fund in accordance with the Act under which the member ceased to be employed in education. (Last amended December 13, 2012 - Effective July 1, 2012)

Limitation on survivor
pensions less than \$1,200

- (2) Subject to section 84, where the annual amount of the survivor pension calculated under sections 62 and 63 is less than \$1,200 the spouse of a member is entitled to a pension in that lesser amount and not to a pension in the amount of \$1,200 as provided for by Order in Council 1453/74. (Last amended December 13, 2012 - Effective July 1, 2012)

Exception

- (3) Subsection (2) shall not apply to the spouse of a member who has at least ten years of credited service in whole or in part before the 1st day of January, 1987 on the date he or she ceased to be employed in education. (Last amended December 13, 2012 - Effective July 1, 2012)

Limitation

- (4) For greater certainty, subsection 76 (2) of the *Teachers' Superannuation Act, 1983* shall not apply to any survivor pension payable in respect of a member who did not have at least ten years of credited service on the date he or she ceased to be employed in education. (Last amended December 13, 2012 - Effective July 1, 2012)

C. Upon the Death of a Pensioner

Survivor pension,
spouse

67. (1) If a member dies on or after commencement of payment of a pension, the person who was the spouse on the date that the payment of the first instalment of the pension was due is entitled to the survivor pension described in subsection (3) for the spouse's lifetime. (Last amended May 5, 2010 – Effective June 1, 1995)

Application

- (2) Subsection (1) does not apply if the member and the spouse were living separate and apart on the date that the payment of the first instalment of the member's pension was due. (Last amended May 5, 2010 – Effective June 1, 1995)

Amount of
survivor pension

- (3) Subject to sections 68, 69, and 84a, the amount of the annual survivor pension, before adjustment for inflation, payable to the surviving spouse shall be not less than 50 per cent of the pension, before adjustment for inflation,
- (a) that was being paid to the member at the date of death, if the member was at least sixty-five years of age on that date; or
 - (b) that would have been paid to the member as of the first day of the month next following the month in which he or she would have reached sixty-five years of age, if the member was less than sixty-five years of age on the date of death.

(Last amended June 20, 2012 – Effective March 3, 2000)

Exception for low
pensions

- (4) Despite subsection (3) the survivor of a person who died while receiving an annual pension that had been adjusted under Order in Council 1453/74, is entitled to a pension that is 50 per cent of the pension being paid to the person at the date of death, or such greater percentage as the deceased person had elected prior to death. (Last amended October 23, 1991 - Effective October 23, 1991)

Spousal election
re survivor pension

68. (1) In the absence of a joint waiver by a member and the member's spouse of the spouse's entitlement under subsection 44 (3) of the *Pension Benefits Act* (amount of survivor benefit), the amount of the survivor pension payable on the death of the member shall be 60 per cent of the amount of the member's pension that would be payable if the amount of the pension were calculated without regard to this section. (Last amended October 23, 1991 - Effective October 23, 1991)

Waiver void

- (2) A waiver referred to in subsection (1) is void if it is dated, signed, or delivered to the administrator more than twelve months before the commencement of payment of the member's pension or after the commencement of payment of the member's pension. (Last amended August 4, 2011 – Effective May 18, 2010)

Adjustment of
member's pension

- (3) In the absence of a waiver referred to in subsection (1), the amount of the pension payable to the member shall be actuarially reduced before limits imposed by the *Income Tax Act* (Canada) to allow for payment of the increased survivor pension in accordance with subsection (1). (Last amended October 10, 1995 - Effective January 1, 1992)

	(3a) Prior to calculating the payment described in subsection (1), the pension the member was receiving shall be reduced immediately upon the member's death to reflect any reduction described in section 81 that was not applicable immediately prior to the member's death. (Last amended June 20, 2012 – Effective January 1, 1990)
Application	
	(4) This section does not apply with respect to a member who, before the 1st day of January, 1988, began to receive a pension under a predecessor Act.
Idem	
	(5) This section does not apply with respect to a member who dies before commencement of payment of the member's pension. (Last amended May 5, 2010 – Effective June 1, 1995)
Increase of survivor pension	
	69. (1) A member may direct the administrator to increase the amount of a survivor pension that may become payable under section 67 in respect of the member to an amount equal to 55, 65, 70 or 75 per cent of the member's pension that would be payable if the amount of the pension were calculated without regard to this section.
Time limit	
	(2) A direction must be given in writing and must be delivered to the administrator at least two years before the earlier of,
	(a) the member's normal retirement date; or
	(b) the beginning of the month in which the member's pension begins.
Idem	
	(3) The administrator shall act on a direction delivered after the deadline specified in subsection (2) and before the member applies for a retirement pension if the administrator is satisfied that the member is in good health having regard to the member's age.
Adjustment of member's pension	
	(4) The amount of the pension payable to the member shall be actuarially reduced before limits imposed by the <i>Income Tax Act</i> (Canada) to allow for payment of the increased survivor pension in accordance with the direction. (Last amended October 10, 1995 - Effective January 1, 1992)
	(4a) Prior to calculating the payment described in subsection (1), the pension the member was receiving shall be reduced immediately upon the member's death to reflect any reduction described in section 81 that was not applicable immediately prior to the member's death. (Last amended June 20, 2012 – Effective January 1, 1990)
Commuted value	
	(5) The commuted value of pension paid to the member including the commuted value of the increased survivor benefit shall not be less than the commuted value of the pension, including survivor benefit, that would otherwise be payable.
Revocation of direction	
	(6) A member may revoke a direction given under this section by a written revocation delivered to the administrator before the member begins receiving a pension.
Direction void	
	(7) A direction given under this section by a member is void if the member dies before beginning to receive a pension.
Restriction	
	(8) A person whose pension would be reduced from an amount greater than \$2,400 to an amount less than \$2,400 upon making an election under this section is not entitled to an increase in his or her pension under Order in Council 1453/74. (Last amended October 23, 1991 - Effective October 23, 1991)

Survivor pension,
new spouse

70. (1) In this section and section 84a, "new spouse", in relation to a member, means a person who becomes the spouse of the member after the commencement of payment of the member's retirement or disability pension. (Last amended June 20, 2012 – Effective March 3, 2000)

Idem

- (2) A member who does not have a spouse eligible to receive a survivor pension under section 67 may, after the commencement of payment of the member's retirement or disability pension, direct the administrator to provide a survivor pension to a new spouse. (Last amended May 5, 2010 – Effective June 1, 1995)

Time limit

- (3) A direction must be given in writing and must be delivered to the administrator on or before the later of,
- (a) ninety days after the date on which the member becomes the spouse of the new spouse; or
 - (b) if immediately before the member becomes the spouse of the new spouse there is a child who would be entitled upon the death of the member to receive a child's pension under section 73, ninety days after the date on which the child ceases to be eligible to receive the child's pension.

Idem

- (4) The administrator shall act on a direction delivered after the deadline specified in subsection (3) if the administrator is satisfied that the member is in good health having regard to the member's age.
- (4a) A direction given under this section is not effective until six months following the date of delivery of the direction to the administrator. (Last amended June 1, 1995 - Effective June 1, 1995)
- (4b) A direction made under this section is null and void if the death of the member occurs before the effective date of the direction. (Last amended June 1, 1995 - Effective June 1, 1995)
- (4c) A member may revoke a direction given under this section by a written revocation delivered to the administrator before the direction becomes effective in accordance with subsection (4a). (Last amended September 8, 2006 – Effective June 1, 1995)

Amount of survivor
pension

- (5) Subject to section 84a, a member described in subsection (2) shall direct the administrator to pay a survivor pension in the amount of 50, 55, 60, 65, 70 or 75 per cent of the pension that would otherwise be payable on the first day of the month next following the month in which the member becomes the spouse of the new spouse. (Last amended June 20, 2012 – Effective March 3, 2000)

Adjustment of
member's pension

- (6) The amount of a retirement or disability pension payable to the member shall be actuarially reduced before limits imposed by the *Income Tax Act* (Canada) to allow for payment of the survivor pension in accordance with the direction. (Last amended October 10, 1995 - Effective January 1, 1992)

Idem

- (7) The actuarial reduction required by subsection (6) shall be based upon the ages of the member and of the spouse on the last day of the month in which the direction is delivered to the administrator.
- (7a) Prior to calculating the payment described in subsection (5), the pension the member was receiving shall be reduced immediately upon the member's death to reflect any reduction described in section 81 that was not applicable immediately prior to the member's death. (Last amended June 20, 2012 – Effective January 1, 1990)

Payment of
survivor pension

- (8) The administrator shall pay the survivor pension in accordance with the direction but not while there is a person who is eligible to receive a child's pension in respect of the member.

Eligibility

- 70a.** (1) This section applies to a member or former member who, as of April 23, 1998, was:
- (a) receiving a pension in respect of which there was no person eligible, as of April 22, 1998, to receive a survivor pension, and
 - (b) living with a person who would have qualified under the relevant provisions of the pension plan as the member's same-sex partner for purposes of eligibility for a survivor pension, other than a survivor pension provided by sections 70, 71, 72, or any predecessor thereof, if the definition of "same-sex partner" as set out in the pension plan had been in effect prior to April 23, 1998. (Last amended July 10, 2000 – Effective April 23, 1998)

Direction

- (2) Subject to subsections (3) and (4), a member described in subsection (1) may direct the administrator to pay a survivor pension to the person described in subsection (1) for the person's lifetime commencing the month following the member's date of death. (Last amended July 10, 2000 – Effective April 23, 1998)

Idem

- (3) Where the member dies prior to providing the direction referred to in subsection (2), such direction may be provided by the person described in subsection (1). (Last amended July 10, 2000 – Effective April 23, 1998)

Deadline

- (4) The direction provided in accordance with subsection (2) or (3) shall be provided to the administrator. (Last amended September 8, 2006 - Effective April 23, 1998)

Entitlement

- (5) Subject to subsection (6), the amount of the annual survivor pension, before adjustment for inflation, payable under this section shall be 50 per cent of the pension, before adjustment for inflation,
- (a) that was being paid to the member at the date of death, if the member was at least sixty-five years of age on that date, or
 - (b) that would have been paid to the member as of the first day of the month next following the month in which he or she would have reached sixty-five years of age, if the member was less than sixty-five years of age on the date of death. (Last amended July 10, 2000 - Effective April 23, 1998)

Offset

- (6) The survivor pension described in subsection (5) shall be actuarially reduced by any amounts paid to any person, including the member's estate, as a result of the member's death. (Last amended July 10, 2000 - Effective April 23, 1998)
- (7) No survivor pension is payable under this section if the person described in subsection (1) dies prior to providing the direction in accordance with subsections (3) and (4). (Last amended July 19, 2007 – Effective April 23, 1998)
- (8) Revoked. (Last amended August 4, 2011 – Effective March 1, 2007).

Survivor pension,
predecessor Acts

- 71.** (1) This section applies with respect to a member who, before the 1st day of September, 1984, ceased to be employed in education within the meaning of a predecessor of this Act and who became the spouse of a person after ceasing that employment.

Direction re
survivor pension

- (2) A member described in subsection (1) may direct the administrator to provide a survivor benefit for the member's spouse and section 70 applies with respect to the direction with necessary modifications.

Time limit

- (3) A direction under this section shall be delivered to the administrator on or before the latest of,
- (a) the 31st day of March, 1990;
 - (b) ninety days after the date on which the member becomes a spouse; or
 - (c) if on the 1st day of January, 1990 there is a child who would be entitled upon the death of the member to receive a survivor allowance under a predecessor of this Act, ninety days after the date on which the child ceases to be eligible to receive the survivor allowance.

Idem

- (4) The administrator shall act on a direction delivered after the deadline specified in subsection (3) if the administrator is satisfied that the member is in good health having regard to the member's age.

Deemed direction

- (5) A member described in subsection (1) who dies on or before the 31st day of March, 1990 without having given a direction under this section shall be deemed to have given it on that date and shall be deemed to have directed the administrator to pay a 50 per cent survivor pension.

Survivor pension
(prior inquiry)

72. (1) This section applies with respect to a person who became the spouse of a member described in subsection 71 (1) after the member ceased to be employed in education within the meaning of a predecessor of this Act.

Idem

- (2) This section does not apply unless the member has ceased to be a member before the 1st day of January, 1990 because he or she has died.

Survivor pension

- (3) A spouse described in subsection (1) is entitled to a survivor pension calculated from the date of a written inquiry respecting a survivor pension,
- (a) made to the Teachers' Superannuation Commission before the 1st day of January, 1990; or
 - (b) made to the administrator on or after the 1st day of January, 1990.

Amount of pension

- (4) The amount of the survivor pension is 50 per cent of the amount of the member's retirement pension on the date of the member's death adjusted for inflation as if it were a pension for the period from the date of the member's death to the date the spouse becomes entitled to the survivor pension.
- (5) Prior to calculating the payment described in subsection (4), the pension the member was receiving shall be reduced immediately upon the member's death to reflect any reduction described in section 81 that was not applicable immediately prior to the member's death. (Last amended June 20, 2012 – Effective January 1, 1990)

Child's pension

73. (1) This section applies with respect to the dependent children of a member who died while receiving a retirement or disability pension and,
- (a) who had a spouse who died after becoming entitled to a survivor pension; or

	(b) who did not have a spouse entitled to a survivor pension.
Entitlement to child's pension	
	(2) Each dependent child of a member, upon the death of the spouse or the member, as the case may be, is entitled to a child's pension while remaining a dependent child.
Amount of child's pension	
	(3) The amount of the annual child's pension is the amount of the survivor pension to which a spouse of the member was or would have been entitled after the death of the member, shared equally among the dependent children.
Share accrues to others	
	(4) The share of the child's pension of each of the children who ceases to be a dependent child accrues to the remaining dependent children, if any.
Beneficiary's pension, R.S.C. 1952, c. 148	
	74. (1) Revoked. (Last amended September 8, 2006 - Effective September 1, 2006)
Time limit	
	(2) Revoked. (Last amended September 8, 2006 - Effective September 1, 2006)
Idem	
	(3) Revoked. (Last amended September 8, 2006 - Effective September 1, 2006)
Amount of beneficiary's pension	
	(4) Revoked. (Last amended September 8, 2006 - Effective September 1, 2006)
Adjustment of member's pension	
	(5) Revoked. (Last amended September 8, 2006 - Effective September 1, 2006)
Revocation of direction	
	(6) Revoked. (Last amended September 8, 2006 - Effective September 1, 2006)
Direction void	
	(7) Revoked. (Last amended September 8, 2006 - Effective September 1, 2006)
Benefit to estate	
	75. The estate of a member who was receiving a pension on the date of death is entitled to a refund of the amount by which the member's contributions together with interest thereon exceeds the sum of the amount paid to the member and the amount, if any, paid to every other person who was entitled to a benefit on the member's death, together with interest thereon.
10 year guarantee	
	75a. (1) Notwithstanding any other provision of the plan, but subject to this section, where a member dies while receiving a retirement pension or a disability pension, but prior to receiving the equivalent of 120 monthly pension payments, the remaining balance of such pension payments shall be paid:
	(a) as a pension to the person who remains otherwise eligible for benefits under the plan as a result of the member's death, or
	(b) to the member's estate, if there is no person eligible as described in (a), in a lump sum equal to the present value of the remaining payments. (Last amended April 2, 2001 – Effective April 1, 2001)
Direction	
	(2) If a member has a spouse eligible for a survivor pension at the commencement of payment of the member's pension, subsection (1) shall only apply if the member has delivered a written direction to the administrator prior to the commencement of payment of the member's pension. (Last amended April 2, 2001 – Effective April 1, 2001)

Idem

- (3) A direction provided in accordance with subsection (2) may be revoked by the member provided that a written revocation is delivered to the administrator prior to the commencement of payment of the member's pension. (Last amended April 2, 2001 – Effective April 1, 2001)

Idem

- (4) A direction provided in accordance with subsection (2) is void if the member dies prior to the commencement of payment of the member's pension. (Last amended April 2, 2001 – Effective April 1, 2001)

Adjustment
of member's pension

- (5) The pension of a member who provides a direction in accordance with subsection (2) shall be reduced to allow for payment of the benefits in accordance with subsection (1). (Last amended April 2, 2001 – Effective April 1, 2001)

Offset

- (6) Subject to subsection (11), the payments made in accordance with subsection (1) shall be paid in lieu of any other amounts otherwise payable under the plan as a result of the member's death. (Last amended April 2, 2001 – Effective April 1, 2001)

CPP
Reduction

- (7) The payments made in accordance with subsection (1) shall be reduced immediately upon the member's death to reflect any reduction described in section 81 that was not applicable immediately prior to the member's death. (Last amended April 2, 2001 – Effective April 1, 2001)

More than
one beneficiary

- (8) Where there is more than one person eligible as described in clause (1)(a), then the pension payable in accordance with that provision shall be shared equally among such persons. (Last amended April 2, 2001 – Effective April 1, 2001)

Upon death of
beneficiary

- (9) Where any person eligible as described in clause (1)(a) dies prior to completion of the pension payments under that provision, the remaining payments shall be shared equally among any remaining eligible persons or, if none, shall be paid to the person's estate in a lump sum equal to the present value of the remaining payments. (Last amended April 2, 2001 – Effective April 1, 2001)

Upon ineligibility
of beneficiary

- (10) Where any person eligible as described in clause (1)(a) ceases to be a person eligible as described in clause (1)(a) prior to completion of the pension payments under that provision, the remaining payments shall be shared equally among any remaining eligible persons or, if none, shall be paid to the member's estate in a lump sum equal to the present value of the remaining payments. (Last amended April 2, 2001 – Effective April 1, 2001)

Completion of
10 year guarantee

- (11) Upon completion of the pension payments in accordance with clause (1)(a), the person or persons described in that provision shall be entitled to receive, on a prospective basis only, the pension that they would otherwise be receiving as a result of the member's death but for this section, except that any reduction that was applied pursuant to subsection (5) shall continue to apply. (Last amended April 2, 2001 – Effective April 1, 2001)

Application
to existing pensions

- (12) This section shall apply, with necessary modifications, to a member who is receiving a pension as of April 1, 2001 except that, for the purposes of subsection (2) only, spousal eligibility for a survivor pension shall be determined as of April 1, 2001 and the direction required in accordance with (2) must be delivered to the administrator by May 1, 2001. (Last amended April 2, 2001 – Effective April 1, 2001)

Application to
deferred pensions

- (12a) This section shall apply, with necessary modifications, to a member who ceased employment in education on or after January 1, 1990 but prior to April 1, 2001 and who is entitled to a deferred pension. (Last amended June 19, 2012 – Effective April 1, 2001)

Application to
suspended pensions

- (13) For the purposes of this section, references to a member who is receiving a pension shall include a member whose pension is suspended. (Last amended April 2, 2001 – Effective April 1, 2001)

Application to
TSA pensions

- (14) This section shall apply, with necessary modifications, to a member who ceased employment in education prior to January 1, 1990 and who is either entitled to a deferred pension or receiving a pension as of April 1, 2001. (Last amended May 5, 2010 – Effective April 1, 2001)

Application to
deferred pensions
post-June 30, 2012

- (15) This section shall apply, with necessary modifications, to a member who ceased employment in education prior to July 1, 2012 and who was not entitled to a deferred pension under section 30 as it read on June 30, 2012. (Last amended June 19, 2012 – Effective July 1, 2012)

D. Payment of Death Benefits

Commencement of
pension

76. (1) A pension that is payable immediately on the death of a member who was not receiving a retirement or disability pension on the date of death shall begin as of the day after the day the member dies.

Idem

- (2) A pension that is payable on the death of a member who was receiving a retirement or disability pension on the date of death shall begin as of the first day of the month after the month in which the member dies.

Interest payable

- (3) Interest shall be paid on pension payments due under a pension mentioned in this section if the administrator does not begin paying the pension by the end of the month in which the beneficiary becomes entitled to receive it. (Last amended June 28, 1990 - Effective June 28, 1990)

Interest Payable

- (4) Interest on each overdue monthly pension payment, calculated at the standard rate, shall be paid from the date the payment was due to the day before it was made. (Last amended February 28, 1992 - Effective January 1, 1992)

Payments to estate

77. (1) If the administrator is unable to locate a personal representative of the estate of a deceased member, the administrator may pay into court any payments that under the pension plan are required to be made to the estate.

Missing beneficiary

- (2) If the administrator is unable, after making reasonable inquiries, to locate an individual who is entitled to a death benefit under the pension plan or a beneficiary designated by the deceased member under the *Pension Benefits Act*, the administrator shall pay to the estate of the deceased member one year after the date of death the amount to which the estate is otherwise entitled when no other person is entitled to a benefit on the death of the member.

Missing beneficiary
found

- (3) If an individual entitled to a death benefit under the pension plan or a beneficiary designated by the deceased member under the *Pension Benefits Act* applies for the benefit after the administrator makes a payment under subsection (2), the administrator shall pay the individual the amount of the benefit to which the individual is entitled less the amount paid to the estate by the administrator.

Transitional

- (4) This section applies with respect to a person with credited service under a predecessor of this Act who dies before the 1st day of January, 1990, as if that person were a deceased member of the pension plan.

Discharge

- (5) The administrator is discharged on making a payment in accordance with this section.

Interpleader, more
than one applicant

78. (1) Revoked. (Last amended September 8, 2006 – Effective September 1, 2006)

Court may order

- (2) Revoked. (Last amended September 8, 2006 - Effective September 1, 2006)

Application to court

- (3) Revoked. (Last amended September 8, 2006 - Effective September 1, 2006)

Application of R.S.O.
1980, c. 488, s. 62

- (4) Revoked. (Last amended September 8, 2006 - Effective September 1, 2006)

PART VIII BENEFITS AND PAYMENTS - GENERAL

A. Adjustments for Inflation

Inflation adjustment,
pensions

79. (1) Every retirement pension, disability pension, survivor pension, child's pension and beneficiary's pension shall be adjusted for inflation in accordance with section 80.

Idem, deferred
pensions

- (2) Every deferred pension payable under the pension plan shall be adjusted for inflation in accordance with section 80 for the period beginning at the end of the last month for which the member has credit under the plan and ending when the pension begins.

Limitation

- (3) No pension or deferred pension shall be adjusted under this section for inflation in respect of a period before the 1st day of January, 1990.

Adjustment of pensions
for cessations prior to
May 31, 1982

- 79a.** (1) For pension instalments payable for periods on or after June 1, 2001, the annual pension of a member, or of the survivor of a member, who ceased to be employed for purposes of the plan prior to May 31, 1982, shall be adjusted in accordance with salary adjustments determined by the actuary with reference to the year in which the member ceased to be employed for purposes of the plan. (Last amended April 2, 2001 – Effective April 1, 2001)

Idem

- (2) Subsection (1) shall also apply to the pension payable to the survivor of a member where the member:
- (a) ceased to be employed for purposes of the plan on or after May 31, 1982 but prior to September 1, 1984, and
 - (b) died prior to receiving a pension calculated on the basis of the average of the member's annual pensionable salary for the five school years during which it was highest,

but only to the extent that the survivor is not already receiving a survivor pension equivalent to that calculated on the basis described in (b). (Last amended April 2, 2001 – Effective April 1, 2001)

Applicability

- (3) This section shall not apply to the retirement pension or benefits upon death of a member who did not have at least ten years of credited service on the date he or she ceased to be employed in education. (Last amended December 13, 2012 – Effective July 1, 2012)

Calculation of inflation
adjustments

- 80.** (1) In the formulas in this section,

"A" is the carry forward determined for the immediately preceding year,

"B" is the basic ratio for the year,

"C" is the adjustment ratio for the year,

"D" is the basic ratio for the year after the last year for which the member has credit in the pension plan, and shall be calculated to a maximum of 1.080 or to a minimum of 1.000, and (Last amended October 9, 2008 – Effective January 1, 2009)

"E" is the number of full months in the year that are after the month in the last year for which the member has credit in the pension plan. (Last amended October 9, 2008 – Effective January 1, 2009)

Definitions

- (2) In this section,

"accumulated adjustment ratio", for a person's pension, means the product of the multiplication of all adjustment ratios for the years in the period commencing with the last year for which the member has credit in the pension plan and ending with the year for which the accumulated adjustment ratio is being determined; (Last amended October 9, 2008 – Effective January 1, 2009)

"adjustment ratio", for a person's pension, means,

- (a) for any year before the year 1976 and for the last year for which the member has credit in the pension plan, 1.000,

- (b) if the member for whose credit in the plan the pension is payable ceased to be employed in education in or after the year 1975, for the year after the last year for which the member has credit in the pension plan, the ratio determined by the formula " $[(D - 1.000) \times E / 12] + 1.000$ ", and
- (c) for the later of the year 1976 and the second year after the last year for which the member has credit in the pension plan and for any subsequent year, the ratio determined by the formula " $A + B$ " calculated to a maximum of 1.080 or to a minimum of 1.000; (Last amended October 9, 2008 – Effective January 1, 2009)

"basic ratio", for a year, means the ratio expressed to three decimal places that the average for the Consumer Price Index over the last twelve months of the twenty-four-month period ending with the 30th day of September in the immediately preceding year bears to the average for the Consumer Price Index over the first twelve months of that period;

"carry forward", with respect to the pension of a person, means,

- (a) for any year before the year 1976, for the last year for which the member has credit in the pension plan and for the year after that year, nil, and
- (b) for the later of the year 1976 and the second year following the last year for which the member has credit in the pension plan and for any subsequent year, the positive or negative number determined by the formula " $A + B - C$ "; (Last amended October 9, 2008 – Effective January 1, 2009)

"Consumer Price Index" means the Consumer Price Index for Canada as published by Statistics Canada under the authority of the *Statistics Act* (Canada);

"member" means the person in respect of whose credit in the pension plan the pension, to which the formula is applied under this section, is payable, and includes a contributor within the meaning of the *Teachers' Superannuation Act, 1983* or a predecessor Act; (Last amended October 9, 2008 – Effective January 1, 2009)

"pension" means a pension to which a person is entitled from the plan other than the adjustment for inflation provided by this section, and an allowance, annuity, deferred annuity or other periodic payments to which a person has become entitled under the *Teachers' Superannuation Act, 1983* or a predecessor Act;

"plan" includes the pension plan established under the *Teachers' Superannuation Act, 1983* and any predecessor Act.

Payment of inflation
adjustment

- (3) The annual amount of pension payable to a person from the pension fund shall, commencing with the year when payment of the pension is to commence and in each subsequent year that the pension continues to be payable, be adjusted for inflation by multiplying the annual amount of the pension by the accumulated adjustment ratio for the pension of the person for that year, and the amount by which the pension thus adjusted exceeds the annual amount of pension before the adjustment in each year shall be paid to the person entitled to receive the pension for which it is calculated at the same times, in the same manner and subject to the same terms and conditions as apply to the pension in respect of which it is paid.

Conditional inflation
adjustment for
post-2009 credit

- (3a) Notwithstanding subsections (1), (2) and (3), but subject to subsection (3b), benefits payable in respect of credit accrued under the pension plan for periods after 2009 shall only be adjusted for inflation under this section to the extent that sufficient funds are available to provide for such adjustments without creating a going concern unfunded liability. (Last amended October 9, 2008 – Effective January 1, 2009)

50% guaranteed
inflation adjustment
for post-2009 credit

- (3b) Benefits payable in respect of credit accrued under the pension plan for periods after 2009 shall be adjusted for inflation under this section such that the adjustment made each year is not less than one half of the adjustment that would have been made for the year in accordance with this section as it read on December 31, 2008. (Last amended October 9, 2008 – Effective January 1, 2009)

Inflation adjustment
for benefits payable
after 2011

- (3c) Revoked. (Last amended September 17, 2013 – Effective January 1, 2014)

0% guaranteed
inflation adjustment
for post-2013 credit

- (3d) Notwithstanding subsection (3b), benefits payable in respect of credit accrued under the pension plan for periods after 2013 may be further adjusted for inflation under this section such that the total adjustment made each year is less than one half of the adjustment that would have been made for the year in accordance with this section as it read on December 31, 2008. (Last amended September 17, 2013 – Effective January 1, 2014)

Determination of
inflation adjustment
for post-2009 and
post-2013 credit

- (3e) For purposes of subsections (3a), (3b) and (3d), the inflation adjustments for benefits payable each year, in respect of credit accrued under the pension plan for periods after 2009 and after 2013 respectively, shall be determined by the co-sponsors of the pension plan, the Executive of the Ontario Teachers' Federation and the Minister of Education. (Last amended September 17, 2013 – Effective January 1, 2014)

Ratio not to apply

- (4) The ratio determined for the year 1990 under the *Superannuation Adjustment Benefits Act* does not apply to a pension to which this section applies.

Effect of
re-employment

- (5) For the purpose of determining an accumulated adjustment ratio for benefits that commence to be paid on or after May 10, 2007, for members who cease to be employed in education on or after September 1, 1995:
- (a) the last school year in which the member accumulated more than ten days of credited service during the period from January 1, 1997 onward, or, if the member did not accumulate more than ten days of credited service in a school year during this period, then
 - (b) the last school year in which the member accumulated more than twenty days of credited service during the period from September 1, 1990 to December 31, 1996,

is deemed to be the last year for which the member has credit in the pension plan. (Last amended December 21, 2007 – Effective May 10, 2007)

- (6) Revoked. (Last amended July 19, 2007 – Effective May 10, 2007)

B. CPP Reduction

CPP reduction for
pensions

81. (1) If a member has contributed to the *Canada Pension Plan* or the *Quebec Pension Plan*, the amount of the member's retirement pension, full disability pension or partial disability pension shall be reduced by the amount calculated under subsection (3).

Commencement,
retirement pension

- (2) A reduction of a member's pension shall apply with respect to pension payments due the month after the earlier of,
- (a) the month in which the member reaches sixty-five years of age; or
 - (b) the month in which the first instalment of the member's disability pension, if any, under the *Canada Pension Plan* or the *Quebec Pension Plan* is due.

Amount of reduction

- (3) The amount of the reduction in an annual pension payable for periods on or after January 1, 1997 and prior to January 1, 1999 is calculated using the formula,

$$0.0068 \times A \times B,$$

and the amount of the reduction in an annual pension payable for periods on or after January 1, 1999 and prior to January 1, 2002 is calculated using the formula,

$$0.0060 \times A \times B,$$

and the amount of the reduction in an annual pension payable for periods on or after January 1, 2002 is calculated using the formula,

$$0.0045 \times A \times B$$

in which,

"A" is the lesser of,

- (a) the member's average salary, and
- (b) the amount determined under subsection (4), and

"B" is the number of years of the member's credited service for employment on or after the 1st day of January, 1966 in respect of which the member made contributions under the *Canada Pension Plan* or the *Quebec Pension Plan*. (Last amended April 2, 2001 – Effective April 1, 2001)

- (3a) For pension instalments due on or after January 1, 1997, the amount of the reduction in annual pension, for participation in the *Canada Pension Plan* or the *Quebec Pension Plan*, of a member, or a survivor of a member, calculated under Schedule 1 of the *Teachers' Pension Act* or a predecessor act, is recalculated substituting 0.0068 for 0.007 in the formula used to calculate the reduction, but the amount of the reduction to provide for a higher survivor pension will not be recalculated. (Last amended February 20, 1997 - Effective January 1, 1997)
- (3b) For pension instalments payable for periods on or after January 1, 1999, the amount of the reduction in annual pension, for participation in the *Canada Pension Plan* or the *Quebec Pension Plan*, of a member, or a survivor of a member, calculated under Schedule "1" of the *Teachers' Pension Act* or a predecessor act, is recalculated substituting 0.0060 for 0.0068 in the formula used to calculate the reduction, but the amount of the reduction to provide for a higher survivor pension will not be recalculated. (Last amended May 27, 1998 - Effective June 1, 1998)
- (3c) For pension instalments payable for periods on or after January 1, 2002, the amount of the reduction in annual pension, for participation in the *Canada Pension Plan* or the *Quebec Pension Plan*, of a member, or a survivor of a member, calculated under Schedule 1 of the *Teachers' Pension Act* or a predecessor act, is recalculated substituting 0.0045 for 0.0060 in the formula used to calculate the reduction, but the amount of the reduction to provide for a higher survivor pension or a 10 year guaranteed pension will not be recalculated. (Last amended September 8, 2006 – Effective April 1, 2001)

Average YMPE

- (4) The amount is the average of the Year's Maximum Pensionable Earnings for the year in which the member ceases to be employed in education and for each of the two preceding years, except that for an annual pension payable for periods on or after January 1, 2002 the amount is the average of the Year's Maximum Pensionable Earnings for the year in which the member ceases to be employed in education and for each of the four preceding years. (Last amended April 2, 2001 – Effective April 1, 2001)

Idem

- (4a) For pension instalments payable for periods on or after January 1, 2002, the amount of the reduction in annual pension, for participation in the *Canada Pension Plan* or the *Quebec Pension Plan*, of a member, or a survivor of a member, calculated under Schedule 1 of the *Teachers' Pension Act* or a predecessor act, is recalculated using the five year average of the Year's Maximum Pensionable Earnings, as described in subsection (4), in the formula used to calculate the reduction, but the amount of the reduction to provide for a higher survivor pension or a 10 year guaranteed pension will not be recalculated. (Last amended September 8, 2006 – Effective April 1, 2001)
- (5) Where a reduction is applied as provided in subsection 81(2)(b) and the member's *Canada Pension Plan* or *Quebec Pension Plan* disability pension is terminated before the member reaches sixty-five years of age, the reduction will be suspended, effective the month following the month of the termination, until the payment of pensions due the month after the earlier of,
- (a) the month in which the member reaches sixty-five years of age; or
 - (b) the month in which the first instalment of the member's disability pension, if any, under the *Canada Pension Plan* or the *Quebec Pension Plan* is due.

(Last amended April 15, 1998 - Effective January 1, 1997)

C. Payment of Benefits

Application for benefit

- 82.** (1) No benefit under the plan shall be paid before the administrator receives an application for it in the form provided by the administrator.

Election or direction

- (2) An election available under the plan or a direction that may be given to the administrator shall be made or given in the form provided by the administrator.

Repayment

- 82a.** A person who receives payments to which the person is not entitled shall repay the amounts so received, together with interest thereon calculated at the standard interest rate. (Last amended May 5, 2010 – Effective January 1, 2002)

Multiple pensions

- 83.** No member is entitled to payment of more than one pension under the plan during the same month or other payment period in respect of the member's credited service.

Commutation of pensions

- 84.** The administrator shall pay the commuted value of a pension, other than a disability pension or dependent child pension, in accordance with subsections 44 (7) and (7.1), or clause 50 (1) (a), of the *Pension Benefits Act*. (Last amended January 15, 2014 – Effective January 1, 2014)

Shortened life expectancy

- 84a.** (1) Upon application by a member, the administrator shall pay the commuted value of a pension or deferred pension in such circumstances of shortened life expectancy as may be prescribed under subsection 49(2) of the *Pension Benefits Act*, provided the prescribed conditions under that Act are satisfied. (Last amended June 17, 2003 – Effective March 3, 2000)

Amount

- (2) Subject to subsections (3) and (4), the amount payable under subsection (1) shall be determined in accordance with the *Pension Benefits Act* and accepted actuarial practice. (Last amended September 8, 2006 – Effective March 3, 2000)

Idem

- (3) The commuted value of a deferred pension shall be determined as if the member had a normal life expectancy. (Last amended June 17, 2003 – Effective March 3, 2000)

Idem

- (4) The commuted value of a pension shall be determined based on the member having a shortened life expectancy. (Last amended June 17, 2003 – Effective March 3, 2000)

Application void

- (5) An application made under this section is void if the member dies before the benefit under subsection (1) is paid. (Last amended June 17, 2003 – Effective March 3, 2000)

Deemed cessation

- (6) A member who makes an application under this section and who satisfies the evidentiary requirements of the *Pension Benefits Act* is deemed to have ceased employment in education for the purposes of membership in the pension plan, on the date the member's physician signs the statement required under the *Pension Benefits Act*. (Last amended June 20, 2012 – Effective January 1, 2007)
- (7) If a direction under section 70 regarding a "new spouse" has been delivered to the administrator, the benefit under subsection 84a (1) shall not be paid unless the "new spouse" provides to the administrator a signed statement waiving any entitlement under section 70. (Last amended June 20, 2012 – Effective March 3, 2000)

Deductions from
pensions

- 85.** (1) Despite section 65 of the *Pension Benefits Act*, a person receiving a pension under the pension plan or an allowance under a predecessor Act may direct the administrator to deduct and remit from the pension or allowance on behalf of the person,
- (a) premiums payable under the Ontario Health Insurance Plan by the person;
 - (b) premiums for life, medical, dental or health-related insurance payable by the person under a contract of group insurance approved by the administrator for the purpose of this section; and
 - (c) membership fees payable to The Retired Teachers of Ontario (RTO)/Les enseignantes et enseignants retraités de l'Ontario (ERO). (Last amended September 8, 2006 – Effective January 1, 1999)

Conditions

- (2) The administrator may impose and require compliance with such conditions as the administrator considers appropriate before acting upon a direction.

Revocation of
direction

- (3) A person making a direction may revoke it by written notice to the administrator.

Termination of
pension

- 86.** Every pension terminates as of the end of the month in which the event that terminates the pension occurs.

No assignment
etc.

- 86a.** No pension or benefit shall be capable of being assigned, charged, anticipated, given as security or surrendered except as provided for in the *Pension Benefits Act*. (Last amended September 8, 2006 - Effective January 1, 1992)

D. Administration

Appeal of
decision

- 87.** (1) A person who is aggrieved by a decision of an employee of the administrator respecting the person's entitlement to, or the amount of, a pension benefit may appeal the decision to a committee of the administrator designated for the purpose of this section and the committee of the administrator shall determine the appeal. (Last amended April 15, 1998 - Effective October 1, 1997)

Idem

- (2) An appeal shall be made in accordance with the procedures established by the administrator.

Determination of
commuted value

- 88.** The commuted value of a benefit shall not be less than the amount calculated in accordance with the *Recommendations for Minimum Transfer Values of Pensions* published from time to time by the Canadian Institute of Actuaries and shall be calculated using the rate of interest specified by, and such actuarial tables as may be adopted by, the administrator.

Calculation of interest

- 89.** (1) Unless otherwise indicated, interest shall be calculated at the standard interest rate. For a given year, the standard interest rate attributable to a transaction is a rate equal to the average yield for the 12 month period, ending on the 31st day of October in the preceding calendar year, of five-year personal fixed term chartered bank deposit rates as determined from the Canadian Socio-Economic Information Management (CANSIM) Series V 122515 published monthly in the Bank of Canada Review and interest is compounded annually each December 31st. (Last amended September 8, 2006 - Effective September 1, 2006)

Idem, transitional

- (2) For 1990 the standard interest rate attributable to a transaction is the weighted average effective annual yield of the debentures held by the Teachers' Superannuation Fund under the *Teachers' Superannuation Act, 1983* as at the 31st day of December, 1989.

Idem, transitional

- (3) Interest payable in respect of a period before the 31st day of December, 1989 shall be calculated up to that date at the applicable rate in effect under the *Teachers' Superannuation Act, 1983* and at the applicable standard rate in effect thereafter. (Last amended June 1, 1995 - Effective June 1, 1995)

Interest on
contributions

- (4) Interest credited under the pension plan on contributions shall be calculated in accordance with the *Pension Benefits Act* and credited to the member as at the 31st day of December in each year.

Interest on lump sums

- (5) Interest is payable in accordance with the *Pension Benefits Act* on a lump sum payment of the commuted value of a benefit from the effective date of the determination of the commuted value to the day before the lump sum is paid. (Last amended February 28, 1992 - Effective January 1, 1992)

Report re employment
in education

- 90.** (1) Revoked. (Last amended May 6, 2010 – Effective September 1, 2012)

Failure to report

- (2) Revoked. (Last amended May 6, 2010 – Effective September 1, 2012)

Prior refund re
multiple pensions

- 91.** Revoked. (Last amended April 15, 1998 - Effective January 1, 1992)

PART IX

PURCHASE OF CREDIT FOR SERVICE

A. General

Purchases, general

- 92.** (1) A member may purchase or receive a maximum of five years of credited service,
- (a) under sections 10 (2a), 10 (2f), 10 (4), 12a, 94 and 96, and
 - (b) for any unpaid portion of a period under subsections 10 (2e) and 10 (2g) in respect of which compensation is prescribed in accordance with Regulation 8507 (1) (a) of the *Income Tax Act* (Canada),

for absences after the 31st day of December, 1990.

(Last amended July 21, 2014 – Effective September 1, 2014)

Idem

- (2) Subject to section 28, a member may not purchase credited service for a period of time for which the member has credited service under the plan. (Last amended December 20, 1999 - Effective September 1, 1998)

Past service
pension adjustment

- 92a.** (1) The purchase of credited service by a member who requires certification of a Past Service Pension Adjustment under the *Income Tax Act* (Canada) is not complete until the administrator has obtained a certificate from the Minister of National Revenue. (Last amended February 28, 1992 - Effective January 1, 1992)

Idem

- (2) Credited service in respect of which certification has been obtained from the Minister of National Revenue shall not be included in the credited service maximums in subsections 92 (1) and 94 (15). (Last amended February 28, 1992 - Effective January 1, 1992)

Purchases, transitional

- 93.** (1) The purchase of credited service by a member who delivers a completed application to the administrator before the 1st day of January, 1992 shall be made in accordance with sections 9, 10, 36, 45 and 48 of the *Teachers' Superannuation Act, 1983* and with sections 7 to 14 of Ontario Regulation 423/84 as those sections read on the 31st day of December, 1989.

Idem

- (2) The *Teachers' Superannuation Act, 1983* as it reads on the 31st day of December, 1989 continues to apply for the purpose of determining a purchase of credited service under subsection (1).

Idem

- (2a) Despite subsections (1) and (2) a member who has delivered a completed application to the administrator before the 1st day of January 1992 who fails to pay all of the contributions required to complete the purchase of credited service applied for before the 31st day of December, 1994 shall receive credited service in an amount based upon the contributions plus interest which he or she has actually made. (Last amended June 28, 1990 - Effective June 28, 1990)

Transitional

- (3) Sections 95, 96 and 99 apply with respect to a member's application before the 1st day of January, 1992 in the circumstances described in those sections.

End of transitional
period

- (4) A person is not eligible after the 31st day of December, 1994 to make or complete a purchase of credited service to which a predecessor Act applies.

Interest rate

- (5) For the purpose of a purchase of credited service described in subsection (1) for a period on or after the 1st day of January, 1990, references to the applicable rate of interest in Ontario Regulation 423/84 shall be read as if they were references to the standard interest rate.

Idem

- (6) Subsection 89 (3) (calculation of interest, transitional) does not apply with respect to a purchase of credited service described in subsection (1) for a period before the 1st day of January, 1990.

B. For Employment in Education

Absences

- 94.** (1) In this section,

“absence” means either an employer-approved leave of greater than five consecutive school days or a break in service;

"break in service" means a period when a member is not employed in education or is absent from employment without the employer's consent.

(Last amended July 21, 2014 – Effective September 1, 2014)

Purchase re break in
service

- (2) A member may purchase credited service for a break in service approved by the administrator for a period of disability immediately following a period of employment in education, where the member ceases to be employed in education as a result of the disability and meets the definition of “disabled” as defined under Regulation 8500 (1) of the *Income Tax Act* (Canada). (Last amended August 4, 2011 – Effective December 2, 2010)

Application for
purchase re break
in service

- (2a) A member shall apply to purchase credited service for a break in service within two years after the date when the member ceases, as a result of the disability, to be employed in education. (Last amended August 4, 2011 – Effective December 2, 2010)

Idem

- (2b) The administrator shall accept an application to purchase credited service for a break in service that is made after the time described in subsection (2a) if the administrator is satisfied,
- (a) that the delay in making the application resulted from a delay in diagnosing the disability;
or
 - (b) that the member was unable, because of the effects of the disability, to make the application within the time described in subsection (2a).

(Last amended August 4, 2011 – Effective December 2, 2010)

Proof of disability

- (2c) No application to purchase credited service for a break in service shall be considered by the administrator until the administrator has received the certificate of a medical doctor licensed in Ontario certifying that the applicant became mentally or physically disabled while employed in education and indicating the nature and degree of the disability. (Last amended August 4, 2011 – Effective December 2, 2010)

Ongoing proof
of disability

- (2d) The administrator may at any time require a member who has applied to purchase credited service for a break in service to furnish evidence, in such form as the administrator directs, that the member was disabled, as defined under Regulation 8500 (1) of the *Income Tax Act* (Canada), throughout the break in service. A member's entitlement to purchase credited service for a break in service shall terminate if the administrator is not satisfied that the member is disabled. (Last amended August 4, 2011 – Effective December 2, 2010)

Limit

- (2e) Despite subsections 92 (1) and 92a (2), no member may purchase credited service for a break in service in respect of a period that is after the fifth anniversary of the start of the break in service. (Last amended August 4, 2011 – Effective December 2, 2010)

Application

- (3) A member may apply to purchase credited service for an absence by notifying the administrator of the member's intent to purchase. (Last amended December 30, 2009 - Effective September 1, 2010)

Purchase re absence	(3a) A member may only purchase credit for an absence for service outside of Canada, where that service was arranged by the member's employer, if the purchase is made on an ongoing basis during the period of the leave. (Last amended April 2, 2001 – Effective September 1, 2001)
Idem	(4) A member may purchase credited service for all or part of an absence. (Last amended April 2, 2001 – Effective September 1, 2001) (4a) Despite subsection (4) a member on an absence from other than a full-time position is entitled to purchase credit under this section only for the time that, in the opinion of the administrator, the member would have been employed for compensation but for the absence. (Last amended December 30, 2009 - Effective September 1, 2010)
Amount of contribution	(5) No member may purchase credited service for an absence for the purpose of service in political office if the member is contributing to or is entitled to a pension under another registered pension plan other than the <i>Canada Pension Plan</i> or the <i>Quebec Pension Plan</i> in respect of the service. (6) A member who purchases credited service on a monthly basis during the period of the absence shall contribute, (a) the required contributions, based on the pensionable salary that the member's employer advises the administrator that the member would have earned, if the member were not absent, and as if the member were not required to contribute to the <i>Canada Pension Plan</i> or to the <i>Quebec Pension Plan</i>; and (b) for any late monthly payments, interest thereon calculated at the standard interest rate from the date each contribution would have been made and ending on the day before the payment is made. (Last amended April 2, 2001 – Effective September 1, 2001)
Idem	(6a) A member who purchases credited service other than on a monthly basis during the period of the absence shall contribute, on or before the end of the month in which the fifth anniversary of the end of the absence occurs, a lump sum which is equal to, (a) the required contributions, based on the pensionable salary that the member's employer advises the administrator that the member would have earned, if the member were not absent, and as if the member were not required to contribute to the <i>Canada Pension Plan</i> or to the <i>Quebec Pension Plan</i>; and (b) interest thereon calculated at the standard interest rate from the date each contribution would have been made and ending on the day before the payment is made. (Last amended April 2, 2001 – Effective September 1, 2001)
Idem	(6b) Despite subsections (6) and (6a), a member who purchases credited service on or after the 1st day of September, 2010, shall contribute, on or before the end of the month in which the fifth anniversary of the end of the absence occurs, (a) the required contributions, based on the pensionable salary as determined in accordance with section 14, and as if the member were not required to contribute to the <i>Canada Pension Plan</i> or to the <i>Quebec Pension Plan</i>; and (b) interest thereon calculated at the standard interest rate from the first day of the month following the month in which the end of the absence occurs and ending on the day before the payment is made. (Last amended December 30, 2009 - Effective September 1, 2010)

Transition

- (6c) Subsection (6b) shall only apply where the member has not previously completed payment for the purchase of the entire eligible absence period. (Last amended October 19, 2012 - Effective September 1, 2010)

Transition: Interest calculation for the portion of an absence previously considered complete

- (6d) Despite subsections (6b) and (6c), where, in the opinion of the administrator, payment was considered to be complete as of the 1st day of September, 2010 for a portion of the entire eligible absence period, the interest applicable to that portion of the absence shall be calculated in accordance with subsection (6) (b) or (6a) (b). (Last amended October 19, 2012 - Effective September 1, 2010)

Due date

- (7) Revoked. (Last amended April 2, 2001 – Effective September 1, 2001)

Return date

- (8) Revoked. (Last amended April 2, 2001 – Effective September 1, 2001)

Matching contributions for purchases

- (9) A contribution under subsection (6), (6a) or (6b) is considered to be a required contribution for the purpose of sections 25 and 26, and the required matching contribution shall be paid by the employer making the employer contributions in respect of the member immediately before the absence. (Last amended December 30, 2009 - Effective September 1, 2010)

Idem

- (9a) Despite subsection (9), where a member was employed by a designated private school or a designated organization immediately before the absence and the employer is dissolved or in receivership at the time of the member's application to purchase credited service, the required matching contribution for a purchase of credited service for a break in service shall be paid by the member. (Last amended August 4, 2011 – Effective December 2, 2010)

Amount of contribution, delayed election

- (10) Revoked. (Last amended April 2, 2001 – Effective September 1, 2001)

Advance payments

- (11) Revoked. (Last amended April 2, 2001 – Effective September 1, 2001)

Idem

- (12) Revoked. (Last amended April 2, 2001 – Effective September 1, 2001)

No refund

- (13) A member who makes contributions for an absence is not entitled to a refund of those contributions at any time, except to the extent that the member's purchase is not completed in accordance with subsection 92a.(1). (Last amended April 2, 2001 – Effective September 1, 2001)

Proportionate credit

- (14) A member who does not complete payment for the full period of an absence shall receive proportionate credit. (Last amended April 2, 2001 – Effective September 1, 2001)

Maximum purchase,
birth or adoption

- (15) Despite subsection 92 (1) a member may also purchase a maximum of three years of credited service in respect of absences after the 31st day of December, 1990 taken at the birth or adoption of the member's children. (Last amended April 2, 2001 – Effective September 1, 2001)

Idem

- (16) For the purposes of subsection (15) a member may purchase a maximum of one year of credited service for an absence taken at the birth or adoption of the member's child or if more than one child is born or adopted at once, in respect of one such birth or adoption. (Last amended April 2, 2001 – Effective September 1, 2001)

Eligibility for
purchase

- (17) Revoked. (Last amended May 5, 2010 – Effective September 1, 2009)

Lump sum
payments

- (18) Revoked. (Last amended June 28, 1990 - Effective June 28, 1990)

End Date

- (19) For the purposes of this section, the end of an absence occurs on the last day that, in the opinion of the administrator, the member could have worked if not for the absence. (Last amended December 30, 2009 - Effective September 1, 2010)

End date

- (20) Despite subsection (19), the end of an absence for a member who purchases credited service for a break in service shall be no later than the fifth anniversary of the start of the break in service. (Last amended October 19, 2012 - Effective September 1, 2010)

Transitional
rules

- 94a.** (1) A member whose absence ended prior to September 1, 2001 and who,
- (a) returned to employment in education, following the absence, on or after September 1, 1996 but prior to September 1, 2001, or
 - (b) did not return to employment in education, following the absence, prior to September 1, 2001,
- shall have until December 31, 2004 to complete a purchase of the absence. (Last amended April 2, 2001 – Effective September 1, 2001)
- (2) A member who completes a purchase in accordance with subsection (1) shall contribute a lump sum on a contributions plus interest basis calculated in accordance with subsection 94 (6a). (Last amended April 2, 2001 – Effective September 1, 2001)
- (3) A member whose absence ended prior to September 1, 2001 and who returned to employment in education, following the absence, prior to September 1, 1996 shall have until December 31, 2002 to complete a purchase of the absence by notifying the administrator by that date and by making the purchase within 90 days of the provision of a purchase cost quotation. (Last amended April 2, 2001 – Effective September 1, 2001)
- (4) A member who completes a purchase in accordance with subsection (3) shall contribute a lump sum which is, on the date of the purchase, equal to the actuarial cost of the expected pension improvement. (Last amended April 2, 2001 – Effective September 1, 2001)

- (5) This section shall only apply where the member has not previously completed a purchase of the absence, in which case the member may complete the purchase in accordance with this section without having to meet the requirements of subsection 94 (3) as it read on August 31, 2001. (Last amended April 2, 2001 – Effective September 1, 2001)

Transitional application
deadline re:
breaks in service

- 94b.** (1) A member may purchase credited service for a break in service in accordance with subsection 94 (2) as it read on the 1st day of December, 2010, if the member delivers to the administrator a completed application to purchase credit, in the form provided by the administrator, including all supporting documents, by the 31st day of August, 2011. (Last amended August 4, 2011 – Effective December 2, 2010)

Transitional payment
deadline re:
breaks in service

- (2) Despite subsections 94 (6) to (6c), a member described in subsection (1) shall have until the 30th day of December, 2011 to complete payment of the amount required under subsection 94 (6b). (Last amended August 4, 2011 – Effective December 2, 2010)

Absence during a
school year

- 95.** (1) Revoked. (Last amended June 20, 2012 – Effective January 1, 2012)

Amount of contribution

- (2) Revoked. (Last amended June 20, 2012 – Effective January 1, 2012)

Interest payable

- (3) Revoked. (Last amended April 2, 2001 – Effective September 1, 2001)

Status of contributions

- (4) Revoked. (Last amended April 2, 2001 – Effective September 1, 2001)

Due date

- (5) Revoked. (Last amended April 2, 2001 – Effective September 1, 2001)

Required contribution

- (6) Revoked. (Last amended April 2, 2001 – Effective September 1, 2001)

Absence re strike or
lockout

- 96.** (1) A member may contribute for days that the member is absent from employment in education for the purpose of participating in a legal strike or the strikes declared illegal by the Ontario Labour Relations Board on May 26, 2015 for the following periods:
- (a) Durham District School Board – April 20, 2015 – May 26, 2015
 - (b) Rainbow District School Board – April 27, 2015 – May 26, 2015
 - (c) Peel District School Board – May 4, 2015 – May 26, 2015,
- or because of a lockout. (Last amended September 22, 2015 – Effective April 20, 2015)

Amount of
contribution

- (2) The member shall contribute the amount of the member's required contribution for each day of absence plus the amount of the corresponding employer's contribution.

Interest payable

- (3) The member shall pay interest, calculated at the standard rate, on any contribution received by the administrator more than one month after the end of the absence. (Last amended June 1, 1995 - Effective June 1, 1995)

For former membership

- 97.** (1) This section applies with respect to a member who previously received a refund of required contributions under the pension plan. (Last amended April 2, 2001 – Effective September 1, 2001)

Eligibility

- (2) No member may purchase credited service under this section until the member has accumulated, through employment in education, seventy days of credited service in one school year after returning to active membership.

Election within one year

- (3) A member who elects to purchase credited service on or before the later of the first anniversary of the member's return to active membership and the 1st day of January, 1994 shall contribute the amount previously refunded together with interest thereon from the date the refund was made to the first day of the month in which the contribution is paid, calculated at the standard interest rate in effect on the date the refund was made. (Last amended April 2, 2001 – Effective September 1, 2001)

Limit

- (4) No member may purchase more days of credited service under subsection (3) than the number of days in respect of which the member received the refund.

Due date

- (5) A contribution under subsection (3) shall be paid as a lump sum before the later of the third anniversary of the member's return to active membership and the 1st day of January, 1995.

Required contribution

- (6) A member who elects to purchase credited service after the deadline referred to in subsection (3) or who fails to make the payment before the deadline in subsection (5) shall contribute a lump sum which is, on the date of the purchase, equal to the actuarial cost of the expected pension improvement.

Repurchase of credited service

- 97a.** (1) A member referred to in section 37 who becomes re-employed in education for more than 20 days in one school year may purchase credited service in an amount not greater than the credited service in respect of which a transfer and refund were made under that section. (Last amended February 28, 1992 - Effective January 1, 1992)

Amount of contribution

- (2) A member who elects to purchase credited service under subsection (1) shall contribute a lump sum equal to the greater of,
 - (i) the amounts transferred and refunded under section 37 together with interest thereon calculated at the standard rate from the day of the transfer or refund to the day before the payment is made; or

- (ii) the actuarial cost, on the date of the purchase, of the expected pension improvement. (Last amended February 28, 1992 - Effective January 1, 1992)

Approved service
outside Ontario

98. (1) Revoked. (Last amended December 20, 1999 - Effective January 1, 1992)

Idem

- (2) Revoked. (Last amended December 20, 1999 - Effective January 1, 1992)

Limit

- (3) Revoked. (Last amended February 28, 1992 - Effective January 1, 1992)

Amount of
contribution

- (4) Revoked. (Last amended December 20, 1999 - Effective January 1, 1992)

Transitional re
designated private
schools

99. (1) This section applies to an active member,
- (a) who is employed in an organization designated under the *Teachers' Superannuation Act, 1983* or in a school within the meaning of section 1 of the *Education Act*;
 - (b) who was employed before the 1st day of September, 1986 in a private school designated under a predecessor of this Act;
 - (c) who was employed on the 1st day of September, 1986 and for at least twenty days during the school year beginning on that date in an organization designated under the *Teachers' Superannuation Act, 1983* or in a school within the meaning of section 1 of the *Education Act*; and
 - (d) who elected before the 1st day of September, 1986 to be excluded from the benefits and obligations of the predecessor Act.

Purchase

- (2) An active member may purchase credited service in accordance with subsections 13 (4), (6) and (7) of Ontario Regulation 423/84 as they read on the 31st day of December, 1989, with necessary modifications, for past teaching service in a private school designated under a predecessor of this Act.

Idem

- (3) No member is entitled to apply to purchase credited service under this section after the 31st day of December, 1991.

C. For other Employment

For war service

100. (1) Revoked. (Last amended September 8, 2006 – Effective December 31, 2006)

Idem

- (2) Revoked. (Last amended September 8, 2006 – Effective December 31, 2006)

For teaching special
subjects

101. (1) Revoked. (Last amended September 8, 2006 – Effective December 31, 2006)

Idem

(2) Revoked. (Last amended September 8, 2006 – Effective December 31, 2006)

For foreign service as
an educator

102. (1) Revoked. (Last amended December 20, 1999 - Effective January 1, 1992)

Eligibility

(2) Revoked. (Last amended December 20, 1999 - Effective January 1, 1992)

Limit

(3) Revoked. (Last amended February 28, 1992 - Effective January 1, 1992)

Amount of
contribution

(4) Revoked. (Last amended December 20, 1999 - Effective January 1, 1992)

For other employment,
R.S.C. 1952, c. 148

103. (1) A member may purchase credited service in the pension plan for employment not otherwise described in this Part if the employment was pensionable service under another pension plan registered under the *Income Tax Act* (Canada). (Last amended April 2, 2001 – Effective September 1, 2001)

Transfer from other
plan

(2) For service prior to January 1, 1992, all funds associated with the service under the other plan shall be transferred to the pension plan and applied to the cost of the member's expected benefit improvement. Where no funds remain in the other plan, the member is not entitled to purchase pre-1992 credited service under this section. (Last amended September 8, 2006 - Effective January 1, 1992)

Amount of
contribution

(3) For service after December 31, 1991, the member shall contribute an amount equal to the actuarial cost of the expected benefit improvement. (Last amended June 29, 1994 - Effective January 1, 1992)

(4) If the amount transferred under subsection (2) is less than the actuarial cost of the expected benefit improvement, the member shall contribute a lump sum which, on the date of the purchase, is equal to the difference. (Last amended June 29, 1994 - Effective January 1, 1992)

D. Reciprocal Agreements

Reciprocal agreements

104. (1) The administrator may enter into an agreement with the authorized representative of another pension plan respecting the terms upon which persons may transfer benefits and contributions between that plan and the pension plan.

Idem

- (2) A reciprocal agreement must provide that a person transferring benefits and contributions to the pension plan acquires a benefit under the plan based upon the actuarial cost of the expected benefit on the date of the transfer.
- (3) If a reciprocal agreement provides that a person may elect to pay directly to the administrator part or all of the difference between the required amount and the amount transferred (the “shortfall”), and provides the administrator with the authority to establish a deadline by which a person must complete payment of the shortfall, a person who elects to pay the shortfall shall complete such payment on or before the end of the month in which the fifth anniversary of the date the application to transfer was received by the administrator occurs. (Last amended June 20, 2012 – Effective September 1, 2001)

Reciprocal agreements,
transitional

- 105.** (1) Subject to subsection (2), reciprocal agreements entered into before the 1st day of January, 1990 by the Teachers' Superannuation Commission under section 49 of the *Teachers' Superannuation Act, 1983* are continued and expire on the 31st day of December, 1996.

Idem

- (2) Reciprocal agreements referred to in subsection (1) do not expire on the 31st day of December, 1996 if, before that date, the reciprocal agreement is amended to include a term described in subsection 104 (2) or if the agreement includes such a term.

E. Administration

Application for
purchase

- 106.** An application to purchase credited service shall be made in a form provided by the administrator and shall be delivered to the administrator.

Applicability

- 106a.** (1) Subsections 11 (6) to (9), 14 (1a) to (1i), 15 (2b), 94 (4a), (6b), (6c) and (9), as they read on the 1st day of September, 2010 apply to members who cease to be employed in education before the 1st day of September, 2010. (Last amended August 4, 2011 – Effective September 1, 2010)

Idem

- (2) Subsections 94 (2) to (2e) and section 94b, as they read on the 2nd day of December, 2010 apply to members who cease to be employed in education before the 2nd day of December, 2010. (Last amended August 4, 2011 – Effective December 2, 2010)

Idem

- (3) Section 84, as it read on the 1st day of January, 2014, applies to members who cease to be employed in education before the 1st day of January, 2014. (Last amended January 15, 2014 – Effective January 1, 2014)

Employed
in education

- 106b.** For a member who ceases to be employed in education before, on or after the 1st day of January, 2011, credited service purchased in accordance with subsection 94 (2) in respect of a period on or after the 1st day of January, 2011 is considered to be employment in education for the purposes of determining benefits. (Last amended August 4, 2011 – Effective January 1, 2011)

Effective date of purchase	107.	A purchase of credited service is effective on the day the payment in relation to the purchase is made. (Last amended April 2, 2001 – Effective September 1, 2001)
Purchase of partial credit	108.	A member who is entitled to purchase credited service for a period of employment or an absence may purchase credited service for a part of the employment or absence. (Last amended April 2, 2001 – Effective September 1, 2001)
Contribution by spouse, etc.	109.	A member who dies before completing a purchase of credited service shall receive credited service in an amount based upon the contributions plus interest which he or she has made. (Last amended June 29, 1994 - Effective January 1, 1992)
Idem	(2)	Revoked. (Last amended June 29, 1994 - Effective January 1, 1992)
Lump sum payments	109a.	A lump sum payment under this Part may consist of, (a) a partial payment by means of a transfer permitted under the <i>Income Tax Act</i> (Canada); and (b) a second payment of the balance of the amount required to pay for the credited service being purchased by the lump sum. (Last amended June 28, 1990 - Effective June 28, 1990)
Eligibility for purchase	109b.	A member is not eligible to purchase credited service while receiving a pension. (Last amended May 5, 2010 – Effective September 1, 2009)

PART X ADMINISTRATION OF THE PLAN

A. General

Extension of time	110.	The administrator may extend any time limit under the pension plan before or after the expiration of the time if the administrator is satisfied that there are reasonable grounds for the extension, and may give such directions as the administrator considers appropriate consequent upon the extension.
Provision of information	111. (1)	The administrator shall provide to each member of the pension plan the information and documents required under this Act or any other Act.
Idem, to administrator	(2)	A member, a person who applies for, or receives, a pension, refund or other payment from the pension fund, a board of education or an employer of a member shall provide the administrator, upon request, with such information as the administrator may require to administer the pension plan.

- (2a) The administrator may conduct an audit of the records of a board of education or an employer for the purpose of validation of information required for administration of the pension plan. (Last amended June 20, 2012 – Effective January 1, 2012)

Idem, to members

- (3) The administrator shall provide within a reasonable time to a member, upon written request, all information relating to the member's contributions and entitlements under the pension plan.

Fiscal year

- 112.** The fiscal year of the pension plan is the twelve-month period that begins on the 1st day of January.

Actuarial calculations

- 113.** Actuarial calculations and determinations required under the pension plan shall be made using such actuarial assumptions, principles and methods as may be required or adopted by the administrator.

B. Pension Fund

Payments from
pension fund

- 114.** A payment required under the pension plan must be paid from the pension fund.

Requirement to invest

- 115.** Moneys in the pension fund that are not required to be paid out must be invested to meet the obligations of the pension plan.

C. Surplus and Deficiency

Actuarial gain

- 116.** Revoked. (Last amended January 24, 1992 - Effective January 1, 1992)

Surplus

- 117.** Revoked. (Last amended January 24, 1992 - Effective January 1, 1992)

Requirement to
contribute to deficit

- 118.** Revoked. (Last amended November 15, 1993 - Effective November 15, 1993)

Wind Up

- 118a.** If the pension plan is wound up within the meaning of the *Pension Benefits Act*, the assets of the pension fund shall first be used to pay or satisfy properly incurred liabilities to creditors, following which the remaining assets of the pension fund shall be used to pay or satisfy the accrued benefit entitlements of members, former members, retired members and any other persons entitled to a benefit under the pension plan in respect of a member, former member, or retired member before any other distribution is made. (Last amended September 28, 2015 – Effective September 28, 2015)

PART XI DESIGNATION OF PRIVATE SCHOOLS AND ORGANIZATIONS

Private schools

- 119. (1)** The Partners' Committee by notice to the administrator may designate a school, college, academy or other educational institution as a designated private school for the purpose of the pension plan,

- (a) if it gives instruction equivalent to that given in elementary or secondary schools in Ontario;
- (b) if it is not supported in any way by school taxes or by provincial or municipal grants; and
- (c) if it meets the criteria set out in subsection (3). (Last amended June 1, 1995 - Effective January 1, 1992)

Organizations

- (2) The Partners' Committee by notice to the administrator may designate an organization as a designated organization for the purpose of the pension plan,
 - (a) if it provides services related to elementary or secondary education; and
 - (b) if it meets the criteria set out in subsection (3). (Last amended June 1, 1995 - Effective January 1, 1992)

Criteria

- (3) The school, college, academy or other educational institution or the organization,
 - (a) must not be operated for profit or gain and any profits must be used to carry out its objects; and
 - (b) by its governing body must undertake in writing to make the reports described in subsection (5), to pay the amounts described in subsection (6), and to perform all administrative functions required of an employer for the purposes of the pension plan.

Effective date of designation

- (4) A notice of designation under subsection (2) shall specify the effective date. (Last amended April 15, 1998 - Effective January 1, 1992)

Reports

- (5) The administrator may require a designated private school or designated organization to make annual reports for the purpose of the administration of this Act and the pension plan and to supply such information as to its constitution, operations, teaching staff and otherwise as the administrator may require.

Payments under the plan

- (6) A designated private school or designated organization shall, in accordance with the pension plan, make the employer contributions and collect and remit the contributions by its employees who become active members of the pension plan.

Past service in prescribed schools and institutions

- 119a.**(1) Revoked. (Last amended June 1, 1995 - Effective January 1, 1992)
- (2) Revoked. (Last amended June 1, 1995 - Effective January 1, 1992)

Termination of designation

- 120.** (1) Revoked. (Last amended June 1, 1995 - Effective January 1, 1992)

Grounds

- (2) The Partners' Committee by notice to the administrator may terminate the designation of a designated private school or a designated organization,
 - (a) if the designated private school or designated organization, by its governing body, has requested the termination of the designation;
 - (b) if the designated private school or designated organization is not complying with its undertakings; or
 - (c) if there is a change in the objects or mode of carrying out the objects of the designated private school or designated organization. (Last amended June 1, 1995 - Effective January 1, 1992)

Notice and submissions

- (3) The Partners' Committee shall give notice of the termination to the governing body and to the employees of the designated private school or designated organization who are active members of the pension plan. (Last amended June 1, 1995 - Effective January 1, 1992)

Effective date

- (4) A notice of termination of designation shall specify the effective date. (Last amended June 1, 1995 - Effective January 1, 1992)

Effect of termination of designation

- (5) Upon the termination of a designation, the employees of the private school or the organization cease to be eligible to be active members of the pension plan.

Idem

- 121.** (1) Revoked. (Last amended December 21, 2007 - Effective September 1, 2008)

Effective date

- (2) Revoked. (Last amended December 21, 2007 - Effective September 1, 2008)

Designations, transitional

- 122.** The designation of a designated private school, designated organization and a designated capacity under the *Teachers' Superannuation Act, 1983* that is in effect on the 31st day of December, 1989 shall have effect as a designation made under this Part.

PART XII-ONTARIO TEACHERS' PENSION PLAN BOARD (REVOKED)

(Last amended January 24, 1992 - Effective January 1, 1992)

.....

C - Partners Agreement and related Schedules and Amendments.pdf

This is an AGREEMENT

BETWEEN:

Her Majesty the Queen
in right of the Province of Ontario
represented by the Minister of Education and Training
("the Minister")

and

The Ontario Teachers' Federation
represented by its Executive
("the OTF")

These are the terms to which the Minister and the OTF agree;

Introduction

1. The Minister and the OTF have agreed to establish a partnership for the purpose of designing and administering the Ontario Teachers' Pension Plan and managing the Ontario Teachers' Pension Fund.
2. It is the intention of the partners that this partnership will start on the 1st day of January, 1992.
3. In this agreement,
 - (a) the Minister and the OTF will be referred to as the "partners" or the "partnership".
 - (b) the Ontario Teachers' Pension Plan Board continued by the *Teachers' Pension Act, 1989* will be referred to as "the Board".
 - (c) the Ontario Teachers' Pension Plan continued by the *Teachers' Pension Act, 1989* will be referred to as the "pension plan" or the "plan" and,
 - (d) the Ontario Teachers' Pension Fund continued by the *Teachers' Pension Act, 1989* to provide benefits in respect of the pension plan will be referred to as the "pension fund" or the "fund".
4. The partnership established by this agreement is intended to govern all aspects of the plan and the fund. Wherever this agreement differs with any law, that part of the agreement is of no effect but the rest of the agreement continues to govern the plan and the fund.
5. The Minister agrees to do everything possible to make sure that the Teachers' Pension Plan Board will not be considered a Scheduled Agency under the Guidelines of the Management Board of Cabinet.
6. The Minister agrees to do everything possible to have subsection 43(3) of Ontario Regulation 708/87 amended to provide that the pension fund is no longer exempted from the application of subsection 23(1) of the *Pension Benefits Act*.

Role of the partners

7. The Minister may designate one or more persons to act in the Minister's place under this agreement. The OTF may designate one or more persons to act in its place under this agreement.
8. The partners will be responsible for designing the plan structure, setting the benefits of the plan, developing new policy, deciding what the contribution rate will be, what the funding levels, margins and contingency reserves will be, making changes to the plan, this agreement or other plan documents, deciding whether or not to file a valuation more frequently than required by the *Pension Benefits Act*, appointing the Board, and defining the role of the Board.
9. The partners will enter into a memorandum of understanding with the Board setting out,
 - (a) the duties of the Board,
 - (b) the process for consultation in the preparation of valuations,
 - (c) the process for consultation on the amount of money to be paid to members of the Board, including the Chair and to members of committees appointed by the Board,
 - (d) the actuarial methods which the Board will use in valuing the plan and,
 - (e) any other terms of the relationship between the partners and the Board to which the partners agree.
10. The partners agree that every three years they will follow the procedure described in this agreement to meet and negotiate changes to the plan.
11. Either partner may ask the other to meet at any time to discuss changes to any of the matters referred to in paragraph 8 and the partners agree to make their best efforts to do so.
 - 11a. The partners agree to meet as required to discuss the amount of the Minister's contribution due on the first business day of January that is to be deferred to the first business day of April of the same year and to determine the interest rate to be applied for the period of the deferral; determination of such interest rate to be guided by the principle that the Teachers' Pension Plan not be disadvantaged by the deferral. (Last amended May 29, 1992 - Effective May 29, 1992)
 - 11b. The partners agree that the payment of a portion of the Minister's contribution that is due on the first business day of January of 1994 and a portion of the Minister's contribution that is due on the first day of January of 1995 may be deferred to March 31 of each respective year: the amount of the deferral, with interest, to equal \$200 million in 1994 and \$125 million in 1995; amounts to be adjusted to reflect payments authorized under Paragraph 65. (Last amended November 15, 1993 - Effective November 15, 1993)
12. If the Board advises the partners that a change must be made to the plan to comply with any law the partners agree that they will meet as soon as possible to discuss it.
13. The partners will establish a Partners Committee by each appointing three members. Either partner may refer to the Committee any matter referred to in paragraph 8 or 12 when no agreement results from discussion of the matter.
14. The Partners Committee may by agreement use the services of the manager of negotiations referred to in paragraph 76 to resolve any dispute. The Committee may by agreement use any dispute resolution mechanism including voluntary arbitration to resolve any dispute.

15. Either partner may ask the actuary hired by the Board to provide or prepare any information which that partner thinks it needs in discussing changes to the plan. The cost of the actuary in preparing that information will be paid out of the fund. The information will be provided to both partners.

- 15a. The partners may initiate, with the Board, discussions, reviews and research regarding the funded status of the plan including the design of conditional inflation protection, the reasonable costs of such reviews and research to be paid out of the fund subject to the prior approval of the Board. (Last amended October 9, 2008 – Effective January 1, 2009)

16. Either partner may audit the plan and the fund at any time at the expense of that partner. The Board will cooperate in the audit.

Role of the Board

17. The Board is responsible for the administration of the pension plan, the management of the pension fund and all other matters set out in this agreement.
18. The Board may exercise every power necessary to administer the pension plan, manage the pension fund and fulfil every other task which the partners assign to it.
19. The responsibilities of the Board include:
- (a) investing and managing the pension fund to do all things possible so that the obligations of the pension plan will be met,
 - (b) preparing a valuation at least every three years to comply with the *Pension Benefits Act*,
 - (c) preparing annual valuations if the Board decides it is appropriate and providing preliminary results to the partners as soon as they are available,
 - (d) deciding on the actuarial assumptions used in administering the plan and in preparing valuations of the plan,
 - (e) consulting with the partners during the preparation of a valuation and making its best effort to respond to any comments and recommendations of the partners. The content of a final valuation is the decision of the Board,
 - (f) giving a copy of every valuation prepared for the Board to each partner and giving any information requested by a partner to each partner as quickly as possible,
 - (g) having the plan and the fund audited every year,
 - (h) preparing a report at the end of every fiscal year that tells how the plan and the fund have been doing in that year,
 - (i) holding a meeting with both partners at least once each year to explain the annual report to them and to answer any questions about the plan and fund,
 - (j) making sure that the plan and the fund are administered and managed to comply with all laws that affect them,
 - (k) advising the partners about any changes to the plan that need to be made to comply with the law,
 - (l) advising the partners about changes that would improve the administration of the plan,

- (m) interpreting the plan and determining benefit entitlements,
- (n) developing an investment policy and giving a copy to each partner and to the Financial Services Commission of Ontario,
- (o) making rules regarding the conduct of its business,
- (p) appointing or electing a vice Chair and any other officers that the Board feels are necessary for the conduct of its business

The Board

- 20. The Board will have a maximum of nine members. The partners will each appoint four members.
- 21. The ninth member of the Board will be the Chair. The process for appointing a Chair is set out in the next section of this agreement.
- 22. The Minister and the OTF will each appoint two members to the Board to terms ending on the 31st day of December, 1992.
- 23. The Minister and the OTF will each appoint two members of the Board whose terms will end on the 31st day of December, 1993.
- 24. If a person appointed under paragraph 19 or 20 is a member of the Board when the partnership starts, the Lieutenant Governor in Council will make an Order changing the length of that person's term.
- 25. After the expiry of the term of a member of the Board who holds office on the 1st day of January, 1992 the partner who recommended to the Lieutenant Governor in Council the appointment of that member will fill the vacancy by appointing or re-appointing.
- 26. Unless a member cannot complete his or her term, is removed or is appointed after a member whose term was extended because of a delay in the appointment of his or her successor, the term of all members appointed after the 1st day of January, 1992 will be two years.
- 27. No person may be a member of the Board for more than four consecutive terms. The initial term of a member who is appointed as a successor under paragraph 29, or as a new member under paragraph 30 or 31, shall not be counted in the number of consecutive terms a member may serve. (Last amended January 15, 2014 – Effective January 1, 2014)
- 28. If no appointment is made to fill the vacancy at the end of a member's term, the member will continue in office until an appointment is made.
- 29. When a successor is appointed to a term after his or her predecessor's term has been extended for failure to appoint a successor, the successor's term will end two years after the predecessor's term would have ended but for the delay in appointment.
- 30. If a member of the Board cannot finish his or her term then the partner who appointed the member may appoint a new member for a term ending on the date when the term of the departing member would have ended.
- 31. At any time either partner may remove a board member whom that partner has appointed and appoint a new member for a term ending on the date when the term of the departing member would have ended.

The Chair

32. The partners may decide together on the person to be appointed as Chair of the Board. The partners agree to meet six months before the term of the Chair of the Board expires to discuss candidates, and attempt to agree upon the Chair.
33. Either partner may initiate the selection of a Chair in the following way as an alternative to the discussion referred to in paragraph 32.
 - (a) The partners will each prepare a list of at least three persons that they would like to be Chair. The partners will give each person named a number indicating priority. The lowest priority will be indicated by the number equal to the number of persons on the list.
 - (b) The partners will then examine the list prepared by the other.
 - (c) If one name appears on both lists that person will be appointed Chair.
 - (d) If two or more persons appear on both lists the priority ratings given to those persons by each partner will be added together. The person whose priority rating adds to the lowest number will be appointed Chair.
 - (e) If no name appears on both lists the partners agree to consult together and to prepare and exchange lists until a name does appear on lists prepared by each.
34. The person selected by the partners will be the Chair for a term of two years beginning on the 1st day of January of the year following selection.
35. No person may be Chair for more than four consecutive terms. Previous terms served by a Chair as a board member shall not be counted in the number of consecutive terms a Chair may serve. (Last amended December 16, 1994 - Effective December 16, 1994)
36. The Lieutenant Governor in Council will make an order making the term of the current Chair of the Board end on the 31st day of December, 1991.
37. If no appointment is made to fill the vacancy at the end of a Chair's term then the Chair will continue in office until an appointment is made.
38. If the Chair cannot finish his or her term then the Minister and the OTF will select a new Chair. The new Chair will be appointed for a term ending on the date when the term of the departing Chair would have ended.
39. The Chair may vote on any matter the Board is considering.

Operation of the Board

40. The Board may appoint committees and delegate to them any function of the Board. The Board may appoint persons who are not Board members to sit on any committee.
41. Committee members will be appointed for a term of up to two years.
42. A quorum of the Board or a Committee is a majority of the members. No meeting of the Board or a Committee may conduct any business unless a member appointed by each partner is present.

43. The Board will decide on a reasonable amount of money to be paid to the Board members, Committee members and the Chair for time and effort spent on Board business. The money will be paid out of the pension fund.
44. If any Board or Committee member is a public servant of Ontario that person will only be paid for any income the person loses as a result of time spent on Board business and for his or her expenses of doing Board business.
45. Any expenses that the Board must pay to operate and to administer the pension plan and manage the pension fund will be paid out of the pension fund.
46. The Board will employ a Chief Executive Officer and such other staff as are necessary to carry out its responsibilities.
47. The Board may decide which of its employees will be able to participate in the Public Service Pension Plan established under the *Public Service Pension Act, 1989* and the Minister agrees to do all things possible to ensure that those employees are covered.
48. The Board may employ persons to provide it with professional, technical or other help.
49. The Board must employ an external actuary and an external auditor.
50. The Board's employees will be paid out of the pension fund.

Indemnification

51. (a) Subject to subsection (e), the Board shall indemnify a person or his or her heirs or legal representatives (the "Indemnee") against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment (collectively "Expenses"), reasonably incurred by the person in respect of any civil, criminal, administrative or investigative action or proceeding (collectively a "Proceeding") to which the person is made or threatened to be made a party by any person including the Board, by reason of being or having been a member, committee member, officer or employee of the Board or a person who acts or acted at the Board's direction as a member, director, officer, employee, partner or agent of another corporation, partnership, joint venture, trust or other enterprises (collectively "enterprise"), if,
 - i) the person acted honestly and in good faith with a view to the best interests of the Board or such other enterprise; and
 - ii) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the person had reasonable grounds for believing that his or her conduct was lawful.

(Last amended August 4, 2011 – Effective September 1, 2000)

- (b) In furtherance of its obligations under subsection (a) the Board may purchase and maintain insurance for the benefit of any person referred to in subsection (a) in relation to any Expenses that may be indemnifiable under subsection (a). (Last amended August 4, 2011 – Effective September 1, 2000)
- (c) The Board's indemnification of a person referred to in subsection (a) and any cost of purchasing and maintaining insurance for the benefit of such person are expenses of operating and administering the pension plan and managing the pension fund and may be paid out of the pension fund. (Last amended August 4, 2011 – Effective September 1, 2000)

- (d) The Board or a person referred to in subsection (a) may apply to the court for an order approving an indemnity under this section and the court may so order and make any further order it thinks fit. (Last amended August 4, 2011 – Effective September 1, 2000)
- (e) An indemnity given pursuant to subsection (a) extends only to Expenses that exceed amounts otherwise recoverable (and, in fact, recovered) by the Indemnee under any indemnity or policy of insurance applicable in respect of a Proceeding, and is to be regarded specifically as excess to any such amounts. An indemnity given pursuant to subsection (a) shall be subject to the condition that, in the event any indemnitor or insurer against whom an Indemnee may have a claim for indemnity shall decline to pay, deny liability or otherwise contest either a claim by a person or the due amount thereof, the Indemnee must, if so requested by the Board, co-operate with and assist the Board in pursuing any claim against the other indemnitor or insurer as the case may be, in such manner and to the extent that counsel to the Board may recommend or advise in the circumstances. (Last amended August 4, 2011 – Effective September 1, 2000)
- (f) In any case where the Board reasonably considers that a person has fulfilled the conditions set out in clauses (a)(i) and (ii), above, and that it is otherwise appropriate to do so, prior to any settlement or judgment the Board may make an advance to an Indemnee in respect of a person referred to in subsection (a) to defray Expenses incurred or to be incurred by the Indemnee in relation to a Proceeding on such conditions as the Board considers appropriate and necessary. Any advance made under this subsection (f) shall be repayable by the Indemnee if the Indemnee fails to meet the conditions set out in clauses a(i) and (ii), above, in respect of such person. (Last amended August 4, 2011 – Effective September 1, 2000)
- (g) Where the Board considers it appropriate, the Board may enter into an indemnity agreement with any person and such agreement shall reflect the limitation of this provision. (Last amended August 4, 2011 – Effective September 1, 2000)
- (h) The application of paragraph 51 is effective as of September 1, 2000. (Last amended August 4, 2011 – Effective September 1, 2000)

- 52. The Board may buy, sell or lease real estate either as an investment or to provide a place to carry on business.
- 53. The Board may delegate any of its powers or duties to a committee or to an employee. It may impose conditions on any delegation it makes.
- 54. A committee of the Board may delegate any of its tasks to an employee of the Board if the Board approves.

Initial unfunded
liability

- 55. The going concern unfunded actuarial liability disclosed by the initial valuation of the pension fund as at the 1st day of January, 1990 will be paid by the Treasurer of Ontario out of the Consolidated Revenue Fund according to Schedule 2 of the *Teachers' Pension Act, 1989*.
- 56. Revoked (Last amended November 15, 1993 - Effective November 15, 1993)

Gains and losses

- 57. A valuation which is prepared for filing with the Superintendent of Financial Services shall be actuarially balanced so that the present value of:
 - (a) benefits and costs to be paid out of the fund, and
 - (b) any contingency reserve,

are equal to the sum of the value of the plan's assets, including

- (c) the present value of,
 - (i) the members' contributions,
 - (ii) the employers' contributions,
 - (iii) the outstanding balance of special payments to liquidate the going concern unfunded actuarial liability disclosed by the valuation as at January 1, 1990, and
 - (iv) any outstanding payments required to discharge a solvency deficiency. (Last amended March 5, 2002 - Effective April 2, 2001)

The IUL
Settlement

57a. Notwithstanding any other provision in this agreement, and including without limitation, paragraphs 10, 55, 59, 60, 60a and paragraphs 73 to 101, during the IUL settlement period this paragraph shall apply to the application of actuarial gains.

- (i) In this paragraph,
 - (a) the "initial unfunded liability settlement period" (the "IUL settlement period") means the period between January 1, 1998 and December 31, 2002 and includes any period of extension pursuant to subparagraph (v).
 - (b) the "initial unfunded liability" means the going concern unfunded actuarial liability disclosed by the initial valuation of the pension fund referred to in paragraph 55 of the agreement.
- (ii) Notwithstanding subparagraph 19(c), during the IUL settlement period, an actuarial valuation for funding purposes of the pension fund shall be prepared by the Board's actuary as at the 1st day of January and filed annually with the Superintendent of Financial Services, unless the partners jointly agree to instruct the Board not to file the valuation.
- (iii) Effective with the valuation as at January 1, 1998, any actuarial gains disclosed in a valuation prepared in accordance with subparagraph (ii) will be applied in the following order of priority:
 - (a) (1) to provide an early retirement pension calculated in accordance with subsection 43(4) of Schedule 1, to members who have accumulated at least that number of years of qualifying service that, when added to the member's age upon termination of employment in education, totals eighty-five years (the "factor 85 entitlement"), provided that such member so qualifies on or after June 1, 1998, and on or before December 31, 2002;
 - (2) to provide early retirement reductions measured from 85 points rather than 90 points for benefits calculated under sections 44 and 52 of Schedule 1 for members who cease to be employed in education between June 1, 1998 and December 31, 2002;
 - (b) to provide for a permanent reduction in the amount of the Canada Pension Plan or Quebec Pension Plan reduction for pension instalments payable on or after January 1, 1999 as provided for in subsection 81(3) of Schedule 1 by substituting "0.0060" for "0.0068" in the formula;

- (c) to provide to members on an absence, as defined in subsection 94(1) of Schedule 1, that commences during the period from the 1st day of June, 1998 to the 31st day of December, 2002, an exemption from the requirement in subsection 94(3)(b) of Schedule 1 where the member is otherwise eligible to purchase credited service under that section, and where the member, at the beginning of the leave,
 - (1) was at least 60 years of age;
 - (2) has accumulated at least that number of years qualifying service that, when added to the member's age, totals 75 years; or
 - (3) has credited service which totals at least 30 years; and
- (d) to eliminate the obligation on the Minister of Finance to make special payments on account of the initial unfunded liability, in accordance with this agreement.
- (iv) Subject to subparagraphs (v) and (vi), if there are any actuarial gains remaining after providing for (iii) (a), (b), (c) and (d), such gains disclosed in the annual actuarial valuations for funding purposes up to and including the valuation as at January 1, 2002, will be available for benefit enhancements including, but not limited to, the renewal on a permanent or temporary basis of the factor 85 entitlement, member contribution rate reductions, or to be allocated to a contingency reserve, as determined by the OTF in its sole discretion. (Last amended March 5, 2002 - Effective April 2, 2001)
- (v) (a) The sum of the actuarial gains available to the OTF under subparagraph (iv), including the actuarial gains disclosed in the valuation as at January 1, 2002, shall be equal to the present value of the special payments, before the application of actuarial gains pursuant to subparagraph (iii)(d), required to amortize the initial unfunded liability as determined by the Board's actuary and disclosed in the valuation as at January 1, 1998 (the "IUL amount"), and the increase in the going concern liabilities required to provide the benefits conferred by (iii)(a), (b) and (c) as determined by the Board's actuary as at January 1, 1998, (the "benefit cost amount"). The partners agree that, effective April 3, 2001, after recognition of plan changes adopted to that time, there remains \$76 million in actuarial gains available to the OTF under subparagraph (iv). (Last amended March 5, 2002 - Effective April 2, 2001)
- (b) In the event that the sum of the actuarial gains available to the OTF under subparagraph (iv) up to and including the actuarial gains disclosed in the valuation as at January 1, 2002 is less than the difference between the IUL amount and the benefit cost amount, all actuarial gains disclosed in any actuarial valuation for funding purposes subsequent to the valuation as at January 1, 2002, will be available for such benefit enhancements, member contribution rate reductions, or to be held in a contingency reserve, as determined by the OTF in its sole discretion, until the sum of the actuarial gains available to the OTF for such purposes equals the difference between the IUL amount and the benefit cost amount.
- (c) In the event that the sum of the actuarial gains available to the OTF under subparagraph (iv) up to and including the actuarial gains disclosed in the valuation as at January 1, 2002 is less than the difference between the IUL amount and the benefit cost amount, the IUL settlement period shall be extended to the date that the sum of the actuarial gains available to the OTF under subparagraph (iv) and (v) equals the difference between the IUL amount and the benefit cost amount.

- (vi) (a) Prior to April 1, 2001, if actuarial gains are available after provision has been made for (iii)(a) to (d), and the OTF wishes to apply such gains pursuant to subparagraph (iv) for benefit enhancements or member contribution rate reductions, the partners shall meet to determine the effective date for the implementation of such benefit enhancements or contribution rate reductions.
- (b) Subsequent to April 1, 2001, the OTF may, at its sole discretion, determine when such benefit enhancements or contribution rate reductions, are to be implemented. The Minister agrees to waive his consent to the plan amendments necessary to implement such benefit enhancements or member contribution rate reductions, provided these amendments are not filed by the OTF prior to April 1, 2001. Pursuant to paragraphs 8 and 104 of this agreement, the partners agree that Schedule 1 shall be amended by the OTF, to implement such benefit enhancements or contribution rate reductions, and the OTF shall promptly deliver the amendment(s) to the Board, and the Board shall promptly file the amendment(s) with the Superintendent of Financial Services upon receipt of same from the OTF.
- (vii) The Minister of Finance will continue to make special payments out of the Consolidated Revenue Fund in accordance with paragraph 55 of the agreement during the IUL settlement period until the obligation to make special payments on account of the initial unfunded liability is eliminated in accordance with this agreement. The amount of the special payments payable pursuant to this subparagraph shall be in accordance with the schedule of payments set out in Appendix H to the Report on the Actuarial Valuation for Funding Purposes for the plan as at January 1, 1996 ("Appendix H") until December 1, 2001, and in accordance with Schedule 2 subsequent to December 1, 2001, if the Minister of Finance continues to be obligated to make special payments on account of the initial unfunded liability beyond this date. If subsection 3(12) of Schedule 2 to the *Teachers' Pension Act* is applicable with respect to any actuarial gains disclosed in a valuation pursuant to subparagraph (ii), the Minister of Finance shall not exercise his discretion in subsection 3(12) of Schedule 2 to reduce the remaining special payments as set out in Appendix H, until the obligation of the Minister of Finance to make special payments on account of the initial unfunded liability is eliminated.
- (viii) The issue raised in the "part-time leave" case pending before the Ontario Court of Appeal shall be referred to mediation by Mr. M. Stanley Beck. Mr. Beck will be asked to provide a non-binding opinion on the merits of the case by no later than July 15, 1998. The cost of the mediation pursuant to this subparagraph shall be paid from the fund.
- (ix) The partners shall establish a committee to deal on a priority basis with accounting matters relating to joint pension plan sponsorship, and agree to contact the Public Sector Accounting and Auditing Board (PSAAB) to raise issues of concern to the partners. The committee shall report to the Partners by May 1, 1999. The reasonable costs of the committee shall be paid from the fund.
- (x) Subject to any extension of the IUL settlement period pursuant to subparagraph (v), at the end of the IUL settlement period, the provisions of this agreement respecting the use of actuarial gains or losses, other than this paragraph 57a, will apply. The next triennial negotiation pursuant to paragraphs 73 to 101 will be based on the actuarial valuation for funding purposes as at January 1, 2002, unless the IUL settlement period is extended beyond this date, or the partners agree otherwise.
- (xi) Any dispute regarding the interpretation, application, administration and implementation of the provisions in this paragraph 57a may be resolved in accordance with paragraph 14 of the agreement, and/or through such other proceedings as are otherwise available to either partner.

58. If the preliminary results of a valuation prepared for filing with the Financial Services Commission of Ontario as at a date after the 1st day of January, 1993 indicate a need to increase the contribution rate the partners agree to meet as soon as possible to discuss how to adjust for that need on an equally shared basis. If the partners cannot agree on how to adjust they will refer the issue to the mediation and arbitration procedures described elsewhere in this agreement to adjust the contribution rate and/or benefits. (Last amended November 15, 1993 - Effective November 15, 1993)
59. If the preliminary results of a valuation prepared for filing with the Financial Services Commission of Ontario as at a date after the 1st day of January, 1993 indicate that the contribution rate can be decreased the implicit actuarial gain disclosed by the valuation will be applied to reduce and, if possible, eliminate the payments required to liquidate any unamortized balance of a solvency deficiency. (Last amended November 15, 1993 - Effective November 15, 1993)
60. An implicit actuarial gain remaining after the elimination of a deficiency mentioned in paragraph 59, will be used to establish a contingency reserve in an amount agreed upon by the partners or for any of the following purposes upon which the partners have agreed or which an arbitrator has awarded.
- (i) to reduce contributions which members and employers are required to pay, and/or
 - (ii) to improve benefits payable to members.
- 60a. The portion of the gain disclosed by the January 1, 1996 valuation remaining after the implementation of the benefit improvements contained in the December 30, 1996 arbitration award shall be placed in a contingency reserve called the Rate Stabilization Fund for the period January 1, 1996 to December 31, 1998. (Last amended February 20, 1997 - Effective January 1, 1996)
- 60b. The \$76 million of actuarial gains that, effective April 3, 2001, remain available to the OTF under the subparagraph 57a (iv) shall be allocated to a contingency reserve until such time as the OTF, in its sole discretion, may determine, at which time such gains shall be used toward the provision of future benefit enhancements and/or member contribution rate reductions as determined by the OTF, in its sole discretion. (Last amended March 5, 2002 - Effective April 2, 2001)
- 60c. The portion of the actuarial surplus disclosed by the January 1, 2001 valuation that remains after providing for,
- (a) the benefit improvements contained in the plan amendments dated April 2, 2001, and
 - (b) the contingency reserve pursuant to paragraph 60b,
- shall be allocated to a contingency reserve called the Rate Stabilization Fund for the period January 1, 2001 to December 31, 2001, or until such later date agreed to by the partners. (Last amended March 5, 2002 - Effective April 2, 2001)
- 60d. The partners acknowledge that the \$76 million referred to in paragraph 60b will be used towards reducing the additional contributions payable by active members in accordance with section 19 of Schedule 1 in 2008 from 3.1% to 2.3% and that this application will fully discharge the credit owing the Ontario Teachers' Federation under paragraph 60b. (Last amended December 21, 2006 - Effective January 1, 2007)

- 60e. The partners agree that \$7 million shall be allocated to a contingency reserve, to the credit of the Minister, to reflect the additional \$7 million that was used, in addition to the \$76 million referred to in paragraph 60d, towards reducing the additional contributions payable by active members in accordance with section 19 of Schedule 1 in 2008 from 3.1% to 2.3%. (Last amended December 21, 2006 – Effective January 1, 2007)
61. The valuation as at January 1, 1992 that was prepared and provisionally filed with the Pension Commission of Ontario shall be considered invalid. (Last amended November 15, 1993 - Effective November 15, 1993)
62. The board will prepare a valuation of the plan as at the 1st day of January, 1993. (Last amended November 15, 1993 - Effective November 15, 1993)
63. A portion, in the amount of \$1.2 billion, of the gain disclosed by the January 1, 1993 valuation is to be applied to reduce the Minister's scheduled special payments under Schedule 2 of the Act, in the period from January 1, 1993 until the entire amount is exhausted. (Last amended November 15, 1993 - Effective November 15, 1993)
64. A further portion, in the amounts of \$200 million as at March 31, 1994 and \$125 million as at March 31, 1995, of the gain disclosed by the January 1, 1993 valuation, is to be applied to reduce scheduled government payments to the plan on or before the 31st of March, 1995. (Last amended November 15, 1993 - Effective November 15, 1993)
65. The partners may authorize the use of an additional portion of the gains from the 1993 valuation to offset social contract targets for those members of the plan who are not covered by the Teachers' Sub-Sectoral Framework Agreement and who meet the set of principles agreed on by the partners: these gains will be allocated in the same proportion as members of the plan who are covered by the Teachers' Sub-Sectoral Agreement. (Last amended November 15, 1993 - Effective November 15, 1993)
66. Any residual portion of the gain disclosed by the January 1, 1993 valuation is to be placed in a contingency reserve for rate stabilization until at least January 1, 1996. (Last amended November 15, 1993 - Effective November 15, 1993)
67. Revoked. (Last amended November 15, 1993 - Effective November 15, 1993)
68. If a solvency valuation of the plan, conducted as at a date on or before the 1st day of January, 1996, discloses a solvency deficiency the contributions of members, the Minister and employers required to contribute to the fund under Schedule 1 will be adjusted in the following way.
- (1) The members will during each of the fifteen years following the date of the solvency valuation contribute the members' contribution required under Schedule 1 plus an amount equal to "B" as defined in subparagraph (2).
- (2) The Minister and employers will during each of the five years following the date of the solvency valuation contribute the Minister's and employers' contributions required under Schedule 1 plus an amount equal to,

$$A - B$$

where

"A" is equal to the amount of the annual payment required to amortize the solvency deficiency amortized over the five years following the date of the solvency valuation, and

"B" is equal to one half of the amount of the annual payment required to amortize the solvency deficiency over the fifteen years following the date of the solvency valuation.

(3) The Minister and employers will during each of the sixth through fifteenth years following the date of the solvency valuation contribute the contributions required of them under Schedule 1 less an amount equal to "B". (Last amended November 15, 1993 - Effective November 15, 1993)

69. If a solvency valuation of the plan, conducted as at a date after the 1st day of January, 1996, discloses a solvency deficiency the contributions of members, the Minister and employers required to contribute to the fund under Schedule 1 will be adjusted in the following way.

(1) The members will during each of the ten years following the date of the solvency valuation contribute the members' contribution required under Schedule 1 plus an amount equal to "B" as defined in subparagraph (2).

(2) The Minister and employers will during each of the five years following the date of the solvency valuation contribute the Minister's and employers' contributions required under Schedule 1 plus an amount equal to,

$$A - B$$

where

"A" is equal to the amount of the annual payment required to amortize the solvency deficiency amortized over the five years following the date of the solvency valuation, and

"B" is equal to one half of the amount of the annual payment required to amortize the solvency deficiency over the ten years following the date of the solvency valuation.

(3) The Minister and employers will during each of the sixth through tenth years following the date of the solvency valuation contribute the contributions required of them under Schedule 1 less an amount equal to "B". (Last amended November 15, 1993 - Effective November 15, 1993)

70. If a valuation done after one which showed a solvency deficiency discloses that there is no solvency deficiency or one that is less than would be expected based on the first valuation, the partners agree to adjust on an equally shared basis for any payments that have been made under paragraphs 68 or 69. (Last amended November 15, 1993 - Effective November 15, 1993)

71. Revoked. (Last amended November 15, 1993 - Effective November 15, 1993)

Triennial negotiation
of changes to the plan

72. The Board will prepare a valuation of the plan as at the 1st day of January, 1996 as soon as possible after that date. This will be the valuation to be used for the first set of negotiations. (Last amended November 15, 1993 - Effective November 15, 1993)
73. The subject of the negotiations and of all subsequent triennial negotiations will be any of the matters referred to in paragraphs 8 and 12.

74. As soon as preliminary results of the valuation are available the partners will meet to bargain in good faith and make every reasonable effort to reach an agreement on the changes, if any, that will be made to the plan.
75. The partners will advise the Board what changes affecting benefits and contribution rates they are proposing and the Board will provide cost estimates and comments on the administrative impact of the changes to both partners as soon as possible.
76. There will be a manager of negotiations whose fees and expenses shall be paid by the fund. The manager will be appointed by agreement of the partners or if they cannot agree the Chief Executive Officer of the Board will act as manager. When the manager is appointed, the partners may give the manager any role in the negotiation process in addition to the role described in this agreement. (Last amended March 27, 1996 - Effective January 1, 1996)
77. At any time after the preliminary results of a valuation are available the partners may agree to appoint a mediator. The mediator will be chosen by the agreement of the partners or by a method to which they agree at that time.
78. If no agreement is reached on all proposed changes by the 1st day of May, 1996 and no mediator has been appointed by agreement the manager will appoint a mediator to mediate proposed changes to the contribution rate or benefits under the plan. The manager will do so by preparing a list of five persons willing to act as mediator and asking each partner to select three names from the list. The manager will appoint one of the persons chosen by both partners. (Last amended November 15, 1993 - Effective November 15, 1993)
79. Any proposed changes to the plan not involving the contribution rate or benefits which remain unresolved on the 1st day of May, 1996 will be referred to the Partners Committee established under paragraph 13. The Partners Committee will make every effort to resolve those issues referred to it. (Last amended November 15, 1993 - Effective November 15, 1993)
80. If the partners agree, the mediator may be appointed as a mediator/arbitrator in which case the appointee will decide on the process and time frame for conducting mediation/arbitration.
81. If the partners do not agree on mediation/arbitration the mediator will meet with them and try to mediate an agreement.
82. Within 30 days of appointment the mediator will prepare a confidential report setting out his or her views on the positions of the two partners and containing a recommendation. The report will be delivered to the partners.
83. The mediator may extend the deadline for delivering the report by 14 days if he or she is of the opinion that the partners are likely to reach an agreement during the extension.
84. If the partners do not accept the report within 14 days of its being delivered to them it will be destroyed and an arbitration board will be appointed.
85. At any time after a mediator has been appointed the partners may agree to appoint a board of arbitration.
86. If the partners agree to appoint a board of arbitration or if 14 days have passed since the mediator's report each partner will appoint one person to the board of arbitration and the two appointees will select a final member who will be the umpire.

87. This agreement together with a referral to a board of arbitration constitutes a submission under the *Arbitrations Act*, R.S.O. 1980, c. 25, as amended.
88. If the persons appointed by the partners to a board of arbitration do not appoint an umpire within 14 days of the appointment of the latter of them, the manager will prepare a list of five persons who are willing to act as umpire and ask each partner to select three names from the list. The manager will appoint as umpire one of the persons chosen by both partners.
89. The umpire will establish the procedure for conducting the arbitration but will allow each partner an opportunity to present evidence and make representations. The persons appointed by the partners will consult with the appointing partner during the arbitration.
90. The board of arbitration will hold a hearing within 30 days of its appointment and make an award within 60 days of the conclusion of the hearing. The board of arbitration will provide reasons for its award.
91. The board of arbitration in making an award will consider prevailing economic conditions and the overall state of the provincial economy.
92. The award made by the board of arbitration will,
 - (a) deal only with the contribution rate and/or benefits of the pension plan and otherwise maintain the plan as it is set out in Schedule 1,
 - (b) comply with the laws of Ontario,
 - (c) provide that the contributions of the Minister and those employers who are required to contribute are equal to the contributions of members,
 - (d) be based on the valuation of the plan and the costing of changes to benefits which were prepared by the Board,
 - (e) ensure that any increase in benefits is adequately funded.
 - (f) not impair the ability of the Board to fulfil its fiduciary responsibilities,
 - (g) if it includes benefit improvements, not provide for an increase in the contribution rate paid by plan members greater than .5% of pensionable salary,

provided that all such awards shall be subject to the limitations referred to in subparagraph EE(2). (Last amended March 26, 2003 – Effective January 1, 2003)

- 92.1 In the event that a board of arbitration is appointed pursuant to any provision of the agreement, other than paragraph 57a, to determine the application of actuarial gains disclosed in a valuation for funding purposes where a portion of the actuarial gains disclosed in such valuation is subject to the provisions of paragraph 57a, the board of arbitration shall not issue an award regarding that portion of the actuarial gains which is subject to the provisions of paragraph 57a. (Last amended May 27, 1998 - Effective April 18, 1998)
93. The board of arbitration will give the partners a copy of the award and reasons as soon as they are prepared.

94. The Board will prepare a final valuation of the plan which implements all of the changes to the plan which have been awarded or agreed to by the partners. The changes will take effect on the 1st day of January, 1997 or on such earlier date to which the partners have agreed. (Last amended November 15, 1993 - Effective November 15, 1993)
95. The final valuation will be filed with the Financial Services Commission of Ontario and Schedule 1 will be amended to reflect the changes agreed to and the award if any.
96. Every three years, after January 1, 1996, the process described in this section will be repeated unless the partners agree that no changes will be made to the plan. (Last amended November 15, 1993 - Effective November 15, 1993)
97. The manager and the umpire may agree to extend the timelines set out by this agreement if they think it will help the partners reach an agreement.
98. The partners may agree to change the procedure described in this agreement, either for one round of negotiations or for all future negotiations.
99. The costs of mediation and arbitration will be paid out of the fund. (Last amended March 27, 1996 - Effective January 1, 1996)
100. The mediator or the umpire may employ experts to assist her or him. The cost of employing experts will be shared equally by the partners. The mediator or umpire will consult with the partners about a reasonable budget for such costs.
101. Revoked. (Last amended March 26, 2003 - Effective January 1, 2003)
102. Schedule 1 to the *Teachers' Pension Plan, 1989* as amended is adopted by the partners as part of this agreement.
103. The partners agree that this agreement forms part of the plan documents of the pension plan and that they will file a copy of this agreement with the Pension Commission of Ontario.
104. The partners may at any time agree to change any of the provisions of Schedule 1. A change to Schedule 1 will be effected when it is filed with the Financial Services Commission of Ontario by the partners.
105. The partners will not make any change to Schedule 1 which is contrary to the laws of Ontario. Any change which is inconsistent will be void to the extent of the inconsistency.
106. Sections 116, 117, 118 and all of Part XII of Schedule 1 are revoked.
107. Revoked. (Last amended November 15, 1993 - Effective November 15, 1993)
108. The Board will print a new consolidation of Schedule 1 as soon as possible after any changes to it have been filed with the Financial Services Commission of Ontario.
109. The Minister will submit a copy of Schedule 1 and the annual report to the Lieutenant Governor in Council and lay it before the Assembly at the first opportunity after the report is prepared by the Board.

General

110. The partners agree that the Funding Management Policy attached hereto, and as amended from time to time, forms part of this agreement. (Last amended June 3, 2009 – Effective January 1, 2009)

July 15, 1991

APPENDIX "A"

Funding Management Policy**Article I. Application**

- Section 1.01 Best Estimates Assumptions: For the purposes of this Funding Management Policy, except as otherwise provided herein, the Board shall provide the required reports using the Board's best estimates assumptions including, in the case of the discount rate, a margin for adverse deviation. The Board's best estimate economic assumptions may be based on market data, smoothed data, the reference rate or the Board's expectation if the Board believes future experience may differ from market data. The Board's assumptions shall be used only if they would be consistent with accepted actuarial practice. (Last amended May 27, 2015 – Effective March 6, 2015)
- Section 1.02 Escalated Adjustments Indices: The Board shall also maintain indices to record escalated adjustments for post-2009 service. (Last amended May 27, 2015 – Effective March 6, 2015)
- Section 1.03 Different Discount Rate: If a preliminary valuation uses a discount rate lower than the restoration basis for valuations prepared under Article III and Article VI, lower than the temporary basis for valuations prepared under Article IV, or lower than the distribution basis for valuations prepared under Article V, then the Board shall notify the partners and the partners shall meet with the Board. (Last amended May 27, 2015 – Effective March 6, 2015)
- Section 1.04 Exit Provision: The provisions in Article II to Article IX shall expire twelve months after the notification referred to in Section 1.03 unless both partners otherwise notify the Board. (Last amended May 27, 2015 – Effective March 6, 2015)
- Section 1.05 This Funding Management Policy shall be applied as follows:
- (a) If there is a restoration basis excess when current contributions exceed basic contributions and/or current benefits are less than run-rate benefits, the excess can be used to reduce contributions and/or increase benefits in accordance with Article III. If the results of a preliminary valuation, using the restoration basis, the definitions in Section 3.01 and the provisos in Section 3.02 and Section 3.03, satisfy the conditions in Section 3.04, then Section 3.05, Section 3.06, Section 3.07 and Section 3.08 shall apply;
 - (b) If there is a restoration basis deficit using current contributions and current benefits, contributions must be increased and/or benefits must be reduced in accordance with Article III to eliminate the deficit: If the results of a preliminary valuation, using the restoration basis, the definitions in Section 3.01 and the provisos in Section 3.02 and Section 3.03, satisfy the conditions in Section 3.09, then Section 3.10, Section 3.11, Section 3.12, Section 3.13, and Section 3.14 shall apply;
 - (c) If there is a restoration basis excess when contributions are less than or equal to basic contributions and benefits are greater than or equal to run-rate benefits, prepare a temporary basis valuation in accordance with Article IV: If the results of a preliminary valuation, using the restoration basis, the definitions in Section 3.01 and the provisos in Section 3.02 and Section 3.03, either:
 - (i) do not satisfy the conditions in either Section 3.04 or Section 3.09; or
 - (ii) satisfy the conditions in Section 3.04, and
 - 1) the present value of revised benefits is equal to the present value of run-rate benefits, and
 - 2) the present value of revised contributions is equal to the present value of basic contributions;
 then the preliminary valuation shall be performed using the temporary basis, the definitions in Section 4.01 and the proviso in Section 4.02;

(d) Temporary and Distribution Basis Valuations

- (i) If there is a temporary basis excess, prepare a distribution basis valuation in accordance with Article V: If the results of a preliminary valuation, using the temporary basis, the definitions in Section 4.01 and the proviso in Section 4.02, satisfy the conditions in Section 4.03, then the preliminary valuation shall be performed using the distribution basis, the definitions in Section 5.01 and the proviso in Section 5.02, and
 - 1) If there is a distribution basis excess, the distribution basis excess can be used to make plan improvements in accordance with Article V: if the results of that preliminary valuation satisfy the conditions in Section 5.03, then Article V shall apply;
 - 2) If there is a distribution basis deficit but a temporary basis excess, the temporary basis excess can be used to make temporary plan improvements in accordance with Article IV: if the results of that preliminary valuation do not satisfy the conditions in Section 5.03, then the preliminary valuation shall be performed using the temporary basis, the definitions in Section 4.01 and the proviso in Section 4.02, and Article IV shall apply;
- (ii) If there is a temporary basis deficit, the restoration basis valuation will apply in accordance with Article III: If the results of a preliminary valuation, using the temporary basis, the definitions in Section 4.01 and the proviso in Section 4.02, do not satisfy the conditions in Section 4.03, then the preliminary valuation shall be performed using the restoration basis, the definitions in Section 3.01 and the provisos in Section 3.02 and Section 3.03, and Section 3.05, Section 3.06, Section 3.07 and Section 3.08 shall apply;
- (e) Post-December 30, 2017 Valuations: If the results of a preliminary valuation prepared as of a date after December 30, 2017, using the restoration basis and the definitions in Section 6.01, satisfy the conditions in Section 6.02, then Section 6.03 shall apply;
- (f) 2013 Term Sheet Precedence: The provisions of the 2013 Term Sheet shall take precedence over this Funding Management Policy. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 1.06

Actions Subject to Pension Legislation: Prior to the commitment of a surplus distribution or a contribution decrease, the partners shall ensure such distribution or contribution decrease is in accordance with the *Income Tax Act* (Canada), the *Pension Benefits Act* (Ontario) and their respective regulations. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 1.07

Conditions on Temporary Improvements: Any commitment to provide temporary improvements shall be made conditional on the results of a preliminary valuation for each year of the commitment period indicating that the conditions in Section 3.04(a) are met prior to and after such temporary improvement. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 1.08

Headings: Headings are underlined and are for convenience only and shall not affect the interpretation or meaning of any provision of this Funding Management Policy. (Last amended May 27, 2015 – Effective March 6, 2015)

Article II.

Definitions

Section 2.01

For the purposes of this Funding Management Policy:

- (a) “2013 Term Sheet” means the March 13, 2013 OTPP Term Sheet entered into by the partners;
- (b) “basic contributions” are the contributions required by subsections 19(1) or (2) of Schedule 1 as it read on January 1, 2012;
- (c) “commitment period” means the three-year period during which a temporary improvement is provided;
- (d) “commitment value” means the present value of the portion of the temporary improvement value provided during the commitment period;

- (e) "Consumer Price Index" means the Consumer Price Index for Canada as published by Statistics Canada under the authority of the *Statistics Act* (Canada);
- (f) "CPI adjustment" means the ratio between 1.000 and 1.080 of the average for the Consumer Price Index over the last twelve months of the twenty-four-month period ending with the 30th day of September in the immediately preceding year to the average for the Consumer Price Index over the first twelve months of that period - 1. If the ratio would have been less than 1.000 or greater than 1.080, but for those limits, the difference shall be carried forward in a manner consistent with that set out in section 80 of Schedule 1;
- (g) "current accumulated adjustment ratio" is an index maintained by the Board that begins with "1.000000" for 2010 and is the product of all current ratios for the years in the period commencing with 2010 and ending with the year prior to the year for which the current accumulated adjustment ratio is being determined. The index may differ in respect of service accrued before 2014 and service accrued after 2013 with both indices beginning with "1.000000" for 2010;
- (h) "current benefits" are the pension benefits, current escalated adjustments and ancillary benefits calculated in accordance with Schedule 1 as it read at the current valuation date without taking into account any amendment made, or changes agreed to by the partners, on or after the current valuation date;
- (i) "current contributions" are the contributions required by Schedule 1 as it read at the current valuation date without taking into account any amendment made on or after the current valuation date;
- (j) "current escalated adjustments" are the escalated adjustments in respect of post-2009 service that were applied prior to the January 1st following the current valuation date and assumed thereafter at the rate set out in the most recent filed valuation;
- (k) "current ratio", for a year, means 1 + the proportion of the CPI adjustment granted as agreed to by the partners, and as may have been revised from time to time, provided that the proportion shall not be less than 50% in respect of service accrued before 2014, but not including any revision agreed to by the partners in relation to the current valuation;
- (l) "current valuation date" in respect of a valuation is the date provided in Section 7.01;
- (m) "distribution basis" is the reference rate with a positive adjustment of 0.5% together with the Board's best estimate actuarial assumptions for all other factors;
- (n) "freeze period" means the period from December 31, 2012 to December 30, 2017;
- (o) "going concern liabilities" are the going concern liabilities within the meaning of Regulation 909 made under the *Pension Benefits Act* and must also include the present value of the pension benefits and escalated adjustments that both accrued prior to the valuation date and that will accrue on or after the valuation date to the persons who were members of the plan on the valuation date and the present value of the ancillary benefits for which the eligibility requirements will be satisfied on or after the valuation date by the persons who were members of the plan on the valuation date;
- (p) "preliminary valuation" means a valuation referred to in Section 7.01;
- (q) "reference rate" means the interest rate chosen by the Board representing the Government of Canada long bond yield (currently, CANSIM Series V39056 nominal and CANSIM Series V39057 real, or their reasonable respective replacements) that may be based on market data or smoothed data;
- (r) "remaining amortization value" means the difference between the temporary improvement value and the commitment value;
- (s) "restoration basis" is the reference rate with a positive adjustment of 1.55% together with the Board's best estimate actuarial assumptions for all other factors;

- (t) "revised accumulated adjustment ratio" is an index maintained by the Board that begins with "1.000000" for 2010 and is the current accumulated adjustment ratio, as modified by an agreement between the partners to change the proportion of the CPI adjustment in respect of post-2009 service prior to the year following the current valuation date. The index may differ in respect of service accrued before 2014 and service accrued after 2013 with both indices beginning with "1.000000" for 2010;
- (u) "revised benefits" are the current benefits including any amendment made, or changes agreed to by the partners, on or after the current valuation date based on that valuation;
- (v) "revised contributions" are the current contributions including any amendment made on or after the current valuation date based on that valuation;
- (w) "revised escalated adjustments" are the current escalated adjustments including any amendment made, or changes agreed to by the partners, on or after the current valuation date based on that valuation and assumed thereafter at the rate set out in that valuation;
- (x) "run-rate accumulated adjustment ratio" is an index maintained by the Board that begins with "1.000000" for 2010 and is the product of all run-rate ratios for the years in the period commencing with 2010 and ending with the year prior to the year for which the run-rate accumulated adjustment ratio is being determined;
- (y) "run-rate benefits" are the pension benefits, run-rate escalated adjustments and ancillary benefits calculated in accordance with Schedule I as it read on January 1, 2009, together with any benefits provided by amendments described in Article IX;
- (z) "run-rate escalated adjustments" are the escalated adjustments in respect of post-2009 service that would have applied at the rate of 100% of the CPI adjustment prior to the January 1st following the current valuation date and that would be assumed thereafter at the rate of 100% of the CPI adjustment;
- (aa) "run-rate ratio", for a year, means 1 + the CPI adjustment for the year;
- (bb) "temporary basis" is the reference rate with a positive adjustment of 1.25% together with the Board's best estimate actuarial assumptions for all other factors;
- (cc) "temporary improvement" means an improvement provided in accordance with Section 4.05;
- (dd) "temporary improvement value" is the present value of a contribution decrease, a distribution of surplus and/or a benefit improvement that is amortized over a period of up to ten years, but is committed to for the duration of the commitment period only, provided that at the establishment of the commitment:
 - (i) the partners may elect an amortization period between three and ten years; and
 - (ii) for amortization periods of less than ten years, any temporary improvement for a given year shall be limited such that the present value of that given year's temporary improvement is not greater than the present value of basic contributions, calculated using the temporary basis, to be paid in the same year

(Last amended May 27, 2015 – Effective March 6, 2015)

Article III. Funding Zone - Restoration

Section 3.01 Definitions. For the purposes of Article III, as at the current valuation date, using the restoration basis:

- (a) "assets" are the assets described in paragraph (a) of the definition of "going concern assets" in Regulation 909 made under the *Pension Benefits Act*;
- (b) "current liabilities" are the difference between:
 - (i) the going concern liabilities calculated using current benefits, and

- (ii) the present value of current contributions;
- (c) "revised liabilities" are the difference between:
 - (i) the going concern liabilities calculated using revised benefits, and
 - (ii) the present value of revised contributions.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.02 Restoration Basis Plus an Adjustment: For the purposes of Article III, current liabilities and revised liabilities may be calculated as at the current valuation date using the restoration basis plus an adjustment. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.03 CPI Adjustment: For the purposes of Article III, and subject to a subsequently filed valuation, the proportion of the CPI adjustment for the period covered by the current valuation, in respect of each applicable period of service, will be the same for each year in that period and assumed at the same rate thereafter. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.04 Restoration Basis Excess, but Basic Contributions and or Run-Rate Benefits Not Restored:

- (a) If assets are greater than current liabilities; and
- (b) if:
 - (i) the present value of current contributions is greater than the present value of basic contributions, or
 - (ii) the present value of current benefits is less than the present value of run-rate benefits, or
 - (iii) both (i) and (ii);

then Section 3.05, Section 3.06, Section 3.07 and Section 3.08 shall apply.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.05 Restoration Basis Excess Report: The Board shall report to the partners:

- (a) the excess of assets over current liabilities; and
- (b) the extent to which the excess can be used to provide the changes specified in Section 3.06.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.06 Application of Restoration Basis Excess: For purposes of clarity, excesses identified pursuant to Section 3.05 shall be applied in the following order, provided that the partners reserve the right to reconsider such application having regard to the contribution rate and benefits then in effect, prevailing economic circumstances and other relevant factors:

- (a) Bring Escalated Adjustments to 50% for Post-2013 Service: to provide escalated adjustments up to 50% of the CPI adjustment in respect of service accrued after 2013 for the period covered by the valuation, and assumed thereafter at the same rate;
- (b) Bring Escalated Adjustments to 100%: to provide escalated adjustments up to 100% of the CPI adjustment for the period covered by the valuation, and assumed thereafter at the same rate;
- (c) Restore Escalated Adjustments for Post-2013 Years: to provide escalated adjustments to increase, to the extent possible, the current accumulated adjustment ratio for each year after 2013, to the current accumulated adjustment ratio for the period from 2010 to 2013, beginning with the first year in which current escalated adjustments were less than 50% of the run-rate escalated adjustments;

- (d) Restore Escalated Adjustments for Post-2009 Years: to provide escalated adjustments to increase, to the extent possible, the current accumulated adjustment ratio for each year after 2009 to the run-rate accumulated adjustment ratio, beginning with the first year in which current escalated adjustments were less than run-rate escalated adjustments;
- (e) Provide Benefit Increases or Contribution Rate Reductions: to provide the following:
 - (i) an increase in benefits, where the present value of current benefits is less than the present value of run-rate benefits,
 - (ii) a reduction in contribution rates, where the present value of current contributions exceeds the present value of basic contributions, or
 - (iii) a combination of (i) and (ii).

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.07

Conditions on Application of Excess: Subject to Section 3.06 and Section 3.08 or any mutual agreement to the contrary, the partners shall apply the excess of assets over current liabilities to change benefits, contributions, or both, provided that no change or amendment shall be made unless, after such change or amendment:

- (a) assets are equal to or greater than revised liabilities;
- (b) the revised accumulated adjustment ratio is equal to or less than the run-rate accumulated adjustment ratio;
- (c) the revised accumulated adjustment ratio is equal to or greater than the current accumulated adjustment ratio;
- (d) the present value of revised benefits is equal to or less than the greater of the present value of current benefits and the present value of run-rate benefits;
- (e) the present value of revised benefits is equal to or greater than the lesser of the present value of current benefits and the present value of run-rate benefits;
- (f) the present value of revised contributions is equal to or greater than the lesser of the present value of current contributions and the present value of basic contributions; and
- (g) the present value of revised contributions is equal to or less than the greater of the present value of current contributions and the present value of basic contributions.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.08

2013 Term Sheet Limits: As set out in further detail in the 2013 Term Sheet, during the freeze period:

- (a) The partners may provide escalated adjustments pursuant to Section 3.06(a), Section 3.06(b), Section 3.06(c) and Section 3.06(d) only if the assets are greater than 100% of the current liabilities and do not fall below 100% of the revised liabilities after the adjustment; and
- (b) The partners may agree to improve benefits, or to restore benefits that were reduced during the freeze period, pursuant to Section 3.06(e) only if the net assets available for benefits (as such term is used in the preliminary valuations) are equal to or greater than 105% of the current liabilities and do not fall below 105% of the revised liabilities after the benefit improvement or restoration.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.09

Restoration Basis Deficit: If current liabilities are greater than assets, then Section 3.10, Section 3.11, Section 3.12, Section 3.13 and Section 3.14 shall apply. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.10

Restoration Basis Deficit Report: The Board shall report to the partners.

- (a) the excess of current liabilities over assets; and
- (b) the amount required to change current benefits, current contributions, or both, to eliminate the excess referred to in Section 3.10(a) above, as requested by either partner.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.11 Conditions on Elimination of Deficit: Subject to Section 3.12 and Section 3.14, the partners may change benefits, contributions, or both, to eliminate the excess referred to in Section 3.10(a), provided that no change or amendment shall be made unless, after such change or amendment

- (a) assets are equal to or greater than revised liabilities; and
- (b) revised member contributions shall be limited to 15% of pensionable salaries above the Year's Maximum Pensionable Earnings as prescribed under the *Canada Pension Plan*.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.12 Restrictions on Benefit Reductions: Current benefits shall not be reduced unless:

- (a) the partners agree on the terms and conditions of any reduction in current benefits;
- (b) the partners have entered into a written agreement governing the manner in which contributions by the Minister and the Employers will be adjusted to offset any reduction in benefits; and
- (c) the revised accumulated adjustment ratio, in respect of each year, is equal to or greater than the current accumulated adjustment ratio for the year.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.13 Restrictions on Contribution Increases: Subject to Section 3.14, the partners have the authority to set the level of contributions that must be reached before current benefits are reduced below run-rate benefits, subject to the commitment that member contributions will not exceed 15% of pensionable salaries above the Year's Maximum Pensionable Earnings (as prescribed under the *Canada Pension Plan*). (Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.14 Further Restrictions on Contribution Increases: As set out in further detail in the 2013 Term Sheet, during the freeze period there will be no employer contribution increases except as provided under the 2013 Term Sheet. (Last amended May 27, 2015 – Effective March 6, 2015)

Article IV. Funding Zone – Temporary Improvements

Section 4.01 Definitions: For the purposes of Article IV, as at the current valuation date, using the temporary basis:

- (a) "assets" are either:
 - (i) the market value of net assets available to provide benefits as determined by the Board, if the excess of the market value of net assets available to provide benefits over current liabilities calculated using a reference rate based on market data is less than the excess of the assets in paragraph (a) of the definition of "going concern assets" in Regulation 909 made under the Pension Benefits Act over current liabilities calculated using a reference rate based on smoothed data; or
 - (ii) the assets described in paragraph (a) of the definition of "going concern assets" in Regulation 909 made under the Pension Benefits Act, if the excess of the assets described in paragraph (a) of the definition of "going concern assets" in Regulation 909 made under the Pension Benefits Act over current liabilities calculated using a reference rate based on smoothed data is less than the excess of the market value of net assets available to provide benefits over current liabilities calculated using a reference rate based on market data;
- (b) "current liabilities" are the sum of:

- (i) the difference between:
 - 1) the going concern liabilities calculated using the greater of current benefits and run-rate benefits, and
 - 2) the present value of the lesser of current contributions and basic contributions.
 and
 - (ii) the remaining amortization value (equal to zero with respect to a particular commitment period if, as of the valuation date, the payment in respect of the last year of a commitment period will be paid in that year);
- (c) "revised liabilities" are the sum of
- (i) the difference between:
 - 1) the going concern liabilities calculated using the greater of revised benefits and run-rate benefits, and
 - 2) the present value of revised contributions.
 and
 - (ii) the remaining amortization value (equal to zero with respect to a particular commitment period if, as of the valuation date, the payment in respect of the last year of a commitment period will be paid in that year);
- (d) The reference rate for purposes of determining the temporary basis is based on:
- (i) market data, if the excess of the market value of net assets available to provide benefits over current liabilities calculated using a reference rate based on market data is less than the excess of the assets in paragraph (a) of the definition of "going concern assets" in Regulation 909 made under the Pension Benefits Act over current liabilities calculated using a reference rate based on smoothed data; and
 - (ii) smoothed data, if the excess of the assets in paragraph (a) of the definition of "going concern assets" in Regulation 909 made under the Pension Benefits Act over current liabilities calculated using a reference rate based on smoothed data is less than the excess of the market value of net assets available to provide benefits over current liabilities calculated using a reference rate based on market data.

(Last amended May 27, 2015 – Effective March 6, 2015)

- Section 4.02 Temporary Basis Plus an Adjustment: For the purposes of Article IV, current liabilities and revised liabilities may be calculated as at the current valuation date using the temporary basis plus an adjustment. (Last amended May 27, 2015 – Effective March 6, 2015)
- Section 4.03 Temporary Basis Excess: If assets are greater than current liabilities, then Section 4.04, Section 4.05 and Section 4.06 shall apply, provided that no temporary improvements may be provided unless the partners have provided all of the changes specified in Section 3.06. (Last amended May 27, 2015 – Effective March 6, 2015)
- Section 4.04 Temporary Basis Excess Report: The Board shall report to the partners:
- (a) the amount by which assets exceed current liabilities;
 - (b) the commitment value;
 - (c) the extent to which the commitment value can be used to provide a reduction to current contributions, beginning with the year following the year in which a preliminary valuation is filed and lasting for the commitment period;

- (d) the extent to which the commitment value can be used to provide annual surplus distributions, beginning with the year following the year in which a preliminary valuation is filed and lasting for the commitment period;
- (e) the extent to which the commitment value can be used to provide a temporary benefit improvement, beginning with the year in which a preliminary valuation is filed and lasting for the commitment period; and
- (f) the extent to which the commitment value can be used to provide a combination of Section 4.04(c), Section 4.04(d) and Section 4.04(e).

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 4.05 Conditions on Application of Excess: Subject to Article VI and Section 4.06, the partners may apply all or part of the commitment value to change temporarily current contributions, provide surplus distributions on a temporary basis, or provide a temporary benefit improvement, provided that no amendment shall be made unless, after such amendment, the excess of assets over revised liabilities is equal to or greater than zero. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 4.06 Side Agreement: The commitment value shall be used to provide a surplus distribution referred to in Section 4.04(d) or a temporary benefit improvement referred to in Section 4.04(e) only if the partners have entered into a written agreement governing the manner in which the contributions by the Minister and the Employers may be adjusted to offset any surplus distribution or temporary improvement of benefits that is reflected in the value of the liabilities. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 4.07 Temporary Basis Deficit: If assets are equal to or less than current liabilities, then Section 4.08 and Section 4.09 shall apply. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 4.08 Temporary Basis Deficit Report: The Board shall report to the partners the amount by which current liabilities exceed assets. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 4.09 No Action on Temporary Basis and Return to Restoration Basis: Subject to Article VI, the partners shall not provide new temporary improvements and Article III shall apply. (Last amended May 27, 2015 – Effective March 6, 2015)

Article V. Funding Zone – Permanent Improvements

Section 5.01 Definitions: For the purposes of Article V, as at the current valuation date, using the distribution basis:

- (a) “assets” are either:
 - (i) the market value of net assets available to provide benefits as determined by the Board, if the excess of the market value of net assets available to provide benefits over current liabilities calculated using a reference rate based on market data is less than the excess of the assets in paragraph (a) of the definition of “going concern assets” in Regulation 909 made under the Pension Benefits Act over current liabilities calculated using a reference rate based on smoothed data; or
 - (ii) the assets described in paragraph (a) of the definition of “going concern assets” in Regulation 909 made under the Pension Benefits Act, if the excess of the assets described in paragraph (a) of the definition of “going concern assets” in Regulation 909 made under the Pension Benefits Act over current liabilities calculated using a reference rate based on smoothed data is less than the excess of the market value of net assets available to provide benefits over current liabilities calculated using a reference rate based on market data;
- (b) “current liabilities” are the sum of:
 - (i) the difference between:

- 1) the going concern liabilities calculated using the greater of current benefits and run-rate benefits, and
- 2) the present value of the lesser of current contributions and basic contributions;
- and
- (ii) the remaining amortization value (equal to zero with respect to a particular commitment period if, as of the valuation date, the payment in respect of the last year of a commitment period will be paid in that year);
- (c) "current targeted funding amount" is 10% of current liabilities.
- (d) "revised liabilities" are the sum of:
 - (i) the difference between:
 - 1) the going concern liabilities calculated using the greater of revised benefits and run-rate benefits, and
 - 2) the present value of revised contributions;
 - and
 - (ii) the remaining amortization value (equal to zero with respect to a particular commitment period if, as of the valuation date, the payment in respect of the last year of a commitment period will be paid in that year);
- (e) The reference rate for purposes of determining the distribution basis is based on:
 - (i) market data, if the excess of the market value of net assets available to provide benefits over current liabilities calculated using a reference rate based on market data is less than the excess of the assets in paragraph (a) of the definition of "going concern assets" in Regulation 909 made under the Pension Benefits Act over current liabilities calculated using a reference rate based on smoothed data; and
 - (ii) smoothed data, if the excess of the assets in paragraph (a) of the definition of "going concern assets" in Regulation 909 made under the Pension Benefits Act over current liabilities calculated using a reference rate based on smoothed data is less than the excess of the market value of net assets available to provide benefits over current liabilities calculated using a reference rate based on market data;
- (f) "revised targeted funding amount" is 10% of revised liabilities.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 5.02 *Distribution Basis Plus an Adjustment*: For the purposes of Article V, current liabilities and revised liabilities may be calculated as at the current valuation date using the distribution basis plus an adjustment. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 5.03 *Distribution Basis Excess*: If the excess of assets over current liabilities is greater than the current targeted funding amount, then Section 5.04 and Section 5.05 shall apply, provided that no changes pursuant to Section 5.05 may be provided unless the partners have provided all of the changes specified in Section 3.06. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 5.04 *Distribution Basis Excess Report*: The Board shall report to the partners:

- (a) the amount by which assets minus current liabilities exceed the current targeted funding amount; and

- (b) the amount required to change current benefits, current contributions, or both, as requested by either partner.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 5.05 Conditions on Application of Excess: Subject to Article VI, the partners may apply all or part of the amount by which assets minus current liabilities exceed the current targeted funding amount to change current benefits, current contributions, or both, provided that no amendment shall be made unless:

- (a) after such amendment the excess of assets over revised liabilities is equal to or greater than the revised targeted funding amount; and
- (b) the partners have entered into a written agreement governing the manner in which the contributions by the Minister and the Employers may be adjusted to offset any change in current benefits that is reflected in the value of the liabilities.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 5.06 Distribution Basis Deficit: If:

- (a) the excess of assets over current liabilities is less than the current targeted funding amount;
- (b) the present value of current contributions is equal to or less than the present value of basic contributions;
- (c) the present value of current benefits is equal to or greater than the present value of run-rate benefits; and
- (d) the current accumulated adjustment ratio is equal to the run-rate accumulated adjustment ratio;

then Section 5.07 and Section 5.08 shall apply.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 5.07 Distribution Basis Deficit Report: The Board shall report to the partners the amount by which assets minus current liabilities are less than the current targeted funding amount. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 5.08 No Action on Distribution Basis and Return to Temporary Basis: Subject to Article VI, the partners shall not apply, pursuant to this Article V, any part of the amount by which assets exceed current liabilities, and Article IV shall apply. (Last amended May 27, 2015 – Effective March 6, 2015)

Article VI. Post December 30, 2017 Valuations

Section 6.01 Definitions: For the purposes of Article VI, as at the current valuation date, using the restoration basis:

- (a) “assets” are the assets described in paragraph (a) of the definition of “going concern assets” in Regulation 909 made under the *Pension Benefits Act*;
- (b) “current liabilities” are the difference between:
 - (i) the going concern liabilities calculated using current benefits, and
 - (ii) the present value of current contributions;
- (c) “revised liabilities” are the difference between:
 - (i) the going concern liabilities calculated using revised benefits, and
 - (ii) the present value of revised contributions.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 6.02 Post-2017 Excess: Notwithstanding any other provision of this Funding Management Policy, as set out in further detail in the 2013 Term Sheet, after the end of the freeze period, if a valuation report with a valuation date after December 30, 2017 provides that assets are greater than current liabilities as at the date of the current valuation, then Section 6.03 shall apply. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 6.03 2013 Term Sheet Provisions:

- (a) the OTF will have 'first call' on 100% of the value of the excess of the assets over the current liabilities (to take the form of "surplus credits") up to a cumulative total of the value of the lesser of:
 - (i) the value of the benefit reductions made during the freeze period, including the value of benefit reductions made in the January 1, 2012 valuation, but excluding: (1) the value of benefit reductions for which matching contributions are made by the Minister and the Employers, and (2) the value of benefit reductions relating to the removal and replacement of the remaining 50% guaranteed indexing with full conditional inflation protection for post-2013 service and the resulting change to the discount rate, and
 - (ii) the benefit reduction limit as calculated under the 2013 Term Sheet;
- (b) if inflation protection is invoked below 50% during the freeze period, surplus credits will include an amount equal to the actual foregone pension payments during and after the freeze period that arise from the reduction in inflation protection invoked during the freeze period until such time as that inflation protection is restored at 50% or more during or after the freeze period; and
- (c) the OTF may apply all or part of surplus credits to change current benefits, current contributions, or both, provided that no amendment shall be made unless assets are equal to or greater than revised liabilities after such amendment.

(Last amended May 27, 2015 – Effective March 6, 2015)

Article VII. Valuation Frequency and Timing

Section 7.01 The Board shall require the actuary to prepare a preliminary valuation of the plan as of January 1, 2003 and each January 1 thereafter and, in addition, on such other date as the partners mutually agree. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 7.02 Subject to the requirements of the *Pension Benefits Act*, the partners agree that valuations shall be filed with the Superintendent of Financial Services only by their mutual agreement. The partners shall direct the Board, no later than seven months following the valuation date, whether to file. No such filing shall affect the timing of triennial negotiations between the partners referred to in paragraph 96. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 7.03 The seven-month notice requirement referred to in Section 7.02 shall not apply to the January 1, 2005 valuation and shall not apply to the January 1, 2012 valuation. (Last amended May 27, 2015 – Effective March 6, 2015)

Article VIII. Arbitration

Section 8.01 Unless the partners mutually agree to the contrary, they shall follow the procedures described in paragraphs 74 to 100 when determining the plan changes arising from Section 3.07. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 8.02 The limitations on amendments set out in Section 3.07, Section 4.05, Section 4.06, Section 4.09, Section 5.05, and Section 5.08 shall apply to an award made by a board of arbitration pursuant to paragraph 92. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 8.03 Subject to the 2013 Term Sheet, nothing in Article II to Article IX affects the timing of the triennial negotiation, mediation and arbitration process referred to in paragraphs 72 to 100. (Last amended May 27, 2015 – Effective March 6, 2015)

Article IX. Limitations

Section 9.01 The limitations on amendments in this Funding Management Policy shall not apply to amendments:

- (a) made pursuant to paragraphs 60b, 60d, or 60e;
- (b) that are required to comply with provincial law or, where both partners agree, to maintain registration as a registered pension plan under the *Income Tax Act (Canada)*; or
- (c) made by mutual agreement of the partners that do not increase liabilities by more than 0.5%

(Last amended May 27, 2015 – Effective March 6, 2015)

ONTARIO TEACHERS' PENSION PLAN
AMENDMENT TO THE ONTARIO TEACHERS' PENSION PLAN

This is an agreement

B E T W E E N

**Her Majesty the Queen
in right of the Province of Ontario
as represented by the Minister of Education**

(the "Minister")

and

**The Ontario Teachers' Federation
as represented by its Executive**

(the "OTF")

WHEREAS the Minister and the OTF (collectively the "Partners") have established a partnership to administer the Ontario Teachers' Pension Plan and Fund, pursuant to an agreement between the Partners dated July 15, 1991 (the "Partners' Agreement"); and

WHEREAS paragraph 104 of the Partners' Agreement provides that the Partners may at any time agree to change any of the provisions of the Ontario Teachers' Pension Plan being Schedule 1 to the *Teachers' Pension Act*, as amended (the "Plan"); and

WHEREAS the Plan was most recently amended on September 28, 2015; and

WHEREAS the Partners wish to amend the Plan further;

NOW THEREFORE the Partners agree as follows:

Re-employment

1. Effective September 1, 2010, subsection 46 (5) of the Plan is revoked and replaced with the following:

"Re-employed
pensioner"
limitation

46. (5) The term "re-employed pensioner" shall include a member who provides services, other than as a teacher, to a ministry of the Government of Ontario only if:

(a) the ministry is the Ministry of Education, and

(b) the member's retirement pension under the plan begins after September 1, 2010.

2. Effective September 1, 2010, subsection 46(6) of the Plan is amended by adding the words "Despite subsection 46(5)," at the beginning of the subsection.

3. Effective September 1, 2015, subsection 46 (6) of the Plan is revoked.

Her Majesty the Queen
in right of the Province of Ontario
as represented by the
Minister of Education



Liz Sandals
Minister of Education

Date: Nov 23/15

The Ontario Teachers' Federation
as represented by its Executive



Francine LeBlanc-Lebel
OTF President

Date: Nov. 23, 2015

ONTARIO TEACHERS' PENSION PLAN
AMENDMENT TO THE ONTARIO TEACHERS' PENSION PLAN

This is an agreement

BETWEEN

Her Majesty the Queen
in right of the Province of Ontario
as represented by the Minister of Education

(the "Minister")

and

The Ontario Teachers' Federation
as represented by its Executive

(the "OTF")

WHEREAS the Minister and the OTF (collectively the "Partners") have established a partnership to administer the Ontario Teachers' Pension Plan and Fund, pursuant to an agreement between the Partners dated July 15, 1991 (the "Partners' Agreement"); and

WHEREAS paragraph 104 of the Partners' Agreement provides that the Partners may at any time agree to change any of the provisions of the Ontario Teachers' Pension Plan being Schedule 1 to the *Teachers' Pension Act*, as amended (the "Plan"); and

WHEREAS the Plan was most recently amended on September 22, 2015;

WHEREAS the Partners wish to amend the Plan further;

NOW THEREFORE the Partners agree as follows:

WIND UP

1. Section 118a is added to the Plan:

Wind Up

118a. If the pension plan is wound up within the meaning of the *Pension Benefits Act*, the assets of the pension fund shall first be used to pay or satisfy properly incurred liabilities to creditors, following which the remaining assets of the pension fund shall be used to pay or satisfy the accrued benefit entitlements of members, former members, retired members and any other persons entitled to a benefit under the pension plan in respect of a member, former member, or retired member before any other distribution is made.

Effective on the date this agreement is countersigned by both Partners.

Her Majesty the Queen
in right of the Province of Ontario
as represented by the
Minister of Education


Liz Sandals
Minister of Education

The Ontario Teachers' Federation
as represented by its Executive


Francine LeBlanc-Lebel
OTF President

Date: Sept 28/15

Date: 27 September, 2015

TEACHERS' PENSION PLAN
AMENDMENT TO THE TEACHERS' PENSION PLAN

This is an agreement

B E T W E E N

Her Majesty the Queen
in right of the Province of Ontario
as represented by the Minister of Education

(the "Minister")

and

The Ontario Teachers' Federation
as represented by its Executive

(the "OTF")

WHEREAS the Minister and the OTF (collectively the "Partners") have established a partnership to administer the Ontario Teachers' Pension Plan and Fund, pursuant to an agreement between the Partners dated July 15, 1991 (the "Partners' Agreement"); and

WHEREAS paragraph 104 of the Partners' Agreement provides that the Partners may at any time agree to change any of the provisions of the Ontario Teachers' Pension Plan being Schedule 1 to the *Teachers' Pension Act*, as amended (the "Plan"); and

WHEREAS the Plan was most recently amended on July 21, 2014; and

WHEREAS the Partners wish to amend the Plan further;

NOW THEREFORE the Partners agree as follows:

Credit for Service

1. Effective April 20, 2015, subsection 10 (4) of the Plan is revoked and replaced with the following:

Limitation

10. (4) Except for periods of lockout or legal strike or the strikes declared illegal by the Ontario Labour Relations Board on May 26, 2015 for the following periods:
- (a) Durham District School Board – April 20, 2015 - May 26, 2015
 - (b) Rainbow District School Board – April 27, 2015 - May 26, 2015
 - (c) Peel District School Board – May 4, 2015 - May 26, 2015,
- a person shall not receive credited service for employment unless contributions in respect of the employment are made by or on behalf of that person.

For Employment in Education

2. Effective April 20, 2015, subsection 96 (1) of the Plan is revoked and replaced with the following:

Absence re strike or lockout

96. (1) A member may contribute for days that the member is absent from employment in education for the purpose of participating in a legal strike or the strikes declared illegal by the Ontario Labour Relations Board on May 26, 2015 for the following periods:
- (a) Durham District School Board – April 20, 2015 - May 26, 2015
 - (b) Rainbow District School Board – April 27, 2015 - May 26, 2015
 - (c) Peel District School Board – May 4, 2015 - May 26, 2015,
- or because of a lockout.

Her Majesty the Queen
in right of the Province of Ontario
as represented by the
Minister of Education


Liz Sandals
Minister of Education

The Ontario Teachers' Federation
as represented by its Executive


Francine LeBlanc-Lebel
OTF President

Dated at Toronto this 22nd day
of September, 2015.

Dated at Toronto this ____ day
of _____, 2015.

TEACHERS' PENSION PLAN

AMENDMENT TO THE TEACHERS' PENSION PLAN

This is an agreement

B E T W E E N

**Her Majesty the Queen
in right of the Province of Ontario
as represented by the Minister of Education**

(the "Minister")

and

**The Ontario Teachers' Federation
as represented by its Executive**

(the "OTF")

WHEREAS the Minister and the OTF (collectively the "Partners") have established a partnership to administer the Ontario Teachers' Pension Plan and Fund, pursuant to an agreement between the Partners dated July 15, 1991 (the "Partners' Agreement"); and

WHEREAS the Partners' Agreement was most recently amended on January 15, 2014;
and

WHEREAS the Partners wish to amend the Partners' Agreement further;

NOW THEREFORE the Partners agree as follows:

The Board

1. Effective January 1, 2016, paragraphs 20 and 21 of the Partners' Agreement are revoked and replaced with the following:
 20. The Board will have a maximum of eleven members. The partners will each appoint five members.
 21. The eleventh member of the Board will be the Chair. The process for appointing a Chair is set out in the next section of this agreement.

Her Majesty the Queen
in right of the Province of Ontario
as represented by the
Minister of Education



Liz Sandals
Minister of Education

Dated at Toronto this 21st day
of May, 2015.

The Ontario Teachers' Federation
as represented by its Executive



Rian McLaughlin
OTF President

Dated at Toronto this 6 day
of May, 2015.

D - OTPP Funding Management Policy.pdf

APPENDIX "A"

Funding Management PolicyArticle I. Application

Section 1.01 Best Estimates Assumptions: For the purposes of this Funding Management Policy, except as otherwise provided herein, the Board shall provide the required reports using the Board's best estimates assumptions including, in the case of the discount rate, a margin for adverse deviation. The Board's best estimate economic assumptions may be based on market data, smoothed data, the reference rate or the Board's expectation if the Board believes future experience may differ from market data. The Board's assumptions shall be used only if they would be consistent with accepted actuarial practice. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 1.02 Escalated Adjustments Indices: The Board shall also maintain indices to record escalated adjustments for post-2009 service. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 1.03 Different Discount Rate: If a preliminary valuation uses a discount rate lower than the restoration basis for valuations prepared under Article III and Article VI, lower than the temporary basis for valuations prepared under Article IV, or lower than the distribution basis for valuations prepared under Article V, then the Board shall notify the partners and the partners shall meet with the Board. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 1.04 Exit Provision: The provisions in Article II to Article IX shall expire twelve months after the notification referred to in Section 1.03 unless both partners otherwise notify the Board. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 1.05 This Funding Management Policy shall be applied as follows:

- (a) If there is a restoration basis excess when current contributions exceed basic contributions and/or current benefits are less than run-rate benefits, the excess can be used to reduce contributions and/or increase benefits in accordance with Article III: If the results of a preliminary valuation, using the restoration basis, the definitions in Section 3.01 and the provisos in Section 3.02 and Section 3.03, satisfy the conditions in Section 3.04, then Section 3.05, Section 3.06, Section 3.07 and Section 3.08 shall apply;
- (b) If there is a restoration basis deficit using current contributions and current benefits, contributions must be increased and/or benefits must be reduced in accordance with Article III to eliminate the deficit: If the results of a preliminary valuation, using the restoration basis, the definitions in Section 3.01 and the provisos in Section 3.02 and Section 3.03, satisfy the conditions in Section 3.09, then Section 3.10, Section 3.11, Section 3.12, Section 3.13, and Section 3.14 shall apply;
- (c) If there is a restoration basis excess when contributions are less than or equal to basic contributions and benefits are greater than or equal to run-rate benefits, prepare a temporary basis valuation in accordance with Article IV: If the results of a preliminary valuation, using the restoration basis, the definitions in Section 3.01 and the provisos in Section 3.02 and Section 3.03, either:
 - (i) do not satisfy the conditions in either Section 3.04 or Section 3.09; or
 - (ii) satisfy the conditions in Section 3.04, and
 - 1) the present value of revised benefits is equal to the present value of run-rate benefits, and
 - 2) the present value of revised contributions is equal to the present value of basic contributions;

then the preliminary valuation shall be performed using the temporary basis, the definitions in Section 4.01 and the proviso in Section 4.02;

(d) Temporary and Distribution Basis Valuations:

- (i) If there is a temporary basis excess, prepare a distribution basis valuation in accordance with Article I: If the results of a preliminary valuation, using the temporary basis, the definitions in Section 4.01 and the proviso in Section 4.02, satisfy the conditions in Section 4.03, then the preliminary valuation shall be performed using the distribution basis, the definitions in Section 5.01 and the proviso in Section 5.02, and
 - 1) If there is a distribution basis excess, the distribution basis excess can be used to make plan improvements in accordance with Article V: if the results of that preliminary valuation satisfy the conditions in Section 5.03, then Article V shall apply;
 - 2) If there is a distribution basis deficit but a temporary basis excess, the temporary basis excess can be used to make temporary plan improvements in accordance with Article II: if the results of that preliminary valuation do not satisfy the conditions in Section 5.03, then the preliminary valuation shall be performed using the temporary basis, the definitions in Section 4.01 and the proviso in Section 4.02, and Article IV shall apply;
- (ii) If there is a temporary basis deficit, the restoration basis valuation will apply in accordance with Article III: If the results of a preliminary valuation, using the temporary basis, the definitions in Section 4.01 and the proviso in Section 4.02, do not satisfy the conditions in Section 4.03, then the preliminary valuation shall be performed using the restoration basis, the definitions in Section 3.01 and the provisos in Section 3.02 and Section 3.03, and Section 3.05, Section 3.06, Section 3.07 and Section 3.08 shall apply;
- (e) Post-December 30, 2017 Valuations: If the results of a preliminary valuation prepared as of a date after December 30, 2017, using the restoration basis and the definitions in Section 6.01, satisfy the conditions in Section 6.02, then Section 6.03 shall apply;
- (f) 2013 Term Sheet Precedence: The provisions of the 2013 Term Sheet shall take precedence over this Funding Management Policy. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 1.06 Actions Subject to Pension Legislation: Prior to the commitment of a surplus distribution or a contribution decrease, the partners shall ensure such distribution or contribution decrease is in accordance with the *Income Tax Act* (Canada), the *Pension Benefits Act* (Ontario) and their respective regulations. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 1.07 Conditions on Temporary Improvements: Any commitment to provide temporary improvements shall be made conditional on the results of a preliminary valuation for each year of the commitment period indicating that the conditions in Section 3.04(a) are met prior to and after such temporary improvement. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 1.08 Headings: Headings are underlined and are for convenience only and shall not affect the interpretation or meaning of any provision of this Funding Management Policy. (Last amended May 27, 2015 – Effective March 6, 2015)

Article II. Definitions

Section 2.01 For the purposes of this Funding Management Policy:

- (a) "2013 Term Sheet" means the March 13, 2013 OTTP Term Sheet entered into by the partners;
- (b) "basic contributions" are the contributions required by subsections 19(1) or (2) of Schedule 1 as it read on January 1, 2012;
- (c) "commitment period" means the three-year period during which a temporary improvement is provided;
- (d) "commitment value" means the present value of the portion of the temporary improvement value provided during the commitment period;

- (e) "Consumer Price Index" means the Consumer Price Index for Canada as published by Statistics Canada under the authority of the *Statistics Act* (Canada);
- (f) "CPI adjustment" means the ratio between 1.000 and 1.080 of the average for the Consumer Price Index over the last twelve months of the twenty-four-month period ending with the 30th day of September in the immediately preceding year to the average for the Consumer Price Index over the first twelve months of that period - 1. If the ratio would have been less than 1.000 or greater than 1.080, but for those limits, the difference shall be carried forward in a manner consistent with that set out in section 80 of Schedule 1;
- (g) "current accumulated adjustment ratio" is an index maintained by the Board that begins with "1.000000" for 2010 and is the product of all current ratios for the years in the period commencing with 2010 and ending with the year prior to the year for which the current accumulated adjustment ratio is being determined. The index may differ in respect of service accrued before 2014 and service accrued after 2013 with both indices beginning with "1.000000" for 2010;
- (h) "current benefits" are the pension benefits, current escalated adjustments and ancillary benefits calculated in accordance with Schedule 1 as it read at the current valuation date without taking into account any amendment made, or changes agreed to by the partners, on or after the current valuation date;
- (i) "current contributions" are the contributions required by Schedule 1 as it read at the current valuation date without taking into account any amendment made on or after the current valuation date;
- (j) "current escalated adjustments" are the escalated adjustments in respect of post-2009 service that were applied prior to the January 1st following the current valuation date and assumed thereafter at the rate set out in the most recent filed valuation;
- (k) "current ratio", for a year, means $1 +$ the proportion of the CPI adjustment granted as agreed to by the partners, and as may have been revised from time to time, provided that the proportion shall not be less than 50% in respect of service accrued before 2014, but not including any revision agreed to by the partners in relation to the current valuation;
- (l) "current valuation date" in respect of a valuation is the date provided in Section 7.01;
- (m) "distribution basis" is the reference rate with a positive adjustment of 0.5% together with the Board's best estimate actuarial assumptions for all other factors;
- (n) "freeze period" means the period from December 31, 2012 to December 30, 2017;
- (o) "going concern liabilities" are the going concern liabilities within the meaning of Regulation 909 made under the *Pension Benefits Act* and must also include the present value of the pension benefits and escalated adjustments that both accrued prior to the valuation date and that will accrue on or after the valuation date to the persons who were members of the plan on the valuation date and the present value of the ancillary benefits for which the eligibility requirements will be satisfied on or after the valuation date by the persons who were members of the plan on the valuation date;
- (p) "preliminary valuation" means a valuation referred to in Section 7.01;
- (q) "reference rate" means the interest rate chosen by the Board representing the Government of Canada long bond yield (currently, CANSIM Series V39056 nominal and CANSIM Series V39057 real, or their reasonable respective replacements) that may be based on market data or smoothed data;
- (r) "remaining amortization value" means the difference between the temporary improvement value and the commitment value;
- (s) "restoration basis" is the reference rate with a positive adjustment of 1.55% together with the Board's best estimate actuarial assumptions for all other factors;

- (t) "revised accumulated adjustment ratio" is an index maintained by the Board that begins with "1.000000" for 2010 and is the current accumulated adjustment ratio, as modified by an agreement between the partners to change the proportion of the CPI adjustment in respect of post-2009 service prior to the year following the current valuation date. The index may differ in respect of service accrued before 2014 and service accrued after 2013 with both indices beginning with "1.000000" for 2010;
- (u) "revised benefits" are the current benefits including any amendment made, or changes agreed to by the partners, on or after the current valuation date based on that valuation;
- (v) "revised contributions" are the current contributions including any amendment made on or after the current valuation date based on that valuation;
- (w) "revised escalated adjustments" are the current escalated adjustments including any amendment made, or changes agreed to by the partners, on or after the current valuation date based on that valuation and assumed thereafter at the rate set out in that valuation;
- (x) "run-rate accumulated adjustment ratio" is an index maintained by the Board that begins with "1.000000" for 2010 and is the product of all run-rate ratios for the years in the period commencing with 2010 and ending with the year prior to the year for which the run-rate accumulated adjustment ratio is being determined;
- (y) "run-rate benefits" are the pension benefits, run-rate escalated adjustments and ancillary benefits calculated in accordance with Schedule 1 as it read on January 1, 2009, together with any benefits provided by amendments described in Article IX;
- (z) "run-rate escalated adjustments" are the escalated adjustments in respect of post-2009 service that would have applied at the rate of 100% of the CPI adjustment prior to the January 1st following the current valuation date and that would be assumed thereafter at the rate of 100% of the CPI adjustment;
- (aa) "run-rate ratio", for a year, means $1 + \text{the CPI adjustment for the year}$;
- (bb) "temporary basis" is the reference rate with a positive adjustment of 1.25% together with the Board's best estimate actuarial assumptions for all other factors;
- (cc) "temporary improvement" means an improvement provided in accordance with Section 4.05;
- (dd) "temporary improvement value" is the present value of a contribution decrease, a distribution of surplus and/or a benefit improvement that is amortized over a period of up to ten years, but is committed to for the duration of the commitment period only, provided that at the establishment of the commitment:
 - (i) the partners may elect an amortization period between three and ten years; and
 - (ii) for amortization periods of less than ten years, any temporary improvement for a given year shall be limited such that the present value of that given year's temporary improvement is not greater than the present value of basic contributions, calculated using the temporary basis, to be paid in the same year.

(Last amended May 27, 2015 – Effective March 6, 2015)

Article III. Funding Zone - Restoration

Section 3.01 Definitions: For the purposes of Article III, as at the current valuation date, using the restoration basis:

- (a) "assets" are the assets described in paragraph (a) of the definition of "going concern assets" in Regulation 909 made under the *Pension Benefits Act*;
- (b) "current liabilities" are the difference between:
 - (i) the going concern liabilities calculated using current benefits, and

- (ii) the present value of current contributions;
- (c) "revised liabilities" are the difference between:
 - (i) the going concern liabilities calculated using revised benefits, and
 - (ii) the present value of revised contributions.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.02 Restoration Basis Plus on Adjustment: For the purposes of Article III, current liabilities and revised liabilities may be calculated as at the current valuation date using the restoration basis plus an adjustment. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.03 CPI Adjustment: For the purposes of Article III, and subject to a subsequently filed valuation, the proportion of the CPI adjustment for the period covered by the current valuation, in respect of each applicable period of service, will be the same for each year in that period and assumed at the same rate thereafter. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.04 Restoration Basis Excess, but Basic Contributions and/or Run-Rate Benefits Not Restored:

- (a) If assets are greater than current liabilities, and
- (b) if:
 - (i) the present value of current contributions is greater than the present value of basic contributions, or
 - (ii) the present value of current benefits is less than the present value of run-rate benefits, or
 - (iii) both (i) and (ii);

then Section 3.05, Section 3.06, Section 3.07 and Section 3.08 shall apply.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.05 Restoration Basis Excess Report: The Board shall report to the partners:

- (a) the excess of assets over current liabilities, and
- (b) the extent to which the excess can be used to provide the changes specified in Section 3.06.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.06 Application of Restoration Basis Excess: For purposes of clarity, excesses identified pursuant to Section 3.05 shall be applied in the following order, provided that the partners reserve the right to reconsider such application having regard to the contribution rate and benefits then in effect, prevailing economic circumstances and other relevant factors:

- (a) Bring Escalated Adjustments to 50% for Post-2013 Service: to provide escalated adjustments up to 50% of the CPI adjustment in respect of service accrued after 2013 for the period covered by the valuation, and assumed thereafter at the same rate;
- (b) Bring Escalated Adjustments to 100%: to provide escalated adjustments up to 100% of the CPI adjustment for the period covered by the valuation, and assumed thereafter at the same rate;
- (c) Restore Escalated Adjustments for Post-2013 Years: to provide escalated adjustments to increase, to the extent possible, the current accumulated adjustment ratio for each year after 2013, to the current accumulated adjustment ratio for the period from 2010 to 2013, beginning with the first year in which current escalated adjustments were less than 50% of the run-rate escalated adjustments;

- (d) Restore Escalated Adjustments for Post-2009 Years: to provide escalated adjustments to increase, to the extent possible, the current accumulated adjustment ratio for each year after 2009 to the run-rate accumulated adjustment ratio, beginning with the first year in which current escalated adjustments were less than run-rate escalated adjustments;
- (e) Provide Benefit Increases or Contribution Rate Reductions: to provide the following:
 - (i) an increase in benefits, where the present value of current benefits is less than the present value of run-rate benefits;
 - (ii) a reduction in contribution rates, where the present value of current contributions exceeds the present value of basic contributions; or
 - (iii) a combination of (i) and (ii).

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.07

Conditions on Application of Excess: Subject to Section 3.06 and Section 3.08 or any mutual agreement to the contrary, the partners shall apply the excess of assets over current liabilities to change benefits, contributions, or both, provided that no change or amendment shall be made unless, after such change or amendment:

- (a) assets are equal to or greater than revised liabilities;
- (b) the revised accumulated adjustment ratio is equal to or less than the run-rate accumulated adjustment ratio;
- (c) the revised accumulated adjustment ratio is equal to or greater than the current accumulated adjustment ratio;
- (d) the present value of revised benefits is equal to or less than the greater of the present value of current benefits and the present value of run-rate benefits;
- (e) the present value of revised benefits is equal to or greater than the lesser of the present value of current benefits and the present value of run-rate benefits;
- (f) the present value of revised contributions is equal to or greater than the lesser of the present value of current contributions and the present value of basic contributions; and
- (g) the present value of revised contributions is equal to or less than the greater of the present value of current contributions and the present value of basic contributions.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.08

2013 Term Sheet Limits: As set out in further detail in the 2013 Term Sheet, during the freeze period:

- (a) The partners may provide escalated adjustments pursuant to Section 3.06(a), Section 3.06(b), Section 3.06(c) and Section 3.06(d) only if the assets are greater than 100% of the current liabilities and do not fall below 100% of the revised liabilities after the adjustment; and
- (b) The partners may agree to improve benefits, or to restore benefits that were reduced during the freeze period, pursuant to Section 3.06(e) only if the net assets available for benefits (as such term is used in the preliminary valuations) are equal to or greater than 105% of the current liabilities and do not fall below 105% of the revised liabilities after the benefit improvement or restoration.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.09

Restoration Basis Deficit: If current liabilities are greater than assets, then Section 3.10, Section 3.11, Section 3.12, Section 3.13 and Section 3.14 shall apply. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.10

Restoration Basis Deficit Report: The Board shall report to the partners:

- (a) the excess of current liabilities over assets, and
- (b) the amount required to change current benefits, current contributions, or both, to eliminate the excess referred to in Section 3.10(a) above, as requested by either partner.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.11

Conditions on Elimination of Deficit: Subject to Section 3.12 and Section 3.14, the partners may change benefits, contributions, or both, to eliminate the excess referred to in Section 3.10(a) provided that no change or amendment shall be made unless, after such change or amendment:

- (a) assets are equal to or greater than revised liabilities; and
- (b) revised member contributions shall be limited to 15% of pensionable salaries above the Year's Maximum Pensionable Earnings as prescribed under the *Canada Pension Plan*.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.12

Restrictions on Benefit Reductions: Current benefits shall not be reduced unless:

- (a) the partners agree on the terms and conditions of any reduction in current benefits;
- (b) the partners have entered into a written agreement governing the manner in which contributions by the Minister and the Employers will be adjusted to offset any reduction in benefits; and
- (c) the revised accumulated adjustment ratio, in respect of each year, is equal to or greater than the current accumulated adjustment ratio for the year.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.13

Restrictions on Contribution Increases: Subject to Section 3.14, the partners have the authority to set the level of contributions that must be reached before current benefits are reduced below run-rate benefits, subject to the commitment that member contributions will not exceed 15% of pensionable salaries above the Year's Maximum Pensionable Earnings (as prescribed under the *Canada Pension Plan*). (Last amended May 27, 2015 – Effective March 6, 2015)

Section 3.14

Further Restrictions on Contribution Increases: As set out in further detail in the 2013 Term Sheet, during the freeze period there will be no employer contribution increases except as provided under the 2013 Term Sheet. (Last amended May 27, 2015 – Effective March 6, 2015)

Article IV.

Funding Zone – Temporary Improvements

Section 4.01

Definitions: For the purposes of Article IV, as at the current valuation date, using the temporary basis:

- (a) "assets" are either:
 - (i) the market value of net assets available to provide benefits as determined by the Board, if the excess of the market value of net assets available to provide benefits over current liabilities calculated using a reference rate based on market data is less than the excess of the assets in paragraph (a) of the definition of "going concern assets" in Regulation 909 made under the Pension Benefits Act over current liabilities calculated using a reference rate based on smoothed data; or
 - (ii) the assets described in paragraph (a) of the definition of "going concern assets" in Regulation 909 made under the Pension Benefits Act, if the excess of the assets described in paragraph (a) of the definition of "going concern assets" in Regulation 909 made under the Pension Benefits Act over current liabilities calculated using a reference rate based on smoothed data is less than the excess of the market value of net assets available to provide benefits over current liabilities calculated using a reference rate based on market data;
- (b) "current liabilities" are the sum of:

- (i) the difference between:
 - 1) the going concern liabilities calculated using the greater of current benefits and run-rate benefits, and
 - 2) the present value of the lesser of current contributions and basic contributions;
 and
- (ii) the remaining amortization value (equal to zero with respect to a particular commitment period if, as of the valuation date, the payment in respect of the last year of a commitment period will be paid in that year);
- (c) "revised liabilities" are the sum of:
 - (i) the difference between:
 - 1) the going concern liabilities calculated using the greater of revised benefits and run-rate benefits, and
 - 2) the present value of revised contributions;
 and
 - (ii) the remaining amortization value (equal to zero with respect to a particular commitment period if, as of the valuation date, the payment in respect of the last year of a commitment period will be paid in that year);
- (d) The reference rate for purposes of determining the temporary basis is based on:
 - (i) market data, if the excess of the market value of net assets available to provide benefits over current liabilities calculated using a reference rate based on market data is less than the excess of the assets in paragraph (a) of the definition of "going concern assets" in Regulation 909 made under the Pension Benefits Act over current liabilities calculated using a reference rate based on smoothed data; and
 - (ii) smoothed data, if the excess of the assets in paragraph (a) of the definition of "going concern assets" in Regulation 909 made under the Pension Benefits Act over current liabilities calculated using a reference rate based on smoothed data is less than the excess of the market value of net assets available to provide benefits over current liabilities calculated using a reference rate based on market data.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 4.02 Temporary Basis Plus an Adjustment: For the purposes of Article IV, current liabilities and revised liabilities may be calculated as at the current valuation date using the temporary basis plus an adjustment. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 4.03 Temporary Basis Excess: If assets are greater than current liabilities, then Section 4.04, Section 4.05 and Section 4.06 shall apply, provided that no temporary improvements may be provided unless the partners have provided all of the changes specified in Section 3.06. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 4.04 Temporary Basis Excess Report: The Board shall report to the partners:

- (a) the amount by which assets exceed current liabilities;
- (b) the commitment value;
- (c) the extent to which the commitment value can be used to provide a reduction to current contributions, beginning with the year following the year in which a preliminary valuation is filed and lasting for the commitment period;

- (d) the extent to which the commitment value can be used to provide annual surplus distributions, beginning with the year following the year in which a preliminary valuation is filed and lasting for the commitment period;
- (e) the extent to which the commitment value can be used to provide a temporary benefit improvement, beginning with the year following the year in which a preliminary valuation is filed and lasting for the commitment period; and
- (f) the extent to which the commitment value can be used to provide a combination of Section 4.04(c), Section 4.04(d) and Section 4.04(e).

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 4.05 Conditions on Application of Excess: Subject to Article VI and Section 4.06, the partners may apply all or part of the commitment value to change temporarily current contributions, provide surplus distributions on a temporary basis, or provide a temporary benefit improvement, provided that no amendment shall be made unless, after such amendment, the excess of assets over revised liabilities is equal to or greater than zero. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 4.06 Side Agreement: The commitment value shall be used to provide a surplus distribution referred to in Section 4.04(d) or a temporary benefit improvement referred to in Section 4.04(e) only if the partners have entered into a written agreement governing the manner in which the contributions by the Minister and the Employers may be adjusted to offset any surplus distribution or temporary improvement of benefits that is reflected in the value of the liabilities. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 4.07 Temporary Basis Deficit: If assets are equal to or less than current liabilities, then Section 4.08 and Section 4.09 shall apply. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 4.08 Temporary Basis Deficit Report: The Board shall report to the partners the amount by which current liabilities exceed assets. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 4.09 No Action on Temporary Basis and Return to Restoration Basis: Subject to Article VI, the partners shall not provide new temporary improvements and Article III shall apply. (Last amended May 27, 2015 – Effective March 6, 2015)

Article V. Funding Zone – Permanent Improvements

Section 5.01 Definitions: For the purposes of Article V, as at the current valuation date, using the distribution basis:

- (a) “assets” are either:
 - (i) the market value of net assets available to provide benefits as determined by the Board, if the excess of the market value of net assets available to provide benefits over current liabilities calculated using a reference rate based on market data is less than the excess of the assets in paragraph (a) of the definition of “going concern assets” in Regulation 909 made under the Pension Benefits Act over current liabilities calculated using a reference rate based on smoothed data; or
 - (ii) the assets described in paragraph (a) of the definition of “going concern assets” in Regulation 909 made under the Pension Benefits Act, if the excess of the assets described in paragraph (a) of the definition of “going concern assets” in Regulation 909 made under the Pension Benefits Act over current liabilities calculated using a reference rate based on smoothed data is less than the excess of the market value of net assets available to provide benefits over current liabilities calculated using a reference rate based on market data;
- (h) “current liabilities” are the sum of:
 - (i) the difference between:

- 1) the going concern liabilities calculated using the greater of current benefits and run-rate benefits, and
 - 2) the present value of the lesser of current contributions and basic contributions;
- and
- (ii) the remaining amortization value (equal to zero with respect to a particular commitment period if, as of the valuation date, the payment in respect of the last year of a commitment period will be paid in that year);
- (c) "current targeted funding amount" is 10% of current liabilities;
- (d) "revised liabilities" are the sum of:
- (i) the difference between:
 - 1) the going concern liabilities calculated using the greater of revised benefits and run-rate benefits, and
 - 2) the present value of revised contributions;

and

 - (ii) the remaining amortization value (equal to zero with respect to a particular commitment period if, as of the valuation date, the payment in respect of the last year of a commitment period will be paid in that year);
- (e) The reference rate for purposes of determining the distribution basis is based on:
- (i) market data, if the excess of the market value of net assets available to provide benefits over current liabilities calculated using a reference rate based on market data is less than the excess of the assets in paragraph (a) of the definition of "going concern assets" in Regulation 909 made under the Pension Benefits Act over current liabilities calculated using a reference rate based on smoothed data; and
 - (ii) smoothed data, if the excess of the assets in paragraph (a) of the definition of "going concern assets" in Regulation 909 made under the Pension Benefits Act over current liabilities calculated using a reference rate based on smoothed data is less than the excess of the market value of net assets available to provide benefits over current liabilities calculated using a reference rate based on market data;
- (f) "revised targeted funding amount" is 10% of revised liabilities.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 5.02 **Distribution Basis Plus an Adjustment:** For the purposes of Article V, current liabilities and revised liabilities may be calculated as at the current valuation date using the distribution basis plus an adjustment. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 5.03 **Distribution Basis Excess:** If the excess of assets over current liabilities is greater than the current targeted funding amount, then Section 5.04 and Section 5.05 shall apply, provided that no changes pursuant to Section 5.05 may be provided unless the partners have provided all of the changes specified in Section 3.06. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 5.04 **Distribution Basis Excess Report:** The Board shall report to the partners:

- (a) the amount by which assets minus current liabilities exceed the current targeted funding amount; and

- (b) the amount required to change current benefits, current contributions, or both, as requested by either partner.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 5.05

Conditions on Application of Excess: Subject to Article VI, the partners may apply all or part of the amount by which assets minus current liabilities exceed the current targeted funding amount to change current benefits, current contributions, or both, provided that no amendment shall be made unless:

- (a) after such amendment the excess of assets over revised liabilities is equal to or greater than the revised targeted funding amount; and
- (b) the partners have entered into a written agreement governing the manner in which the contributions by the Minister and the Employers may be adjusted to offset any change in current benefits that is reflected in the value of the liabilities.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 5.06

Distribution Basis Deficit: If:

- (a) the excess of assets over current liabilities is less than the current targeted funding amount;
- (b) the present value of current contributions is equal to or less than the present value of basic contributions;
- (c) the present value of current benefits is equal to or greater than the present value of run-rate benefits; and
- (d) the current accumulated adjustment ratio is equal to the run-rate accumulated adjustment ratio;

then Section 5.07 and Section 5.08 shall apply.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 5.07

Distribution Basis Deficit Report: The Board shall report to the partners the amount by which assets minus current liabilities are less than the current targeted funding amount. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 5.08

No Action on Distribution Basis and Return to Temporary Basis: Subject to Article VI, the partners shall not apply, pursuant to this Article V, any part of the amount by which assets exceed current liabilities, and Article IV shall apply. (Last amended May 27, 2015 – Effective March 6, 2015)

Article VI.

Post December 30, 2017 Valuations

Section 6.01

Definitions: For the purposes of Article VI, as at the current valuation date, using the restoration basis:

- (a) “assets” are the assets described in paragraph (a) of the definition of “going concern assets” in Regulation 909 made under the *Pension Benefits Act*;
- (b) “current liabilities” are the difference between:
 - (i) the going concern liabilities calculated using current benefits, and
 - (ii) the present value of current contributions;
- (c) “revised liabilities” are the difference between:
 - (i) the going concern liabilities calculated using revised benefits, and
 - (ii) the present value of revised contributions.

(Last amended May 27, 2015 – Effective March 6, 2015)

Section 6.02 Post-2017 Excess: Notwithstanding any other provision of this Funding Management Policy, as set out in further detail in the 2013 Term Sheet, after the end of the freeze period, if a valuation report with a valuation date after December 30, 2017 provides that assets are greater than current liabilities as at the date of the current valuation, then Section 6.03 shall apply. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 6.03 2013 Term Sheet Provisions:

- (a) the OTF will have 'first call' on 100% of the value of the excess of the assets over the current liabilities (to take the form of "surplus credits") up to a cumulative total of the value of the lesser of:
 - (i) the value of the benefit reductions made during the freeze period, including the value of benefit reductions made in the January 1, 2012 valuation, but excluding: (1) the value of benefit reductions for which matching contributions are made by the Minister and the Employers, and (2) the value of benefit reductions relating to the removal and replacement of the remaining 50% guaranteed indexing with full conditional inflation protection for post-2013 service and the resulting change to the discount rate, and
 - (ii) the benefit reduction limit as calculated under the 2013 Term Sheet;
- (b) if inflation protection is invoked below 50% during the freeze period, surplus credits will include an amount equal to the actual foregone pension payments during and after the freeze period that arise from the reduction in inflation protection invoked during the freeze period until such time as that inflation protection is restored at 50% or more during or after the freeze period; and
- (c) the OTF may apply all or part of surplus credits to change current benefits, current contributions, or both, provided that no amendment shall be made unless assets are equal to or greater than revised liabilities after such amendment.

(Last amended May 27, 2015 – Effective March 6, 2015)

Article VII. Valuation Frequency and Timing

Section 7.01 The Board shall require the actuary to prepare a preliminary valuation of the plan as of January 1, 2003 and each January 1 thereafter and, in addition, on such other date as the partners mutually agree. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 7.02 Subject to the requirements of the *Pension Benefits Act*, the partners agree that valuations shall be filed with the Superintendent of Financial Services only by their mutual agreement. The partners shall direct the Board, no later than seven months following the valuation date, whether to file. No such filing shall affect the timing of triennial negotiations between the partners referred to in paragraph 96. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 7.03 The seven-month notice requirement referred to in Section 7.02 shall not apply to the January 1, 2005 valuation and shall not apply to the January 1, 2012 valuation. (Last amended May 27, 2015 – Effective March 6, 2015)

Article VIII. Arbitration

Section 8.01 Unless the partners mutually agree to the contrary, they shall follow the procedures described in paragraphs 74 to 100 when determining the plan changes arising from Section 3.07. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 8.02 The limitations on amendments set out in Section 3.07, Section 4.05, Section 4.06, Section 4.09, Section 5.05, and Section 5.08 shall apply to an award made by a board of arbitration pursuant to paragraph 92. (Last amended May 27, 2015 – Effective March 6, 2015)

Section 8.03 Subject to the 2013 Term Sheet, nothing in Article II to Article IX affects the timing of the triennial negotiation, mediation and arbitration process referred to in paragraphs 72 to 100. (Last amended May 27, 2015 – Effective March 6, 2015)

Article IX. Limitations

Section 9.01

The limitations on amendments in this Funding Management Policy shall not apply to amendments:

- (a) made pursuant to paragraphs 60b, 60d, or 60e;
- (b) that are required to comply with provincial law or, where both partners agree, to maintain registration as a registered pension plan under the *Income Tax Act (Canada)*; or
- (c) made by mutual agreement of the partners that do not increase liabilities by more than 0.5%.

(Last amended May 27, 2015 – Effective March 6, 2015)

E - Pensions Benefit Act.pdf

Pension Benefits Act

R.S.O. 1990, CHAPTER P.8

Consolidation Period: From October 31, 2016 to the [e-Laws currency date](#).

Last amendment: 2016, c. 17, s. 96.

CONTENTS

1.	Interpretation
1.1	Retired members and former members
	APPLICATION
2.	Crown bound
3.	Employees in Ontario
4.	Place of employment
5.	Greater pension benefits
5.1	Designated multi-jurisdictional pension plans
	REGISTRATION AND ADMINISTRATION
6.	Prohibition of administration of unregistered pension plan
7.	Refusal or revocation
8.	Administrator
9.	Application for registration
10.	Contents of pension plan
12.	Application for registration of amendment
13.	When amendment effective
14.	Reduction of benefits
14.0.1	Improvement in benefits
14.1	Gradual and uniform accrual of pension benefits
15.	Acknowledgment of application for registration
16.	Issuance of certificate of registration
17.	Issuance of notice of registration
18.	Refusal or revocation of registration
19.	Duty of administrator
20.	Administrator's annual information return
21.	Reciprocal transfer agreement
22.	Care, diligence and skill
22.1	Payment of administrative fees and expenses
23.	Information from employer
24.	Advisory committee
	RECORD KEEPING AND DISCLOSURE
24.1	Duty to retain records
25.	Information from administrator
26.	Pension plan amendments
26.	Pension plan amendments
27.	Annual statement of pension benefits
28.	Statement of benefits
29.	Inspection of administrator's records
30.	Inspection of filed records
30.1	Authority to use electronic transmission
	MEMBERSHIP
31.	Eligibility for membership
32.	Loss of membership
33.	Dispute as to member of class of employees
34.	Separate pension plan
	RETIREMENT
35.	Normal retirement date

<u>35.1</u>	Phased retirement option
<u>36.</u>	Deferred pension for service before 1987
<u>37.</u>	Deferred pension for service after 1986
<u>38.</u>	Termination by member
	<u>BENEFITS</u>
<u>39.</u>	Value of deferred pension, etc.
<u>39.1</u>	Variable benefits
<u>39.2</u>	Target benefits
<u>40.</u>	Ancillary benefits
<u>40.1</u>	Optional benefits
<u>41.</u>	Early retirement option
<u>42.</u>	Transfer
<u>43.</u>	Purchase of pension
<u>44.</u>	Joint and survivor pension benefits
<u>45.</u>	Information for payment
<u>46.</u>	Waiver of joint and survivor pension benefit
<u>47.</u>	Remarriage, etc.
<u>48.</u>	Pre-retirement death benefit
<u>49.</u>	Variation of payment to disabled person
<u>50.</u>	Unlocking for small amounts
<u>50.1</u>	Payments into registered retirement savings arrangements
<u>52.</u>	Discrimination on basis of sex
<u>53.</u>	Inflation protection
<u>54.</u>	C.P.P. / Q.P.P. offsets
	<u>CONTRIBUTIONS</u>
<u>55.</u>	Funding
<u>55.1</u>	Contribution holidays
<u>55.2</u>	Letters of credit
<u>56.</u>	Duty re payment of contributions
<u>56.1</u>	Duty to pension fund trustees
<u>57.</u>	Trust property
<u>58.</u>	Accrual
<u>59.</u>	Collection of contributions
<u>60.</u>	Bond
<u>61.</u>	Statement of employer's obligation
<u>62.</u>	Investment of pension fund
<u>62.1</u>	Overpayments, etc., by employer
	<u>LOCKING IN</u>
<u>63.</u>	Refunds
<u>65.</u>	Void transactions
<u>66.</u>	Exemption from execution, seizure or attachment
<u>67.</u>	Commutation or surrender
	<u>FAMILY LAW MATTERS</u>
<u>67.1</u>	Interpretation
<u>67.2</u>	Valuation for family law purposes
<u>67.3</u>	Transfer of a lump sum for certain family law purposes
<u>67.4</u>	Division of a pension for certain family law purposes
<u>67.5</u>	Restriction on other ways of dividing pension benefits, etc.
<u>67.6</u>	Other transitional matters
	<u>WINDING UP</u>
<u>68.</u>	Winding up
<u>69.</u>	Winding up order by Superintendent
<u>69.1</u>	Partial wind up not permitted
<u>70.</u>	Wind up report
<u>72.</u>	Notice of entitlement upon wind up and election
<u>73.</u>	Determination of entitlements
<u>74.</u>	Grow-in benefits for members
<u>74.1</u>	Election re grow-in benefits, certain pension plans
<u>75.</u>	Liability of employer on wind up
<u>75.1</u>	Liability on wind-up, jointly sponsored pension plans
<u>76.</u>	Pension fund continues subject to Act and regulations
<u>77.</u>	Insufficient pension fund

	<u>TRANSITION – PARTIAL WIND UP</u>
<u>77.1</u>	Authority for partial wind up
<u>77.2</u>	Partial wind up by employer, administrator
<u>77.3</u>	Order by Superintendent for partial wind up
<u>77.4</u>	Wind up report for partial wind up
<u>77.6</u>	Notice of entitlement upon partial wind up
<u>77.7</u>	Determination of entitlements on partial wind up
<u>77.8</u>	Liability on partial wind up
<u>77.9</u>	Administration of partial wind up
<u>77.10</u>	Repeal of transitional provisions
	<u>SURPLUS</u>
<u>77.11</u>	Entitlement to surplus
<u>77.12</u>	Arbitration re allocation of surplus on wind up
<u>78.</u>	Payment out of pension fund to employer
<u>79.</u>	Payment of surplus
<u>79.0.1</u>	Superintendent's order re surplus
	<u>ASSET TRANSFERS BETWEEN PENSION PLANS</u>
<u>79.1</u>	Prohibition on asset transfers
<u>79.2</u>	Requirements, etc., for all asset transfers
<u>80.</u>	Transfers upon the sale of a business
<u>80.1</u>	Transition, transfers upon the sale of a business
<u>80.2</u>	Transfers upon a change of trade unions, MEPPs
<u>80.3</u>	Transfers between certain public sector pension plans
<u>80.4</u>	Transfers to jointly sponsored pension plan (conversion of single employer pension plan)
<u>81.</u>	Adoption of successor pension plan
	<u>CONVERSION OF SINGLE EMPLOYER PENSION PLANS</u>
<u>81.0.1</u>	Conversion by amending the pension plan
	<u>INSOLVENCY AND BANKRUPTCY</u>
<u>81.1</u>	Authority to approve agreements re insolvency, etc.
	<u>PENSION BENEFITS GUARANTEE FUND</u>
<u>82.</u>	Guarantee Fund continued
<u>83.</u>	Guarantee Fund declaration
<u>84.</u>	Guaranteed benefits
<u>85.</u>	Payments not guaranteed
<u>86.</u>	Lien for payment out of Guarantee Fund
	<u>ORDERS</u>
<u>87.</u>	Order by Superintendent
	<u>SUPERINTENDENT'S ORDERS</u>
<u>87.</u>	Superintendent's orders
<u>88.</u>	Order by Superintendent
<u>88.</u>	Appeal or judicial review of special orders
<u>88.</u>	Tribunal hearing re special orders
	<u>NOTICES OF, AND APPEALS FROM, INTENDED DECISIONS AND ORDERS</u>
<u>89.</u>	Notices and hearings
<u>91.</u>	Appeal to court
	<u>FINANCIAL SERVICES COMMISSION OF ONTARIO</u>
<u>95.</u>	Reciprocal agreements
<u>97.</u>	Research
<u>98.</u>	Order to provide information to the Superintendent
<u>99.</u>	Security
	<u>AGREEMENTS WITH DESIGNATED JURISDICTIONS</u>
<u>100.</u>	Agreements with designated jurisdictions
<u>101.</u>	Status of agreement
	<u>EXEMPTIONS AND SPECIAL ARRANGEMENTS</u>
<u>102.</u>	Arrangements re windup of Nortel pension plans
	<u>GENERAL</u>
<u>103.</u>	Pension agency
<u>104.</u>	Transitional
<u>105.</u>	Extension of time
<u>106.</u>	Examinations, investigations and inquiries
<u>106.1</u>	Payment for reports
<u>107.</u>	Obstruction

<u>108.</u>	Order by justice of the peace
<u>109.</u>	Offence
<u>110.</u>	Penalty
<u>111.</u>	Power to restrain
<u>112.</u>	Service
<u>113.</u>	Time for actions by administrator
<u>113.1</u>	Fees
<u>113.1</u>	Fees
<u>113.2</u>	Forms
<u>114.</u>	Conflict
<u>115.</u>	Regulations
<u>116.</u>	Review of Act, regulations

Interpretation

Definitions

1. (1) In this Act,

“additional voluntary contribution” means a contribution to the pension fund by a member of the pension plan beyond any amount that the member is required to contribute, but does not include a contribution in relation to which the employer is required to make a concurrent additional contribution to the pension fund; (“cotisation facultative supplémentaire”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “additional voluntary contribution” is repealed and the following substituted:

“additional voluntary contribution” means a contribution to the pension fund by a member of the pension plan beyond any amount that the member is required to contribute, but does not include,

(a) an optional contribution, or

(b) a contribution in relation to which the employer is required to make a concurrent additional contribution to the pension fund; (“cotisation facultative supplémentaire”)

See: 2010, c. 24, ss. 1 (1), 49 (4).

“administrator” means the person or persons that administer the pension plan; (“administrateur”)

“assets”, in relation to an employer, means assets that in the ordinary course of business would be entered in books of account, whether or not a particular asset is entered in the books of account of the employer; (“actif”)

“bridging benefit” means a periodic payment provided under a pension plan to a retired member of the pension plan for a temporary period of time for the purpose of supplementing his or her pension benefit until he or she is eligible to receive benefits under the *Old Age Security Act* (Canada) or is either eligible for or begins to receive retirement benefits under the *Canada Pension Plan* or the *Quebec Pension Plan*; (“prestation de raccordement”)

“certified copy” means a copy certified to be a true copy; (“copie certifiée conforme”)

“collective agreement” has the same meaning as in the *Labour Relations Act, 1995*; (“convention collective”)

“Commission” means the Financial Services Commission of Ontario established under the *Financial Services Commission of Ontario Act, 1997*; (“Commission”)

“commuted value” means the value calculated in the prescribed manner and as of a fixed date of a pension, a deferred pension, a pension benefit or an ancillary benefit; (“valeur de rachat”)

“continuous”, in relation to employment, membership or service, means without regard to periods of temporary suspension of the employment, membership or service and without regard to periods of lay-off from employment; (“continu”)

“contributory benefit” means a pension benefit or part of a pension benefit to which a member is required to make contributions under the terms of the pension plan; (“prestation contributive”)

“deferred pension” means a pension benefit, payment of which is deferred until the person entitled to the pension benefit reaches the normal retirement date under the pension plan; (“pension différée”)

“defined benefit” means a pension benefit other than a defined contribution benefit; (“prestation déterminée”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “defined benefit” is repealed and the following substituted:

“defined benefit” means a pension benefit other than a defined contribution benefit or a target benefit; (“prestation déterminée”)

See: 2010, c. 24, ss. 1 (2), 49 (4).

“defined contribution benefit” means a pension benefit determined with reference to and provided by contributions, and the interest on the contributions, paid by or for the credit of a member and determined on an individual account basis; (“prestation à cotisation déterminée”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “defined contribution benefit” is repealed and the following substituted:

“defined contribution benefit” means a pension benefit determined with reference to and provided by contributions paid by or for the credit of a member, and the interest on the contributions, and determined on an individual account basis, but does not include an optional benefit; (“prestation à cotisation déterminée”)

See: 2010, c. 24, ss. 1 (3), 49 (4).

“designated jurisdiction” means any jurisdiction in Canada, including Canada itself, that is prescribed as a jurisdiction in which there is in force legislation substantially similar to this Act; (“autorité législative désignée”)

“designated multi-jurisdictional pension plan” means a pension plan to which this Act applies and to which the pension benefits legislation of one or more designated jurisdictions also applies; (“régime de retraite à lois d’application multiples désigné”)

“domestic contract” means a domestic contract as defined in Part IV of the *Family Law Act*; (“contrat familial”)

“employee” means a natural person who is employed by an employer; (“employé”)

“employer” means, in relation to a member, former member or retired member of a pension plan, the person or persons from whom or the organization from which the member, former member or retired member receives or received remuneration to which the pension plan is related, and “employed” and “employment” have a corresponding meaning; (“employeur”, “employé”, “emploi”)

“family arbitration award” means a family arbitration award made under the *Arbitration Act, 1991*; (“sentence d’arbitrage familial”)

“file” means file with the Superintendent; (“déposer”)

“former member” means an individual who satisfies the criteria set out in section 1.1 to be a former member; (“ancien participant”)

“going concern unfunded liability” means, with respect to a pension plan, a going concern unfunded liability as determined in accordance with the prescribed requirements; (“passif à long terme non capitalisé”)

“Guarantee Fund” means the Pension Benefits Guarantee Fund continued by this Act; (“Fonds de garantie”)

“insurance company” means a corporation authorized to undertake life insurance in Canada; (“compagnie d’assurance”)

“joint and survivor pension” means a pension payable during the joint lives of the person entitled to the pension and his or her spouse and thereafter during the life of the survivor of them; (“pension réversible”)

“jointly sponsored pension plan” means a pension plan described in subsection (2) and includes such other pension plans as may be prescribed; (“régime de retraite conjoint”)

“member” means a member of the pension plan; (“participant”)

“Minister” means the member of the Executive Council designated by the Lieutenant Governor in Council for the purposes of this Act; (“ministre”)

“multi-employer pension plan” means a pension plan described in subsection (3); (“régime de retraite interentreprises”)

“normal cost” means, with respect to a pension plan, the normal cost as determined in accordance with the regulations; (“coût normal”)

“normal retirement date” means the date or age specified in the pension plan as the normal retirement date of members; (“date normale de retraite”)

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by adding the following definitions:

“optional benefit” means a benefit that is prescribed for the purposes of subsection 40.1 (1) as an optional benefit; (“prestation optionnelle”)

“optional contribution” means a contribution to the pension fund that is made to obtain an optional benefit under the pension plan and that is made by a member of the pension plan beyond any amount that the member is required to make; (“cotisation optionnelle”)

See: 2010, c. 24, ss. 1 (5), 49 (4).

“partial wind up” means the termination of part of a pension plan and the distribution of the assets of the pension fund related to that part of the pension plan; (“liquidation partielle”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “partial wind up” is repealed. See: 2010, c. 9, ss. 1 (4), 80 (2).

“participating employer”, in relation to a jointly sponsored pension plan or a multi-employer pension plan, means an employer required to make contributions to the pension fund; (“employeur participant”)

“pension” means a pension benefit that is in payment; (“pension”)

“pension benefit” means the aggregate monthly, annual or other periodic amounts payable to a member, former member or retired member during his or her lifetime to which he or she will become entitled under the pension plan or to which, upon his or her death, any other person will become entitled; (“prestation de retraite”)

“pension committee” means a committee that is the administrator of a pension plan; (“comité de retraite”)

“pension fund” means the fund maintained to provide benefits under or related to the pension plan; (“caisse de retraite”)

“pension plan” means a plan organized and administered to provide pensions for employees, but does not include,

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “pension plan” in subsection 1 (1) of the Act is amended by adding the following clause: (See: 2016, c. 17, s. 96)

(0.a) the Ontario Retirement Pension Plan,

- (a) an employees’ profit sharing plan or a deferred profit sharing plan as defined in sections 144 and 147 of the *Income Tax Act* (Canada),

Note: On November 8, 2016, the day named by proclamation of the Lieutenant Governor, the definition of “pension plan” in subsection 1 (1) of the Act is amended by adding the following clause: (See: 2015, c. 9, s. 31 (1))

(a.1) a pooled registered pension plan registered under the *Pooled Registered Pension Plans Act, 2015*,

- (b) a plan to provide a retiring allowance as defined in subsection 248 (1) of the *Income Tax Act* (Canada),
- (c) a plan under which all pension benefits are provided by contributions made by members, or
- (d) any other prescribed type of plan; (“régime de retraite”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“public sector pension plan” means a pension plan described in subsection (5) and includes such other pension plans as may be prescribed; (“régime de retraite du secteur public”)

“qualification date” means,

- (a) in respect of Ontario, January 1, 1965, and
- (b) in respect of a designated jurisdiction, the date on which, under the pension benefits legislation of that jurisdiction, a pension plan must be registered by the proper authority in that jurisdiction; (“date d’habilitation”)

“reciprocal transfer agreement” means an agreement related to two or more pension plans that provides for the transfer of money or credits for employment or both in respect of individual members; (“accord réciproque de transfert”)

“registered retirement savings arrangement” means a registered retirement savings plan established in accordance with the *Income Tax Act* (Canada) or a registered retirement income fund established in accordance with that Act; (“arrangement enregistré d’épargne-retraite”)

“registration” means registration under this Act; (“enregistrement”)

“regulations” means regulations made under this Act; (“règlements”)

“retired member” means an individual who satisfies the criteria set out in section 1.1 to be a retired member; (“participant retraité”)

“solvency deficiency” means, with respect to a pension plan, a solvency deficiency as determined in accordance with the prescribed requirements; (“déficit de solvabilité”)

“solvency liabilities” means, with respect to a pension plan, solvency liabilities as determined in accordance with the regulations; (“passif de solvabilité”)

“spouse” means, except where otherwise indicated in this Act, either of two persons who,

- (a) are married to each other, or
- (b) are not married to each other and are living together in a conjugal relationship,
 - (i) continuously for a period of not less than three years, or
 - (ii) in a relationship of some permanence, if they are the natural or adoptive parents of a child, both as defined in the *Family Law Act*; (“conjoint”)

“Superintendent” means the Superintendent of Financial Services appointed under the *Financial Services Commission of Ontario Act, 1997*; (“surintendant”)

“surplus” means the excess of the value of the assets of a pension fund related to a pension plan over the value of the liabilities under the pension plan, both calculated in the prescribed manner; (“excédent”)

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by adding the following definition:

“target benefit” means a pension benefit that is a target benefit as determined under section 39.2; (“prestation cible”)

See: 2010, c. 24, ss. 1 (8), 49 (4).

“termination”, in relation to employment, includes retirement and death; (“cessation”)

“trade union” has the same meaning as in the *Labour Relations Act, 1995*; (“syndicat”)

“Tribunal” means the Financial Services Tribunal established under the *Financial Services Commission of Ontario Act, 1997*; (“Tribunal”)

“wind up” means the termination of a pension plan and the distribution of the assets of the pension fund; (“liquidation”)

“Year’s Maximum Pensionable Earnings” has the same meaning as in the *Canada Pension Plan*. (“maximum des gains annuels ouvrant droit à pension”) R.S.O. 1990, c. P.8, s. 1; 1997, c. 28, s. 190; 1999, c. 6, s. 53 (1, 2); 2004, c. 31, Sched. 31, s. 1; 2005, c. 5, s. 56 (1-6); 2005, c. 31, Sched. 18, s. 1 (1); 2007, c. 7, Sched. 31, s. 1 (1); 2009, c. 11, s. 41; 2010, c. 1, Sched. 23, s. 1; 2010, c. 9, s. 1 (1-3, 5-7); 2010, c. 24, s. 1 (4, 6, 7); 2012, c. 8, Sched. 44, s. 1; 2014, c. 7, Sched. 26, s. 1 (1).

Jointly sponsored pension plans

(2) For the purposes of this Act, a pension plan is a jointly sponsored pension plan if it has the following characteristics:

1. It provides defined benefits.
2. The defined benefits are contributory benefits.
3. Members of the pension plan are required, by virtue of the documents that create and support the plan, to make contributions in respect of any going concern unfunded liability and solvency deficiency of the plan.
4. The plan satisfies such additional criteria as may be prescribed. 2005, c. 31, Sched. 18, s. 1 (2).

Same, reduced funding obligations

(2.1) A pension plan that is a jointly sponsored pension plan on August 24, 2010 continues to be a jointly sponsored pension plan after that date even if the documents that create and support the plan are amended so that its members are not required to make contributions in respect of any solvency deficiency of the plan. 2010, c. 24, s. 1 (9).

Multi-employer pension plans

(3) For the purposes of this Act, a pension plan is a multi-employer pension plan if it is established and maintained for employees of two or more employers who contribute, or on whose behalf contributions are made, to a pension fund by reason of agreement, statute or municipal by-law to provide a pension benefit that is determined by service with one or more of the employers. 2007, c. 7, Sched. 31, s. 1 (2).

Exceptions

- (4) Despite subsection (3), a pension plan is not a multi-employer pension plan for the purposes of this Act,
 - (a) if all of the employers who contribute, or on whose behalf contributions are made, to the pension fund are affiliates within the meaning of the *Business Corporations Act*; or

Note: On the day subsection 3 (3) of the *Not-for-Profit Corporations Act, 2010* comes into force, clause (a) is amended by adding “or the *Not-for-Profit Corporations Act, 2010*” after “*Business Corporations Act*”. See: 2010, c. 24, ss. 1 (10), 49 (2).

(b) if the regulations specify that the pension plan is not a multi-employer pension plan. 2007, c. 7, Sched. 31, s. 1 (2).

Public sector pension plans

(5) For the purposes of this Act, a pension plan is a public sector pension plan if it is provided in respect of any of the following employers:

1. The Crown in right of Ontario.
2. A Crown agency or a corporation, with or without share capital, that is not a Crown agency but is owned, operated or controlled by the Crown.
3. Any board, commission, authority or unincorporated body of the Crown.
4. A district school board as defined in subsection 1 (1) of the *Education Act*.
5. A person or entity that is a health service provider for the purposes of the *Local Health System Integration Act, 2006*.
6. A college of applied arts and technology established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*.
7. A university in Ontario, including its affiliated and federated colleges, that receives operating grants from the Government of Ontario.
8. A municipality as defined in section 1 of the *Municipal Act, 2001*.
9. A children’s aid society that is designated in accordance with the *Child and Family Services Act, 2014*, c. 7, Sched. 26, s. 1 (2).

Retired members and former members

Retired member

1.1 (1) For the purposes of this Act, an individual is a retired member of a pension plan if he or she has either terminated the employment that relates to the pension plan or has terminated membership in the pension plan and if one or more of the following criteria is also satisfied:

1. The individual is receiving a pension payable from the pension fund.
2. He or she is entitled to begin to receive a pension from the pension fund by virtue of having reached the normal retirement date under the pension plan, even though he or she has not yet elected to receive the pension.
3. He or she has elected, under subsection 41 (1), to receive an early retirement pension.
4. He or she has elected, under the terms of the pension plan, to begin payment of a pension payable from the pension fund, whether or not receipt of the first payment of the pension is deferred until a later date. 2010, c. 9, s. 2.

Former member

(2) For the purposes of this Act, an individual is a former member of a pension plan if he or she has either terminated the employment that relates to the pension plan or has terminated membership in the pension plan and if either of the following criteria is also satisfied:

1. The individual is entitled to a deferred pension payable from the pension fund.
2. He or she is entitled to receive any other payment from the pension fund. 2010, c. 9, s. 2.

Exception

(3) Despite subsection (2), if an individual is a retired member of a pension plan, the individual is not a former member of the pension plan. 2010, c. 9, s. 2.

Neither

(4) An individual who was a member of a pension plan and who has transferred an amount under subsection 42 (1) in connection with the pension plan is neither a former member nor a retired member of the pension plan. 2010, c. 9, s. 2.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 1.1 (4) of the Act is repealed and the following substituted: (See: 2015, c. 20, Sched. 34, s. 1)

Neither

(4) An individual who was a member of a pension plan is neither a former member nor a retired member of the pension plan if either of the following criteria are satisfied:

1. The individual has transferred an amount equal to the commuted value of the individual's deferred pension under subsection 42 (1) in connection with the pension plan.
2. The individual is not receiving a pension payable from the pension fund and the individual has transferred the entire amount of the individual's variable benefit account under subsection 39.1 (4) in connection with the pension plan.

2015, c. 20, Sched. 34, s. 1

Definition

(5) In this section,

“variable benefit account” has the same meaning as in subsection 39.1 (1). 2015, c. 20, Sched. 34, s. 1

APPLICATION

Crown bound

2. This Act binds the Crown. R.S.O. 1990, c. P.8, s. 2.

Employees in Ontario

3. This Act applies to every pension plan that is provided for persons employed in Ontario. R.S.O. 1990, c. P.8, s. 3.

Place of employment

4. (1) For the purposes of this Act, a person shall be deemed to be employed in the province in which the establishment of his or her employer is located and to which the person is required to report for work.

Idem

(2) A person who is not required to report for work at an establishment of his or her employer shall be deemed to be employed in the province in which is located the establishment of his or her employer from which the person's remuneration is paid. R.S.O. 1990, c. P.8, s. 4.

Greater pension benefits

5. The requirements of this Act and the regulations shall not be construed to prevent the registration or administration of a pension plan and related pension fund that provide pension benefits or ancillary benefits more advantageous to members than those required by this Act and the regulations. R.S.O. 1990, c. P.8, s. 5.

Designated multi-jurisdictional pension plans

5.1 (1) This section applies with respect to a designated multi-jurisdictional pension plan if there is an agreement under section 100 between the Crown and any designated jurisdiction whose pension benefits legislation applies to the pension plan. 2010, c. 1, Sched. 23, s. 2 (1).

Effect of agreement

(2) Without limiting the generality of section 101, the agreement governs the manner and extent to which this Act and the regulations apply with respect to the designated multi-jurisdictional pension plan. 2010, c. 1, Sched. 23, s. 2 (1).

Duty of administrator

(3) The administrator of the designated multi-jurisdictional pension plan shall comply with the requirements in the agreement that apply with respect to the pension plan and with any requirements imposed under the authority of the agreement. 2010, c. 1, Sched. 23, s. 2 (1).

Duty of employer

(4) An employer or person required to make contributions to a designated multi-jurisdictional pension plan on the employer's behalf shall comply with the requirements in the agreement that apply with respect to the pension plan and with any requirements imposed under the authority of the agreement. 2010, c. 1, Sched. 23, s. 2 (1).

Entitlement of members, etc.

(5) The amount of the pension benefits, deferred pension, pension or ancillary benefits or any other amount payable under a designated multi-jurisdictional pension plan in relation to a member, former member or retired member is determined in accordance with such requirements as may be contained in the agreement. 2010, c. 1, Sched. 23, s. 2.

Pension plan documents

(6) This section applies despite any documents that create and support a designated multi-jurisdictional pension plan and the pension fund. 2010, c. 1, Sched. 23, s. 2 (1).

Trusts

(7) This section applies despite any trust that may exist in favour of any person. 2010, c. 1, Sched. 23, s. 2 (1).

REGISTRATION AND ADMINISTRATION

Prohibition of administration of unregistered pension plan

6. (1) No person shall administer a pension plan unless a certificate of registration or an acknowledgment of application for registration of the pension plan has been issued by the Superintendent.

Application of subs. (1)

(2) Subsection (1) does not apply to prevent administration during the first ninety days after the establishment of the pension plan. R.S.O. 1990, c. P.8, s. 6.

Refusal or revocation

7. (1) No person shall administer a pension plan if registration of the pension plan has been refused or revoked by the Superintendent.

Exception

(2) Subsection (1) does not apply to prevent administration for the purpose of wind up of a pension plan. R.S.O. 1990, c. P.8, s. 7.

Administrator

Requirement

8. (0.1) A pension plan must be administered by a person or entity described in subsection (1). 2010, c. 9, s. 3 (1).

Prohibition

(0.2) No person or entity other than a person or entity described in subsection (1) shall administer a pension plan. 2010, c. 9, s. 3 (1).

Administrator

- (1) A pension plan is not eligible for registration unless it is administered by an administrator who is,
- (a) the employer or, if there is more than one employer, one or more of the employers;
 - (b) a pension committee composed of one or more representatives of,
 - (i) the employer or employers, or any person, other than the employer or employers, required to make contributions under the pension plan, and
 - (ii) members of the pension plan;
 - (c) a pension committee composed of representatives of members of the pension plan;
 - (d) the insurance company that provides the pension benefits under the pension plan, if all the pension benefits under the pension plan are guaranteed by the insurance company;
 - (e) if the pension plan is a multi-employer pension plan established pursuant to a collective agreement or a trust agreement, a board of trustees appointed pursuant to the pension plan or a trust agreement establishing the pension plan of whom at least one-half are representatives of members of the multi-employer pension plan, and a majority of such representatives of the members shall be Canadian citizens or landed immigrants;
 - (f) a corporation, board, agency or commission made responsible by an Act of the Legislature for the administration of the pension plan;
 - (g) a person appointed as administrator by the Superintendent;
 - (g.1) the Superintendent; or
 - (h) such other person or entity as may be prescribed. R.S.O. 1990, c. P.8, s. 8 (1); 1999, c. 15, s. 1; 2005, c. 31, Sched. 18, s. 2; 2010, c. 24, s. 2 (1).

Appointment, etc., by Superintendent

(1.1) The Superintendent may, in prescribed circumstances, appoint an administrator for a pension plan and may terminate the appointment if the Superintendent considers the termination reasonable in the circumstances. 2010, c. 24, s. 2 (2).

Superintendent as administrator

(1.2) The Superintendent may, in prescribed circumstances, act as administrator of a pension plan. 2010, c. 24, s. 2 (2).

Additional representatives

(2) A pension committee, or a board of trustees, that is the administrator of a pension plan may include one or more representatives of retired members. 2010, c. 9, s. 3 (2).

Interpretation

(3) For the purposes of clause (1) (b), “employer” includes the following persons and entities:

1. Affiliates within the meaning of the *Business Corporations Act* of the employer.
2. Such other persons or entities, or classes of persons or entities, as may be prescribed. 2007, c. 7, Sched. 31, s. 2.

Application for registration

9. (1) Within the prescribed period of time, the administrator of a pension plan shall apply to the Superintendent for registration of the pension plan. 1999, c. 15, s. 2.

Requirements for registration

- (2) An application for registration shall be made by paying the fee established by the Minister and filing,
- (a) a completed application in the form approved by the Superintendent;
 - (b) certified copies of the documents that create and support the pension plan;
 - (c) certified copies of the documents that create and support the pension fund;
 - (d) a certified copy of any reciprocal transfer agreement related to the pension plan;
 - (e) a certified copy of the explanations and other information provided under subsection 25 (1);
 - (e.1) a certification in a form approved by the Superintendent and signed by the applicant in which the applicant attests that the pension plan complies with this Act and regulations; and
 - (f) any other prescribed documents. R.S.O. 1990, c. P.8, s. 9 (2); 1997, c. 28, s. 191.

Exception

(2.1) The regulations may provide that the requirement to file a particular document listed in subsection (2) does not apply in specified circumstances or for prescribed classes of pension plans. 2010, c. 9, s. 4.

Collective agreement

(3) For the purpose of subsection (2), “document” includes “collective agreement”. R.S.O. 1990, c. P.8, s. 9 (3).

Contents of pension plan

10. (1) The documents that create and support a pension plan shall set out the following information:

1. The method of appointment and the details of appointment of the administrator of the pension plan.
2. The conditions for membership in the pension plan.
3. The benefits and rights that are to accrue upon termination of employment, termination of membership, retirement or death.
4. The normal retirement date under the pension plan.
5. The requirements for entitlement under the pension plan to any pension benefit or ancillary benefit.
6. The contributions or the method of calculating the contributions required by the pension plan.
7. The method of determining benefits payable under the pension plan.
8. The method of calculating interest to be credited to contributions under the pension plan.
9. The mechanism for payment of the cost of administration of the pension plan and pension fund.
10. The mechanism for establishing and maintaining the pension fund.

11. The treatment of surplus during the continuation of the pension plan and on the wind up of the pension plan.
12. The obligation of the administrator to provide members with information and documents required to be disclosed under this Act and the regulations.
13. The method of allocation of the assets of the pension plan on windup.
14. Particulars of any predecessor pension plan under which members of the pension plan may be entitled to pension benefits.
15. Any other prescribed information related to the pension plan or pension fund or both. R.S.O. 1990, c. P.8, s. 10 (1).

Exception

(1.1) The regulations may provide that the requirement to include specified information described in subsection (1) in the documents that create and support a pension plan does not apply in specified circumstances or for prescribed classes of pension plans. 2010, c. 9, s. 5 (1).

Multi-employer pension plan

(2) The documents that create and support a multi-employer pension plan pursuant to a collective agreement or a trust agreement shall also set out the powers and duties of the board of trustees that is the administrator of the multi-employer pension plan. R.S.O. 1990, c. P.8, s. 10 (2); 2010, c. 9, s. 5 (2).

Same

(2.1) The documents that create and support a multi-employer pension plan shall specify the consequences, if any, of the withdrawal of a participating employer from the pension plan in respect of the funding and payment of pension benefits of a member, a former member, a retired member or any other person affected by the withdrawal and must satisfy such requirements as may be imposed by this Act and the regulations. 2010, c. 24, s. 3 (1, 2).

Jointly sponsored pension plans

(3) The documents that create and support a jointly sponsored pension plan shall also set out the following information:

1. The obligation of members to make contributions under the plan. This must include their obligations in respect of any going concern unfunded liability and, except in the case of plans described in subsection 1 (2.1), in respect of any solvency deficiency.
2. The obligation of employers to make contributions under the plan or the obligation of other persons or entities to make the contributions under the plan on behalf of employers. This must include their obligations in respect of any going concern unfunded liability and, except in the case of plans described in subsection 1 (2.1), in respect of any solvency deficiency.
3. The consequences, if any, of the withdrawal of a participating employer from the plan in respect of the funding and payment of pension benefits of a member, a former member, a retired member or any other person affected by the withdrawal. The consequences set out in the pension plan must satisfy such requirements as may be imposed by this Act and the regulations. 2005, c. 31, Sched. 18, s. 3; 2010, c. 24, s. 3 (3-5).

Same

(4) The documents that create and support a jointly sponsored pension plan may authorize a prescribed person or entity to establish or maintain a separate jointly sponsored pension plan for persons employed in less than full-time continuous employment. 2005, c. 31, Sched. 18, s. 3.

11. REPEALED: 2010, c. 9, s. 6.

Application for registration of amendment

12. (1) The administrator of a pension plan shall apply to the Superintendent, within sixty days after the date on which the pension plan is amended, for registration of the amendment. R.S.O. 1990, c. P.8, s. 12 (1).

Requirements for registration

- (2) An application for registration of an amendment shall be made by paying the fee established by the Minister and filing,
 - (a) a certified copy of the amending document;
 - (b) certified copies of any other prescribed documents;
- (b.1) a certification in a form approved by the Superintendent and signed by the administrator of the pension plan in which the administrator attests that the amendment complies with this Act and the regulations; and

(c) any other prescribed information. R.S.O. 1990, c. P.8, s. 12 (2); 1997, c. 28, s. 192.

Exception

(2.1) The regulations may provide that the requirement to file a particular document or information described in subsection (2) does not apply in specified circumstances or for prescribed classes of pension plans. 2010, c. 9, s. 7.

Filing of changes

(3) The administrator of a pension plan shall file a certified copy of each document that changes the documents that create and support the pension plan or pension fund. R.S.O. 1990, c. P.8, s. 12 (3).

When amendment effective

13. (1) An amendment to a pension plan is not effective until the administrator of the plan files an application for registration of the amendment and the application meets the requirements of section 12. 1997, c. 28, s. 193.

Retroactive amendment

(2) An amendment to a pension plan may be made effective as of a date before the date on which the amendment is registered. R.S.O. 1990, c. P.8, s. 13 (2).

Reduction of benefits

14. (1) An amendment to a pension plan is void if the amendment purports to reduce,

- (a) the amount or the commuted value of a pension benefit accrued under the pension plan with respect to employment before the effective date of the amendment;
- (b) the amount or the commuted value of a pension or a deferred pension accrued under the pension plan; or
- (c) the amount or the commuted value of an ancillary benefit for which a member, former member or retired member has met all eligibility requirements under the pension plan necessary to exercise the right to receive payment of the benefit. R.S.O. 1990, c. P.8, s. 14 (1); 2010, c. 9, s. 8 (1).

Application of subs. (1)

(2) Subsection (1) does not apply in respect of a multi-employer pension plan established pursuant to a collective agreement or a trust agreement. R.S.O. 1990, c. P.8, s. 14 (2).

Idem

(3) Subsection (1) does not apply in respect of a pension plan that provides defined benefits if the obligation of the employer to contribute to the pension fund is limited to a fixed amount set out in a collective agreement. R.S.O. 1990, c. P.8, s. 14 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 14 is amended by adding the following subsection:

Same, target benefits

(3.1) Subsection (1) does not apply in respect of a pension plan that provides only target benefits or in respect of that part of a pension plan that provides target benefits. 2010, c. 24, s. 4 (1).

See: 2010, c. 24, ss. 4 (1), 49 (4).

Same

(4) Subsection (1) does not apply with respect to an amendment that relates to a transfer of assets authorized by section 80, 80.1, 80.2 or 81 and that affects the transferred members. 2010, c. 9, s. 8 (2); 2011, c. 9, Sched. 35, s. 1 (1).

Note: On July 1, 2017, subsection (4) is amended by striking out “80.1”. See: 2010, c. 9, ss. 8 (3), 80 (4); 2014, c. 7, Sched. 26, s. 14; 2016, c. 5, Sched. 22, s. 4.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (4) is amended by striking out “80.2 or 81” and substituting “80.2, 80.3 or 81”. See: 2010, c. 24, ss. 4 (2), 49 (4).

Same, certain retired members and former members

(5) Without limiting the generality of subsection (4), subsection (1) does not apply with respect to an amendment that relates to a transfer of assets authorized by section 80.1 that affects the eligible employees who are entitled to make the election described in clause 80.1 (4) (a) or (a.1). 2011, c. 9, Sched. 35, s. 1 (2); 2014, c. 7, Sched. 26, s. 2 (1).

Same, conversion of pension plan

(6) Subsection (1) does not apply with respect to an amendment that relates to a transfer of assets under section 80.4 from a single employer pension plan to a jointly sponsored pension plan. 2014, c. 7, Sched. 26, s. 2 (2).

Same

(7) Subsection (1) does not apply with respect to an amendment that relates to the conversion under section 81.0.1 of a single employer pension plan into a jointly sponsored pension plan. 2014, c. 7, Sched. 26, s. 2 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section:

Improvement in benefits

14.0.1 (1) An amendment to a pension plan is void,

(a) if the amendment purports to increase an amount described in clause 14 (1) (a), (b) or (c); and

(b) if the increase would reduce the transfer ratio or the going concern funded ratio of the pension plan, determined in accordance with the regulations, below the prescribed level. 2010, c. 24, s. 5.

Exceptions

(2) Subsection (1) does not apply if an amendment is required as a result of a judicial decision or in such other circumstances as may be prescribed. 2010, c. 24, s. 5.

See: 2010, c. 24, ss. 5, 49 (4).

Gradual and uniform accrual of pension benefits

14.1 (1) A pension plan must provide for the accrual of pension benefits in a gradual and uniform manner. 2010, c. 9, s. 9.

Variable contributions or pension benefits

(2) A pension plan must not provide that the formula for computation of the employer's contributions under the pension plan or the pension benefit provided under the pension plan is variable at the discretion of the employer. 2010, c. 9, s. 9.

Variable deferred profit-sharing

(3) A deferred profit-sharing pension plan or a pension plan that provides defined contribution benefits must not provide that the formula governing allocation of contributions under the pension plan and profits among members of the plan is variable at the discretion of the employer. 2010, c. 9, s. 9.

Exception

(4) The Superintendent may register a pension plan that does not comply with subsection (1), (2) or (3), and the Superintendent may permit the continued registration of such a plan, if the Superintendent is of the opinion that registration is justified in the circumstances of the pension plan and the members. 2010, c. 9, s. 9.

Acknowledgment of application for registration

15. The Superintendent shall issue an acknowledgment of application for registration of a pension plan within thirty days after receiving an application for the registration that complies with section 9. R.S.O. 1990, c. P.8, s. 15; 1997, c. 28, s. 194.

Issuance of certificate of registration

16. The Superintendent shall issue a certificate of registration for each pension plan registered under this Act. R.S.O. 1990, c. P.8, s. 16.

Issuance of notice of registration

17. The Superintendent shall issue a notice of registration for each amendment to a pension plan registered under this Act. R.S.O. 1990, c. P.8, s. 17.

Refusal or revocation of registration

18. (1) The Superintendent may,

(a) refuse to register a pension plan that does not comply with this Act and the regulations;

(b) revoke the registration of a pension plan that does not comply with this Act and the regulations;

(c) revoke the registration of a pension plan that is not being administered in accordance with this Act and the regulations;

(d) refuse to register an amendment to a pension plan if the amendment is void or if the pension plan with the amendment would cease to comply with this Act and the regulations;

- (e) revoke the registration of an amendment that does not comply with this Act and the regulations;
- (f) refuse to register part of an amendment to a pension plan if the part is void or if the pension plan with that part of the amendment would cease to comply with this Act and the regulations;
- (g) revoke the registration of a part of an amendment that does not comply with this Act and the regulations. R.S.O. 1990, c. P.8, s. 18 (1); 2010, c. 24, s. 6.

Application of subs. (1)

(2) The authority of the Superintendent under subsection (1) is subject to the right to a hearing under section 89. R.S.O. 1990, c. P.8, s. 18 (2).

Effect of refusal or revocation

(3) A refusal of registration of a pension plan or a revocation of registration of a pension plan operates to terminate the pension plan as of the date specified by the Superintendent. R.S.O. 1990, c. P.8, s. 18 (3).

Idem

(4) A refusal of registration of an amendment to a pension plan or the revocation of an amendment to a pension plan operates to terminate the amendment as of the date specified by the Superintendent. R.S.O. 1990, c. P.8, s. 18 (4).

Wind up

(5) Where registration of a pension plan is refused or revoked, the administrator shall wind up the pension plan in accordance with this Act and the regulations. R.S.O. 1990, c. P.8, s. 18 (5).

Duty of administrator

19. (1) The administrator of a pension plan shall ensure that the pension plan and the pension fund are administered in accordance with this Act and the regulations.

Application of subs. (1)

- (2) Subsection (1) applies whether or not the pension plan is amended to comply with this Act and the regulations.

Idem

(3) The administrator of a pension plan shall ensure that the pension plan and the pension fund are administered in accordance with,

- (a) the filed documents in respect of which the Superintendent has issued an acknowledgment of application for registration or a certificate of registration, whichever is issued later; and
- (b) the filed documents in respect of an application for registration of an amendment to the pension plan, if the application complies with this Act and the regulations and the amendment is not void under this Act.

Application of subs. (3)

(4) Subsection (3) does not apply to enable the administrator to administer the pension plan contrary to this Act and the regulations.

Idem, amendment

(5) The administrator of a pension plan may administer or permit administration of the pension plan and the pension fund in accordance with an amendment pending registration or refusal of registration of the amendment. R.S.O. 1990, c. P.8, s. 19.

Administrator's annual information return

20. (1) The administrator of a pension plan shall file each year an annual information return in respect of the pension plan in the form approved by the Superintendent and shall pay the filing fee established by the Minister. 1997, c. 28, s. 195.

Additional reports

(2) The administrator of a pension plan shall file additional reports at the times and containing the information prescribed by the regulations. R.S.O. 1990, c. P.8, s. 20 (2).

Reciprocal transfer agreement

21. An administrator of a pension plan shall file a certified copy of a reciprocal transfer agreement entered into in respect of the pension plan. R.S.O. 1990, c. P.8, s. 21.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 21 is amended by adding the following subsection:

Requirements

(2) The reciprocal transfer agreement must satisfy such requirements as may be prescribed. 2010, c. 9, s. 10 (1).

See: 2010, c. 9, ss. 10 (1), 80 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 21 is amended by adding the following subsection:

Same

(3) The administrator shall not transfer money or credits for employment under a reciprocal transfer agreement unless it complies with subsection (2). 2010, c. 9, s. 10 (2).

See: 2010, c. 9, ss. 10 (2), 80 (2).

Care, diligence and skill

22. (1) The administrator of a pension plan shall exercise the care, diligence and skill in the administration and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another person. R.S.O. 1990, c. P.8, s. 22 (1).

Special knowledge and skill

(2) The administrator of a pension plan shall use in the administration of the pension plan and in the administration and investment of the pension fund all relevant knowledge and skill that the administrator possesses or, by reason of the administrator's profession, business or calling, ought to possess. R.S.O. 1990, c. P.8, s. 22 (2).

Member of pension committee, etc.

(3) Subsection (2) applies with necessary modifications to a member of a pension committee or board of trustees that is the administrator of a pension plan and to a member of a board, agency or commission made responsible by an Act of the Legislature for the administration of a pension plan. R.S.O. 1990, c. P.8, s. 22 (3).

Conflict of interest

(4) An administrator or, if the administrator is a pension committee or a board of trustees, a member of the committee or board that is the administrator of a pension plan shall not knowingly permit the administrator's interest to conflict with the administrator's duties and powers in respect of the pension fund. R.S.O. 1990, c. P.8, s. 22 (4).

Employment of agent

(5) Where it is reasonable and prudent in the circumstances so to do, the administrator of a pension plan may employ one or more agents to carry out any act required to be done in the administration of the pension plan and in the administration and investment of the pension fund. R.S.O. 1990, c. P.8, s. 22 (5).

Trustee of pension fund

(6) No person other than a prescribed person shall be a trustee of a pension fund. R.S.O. 1990, c. P.8, s. 22 (6).

Responsibility for agent

(7) An administrator of a pension plan who employs an agent shall personally select the agent and be satisfied of the agent's suitability to perform the act for which the agent is employed, and the administrator shall carry out such supervision of the agent as is prudent and reasonable. R.S.O. 1990, c. P.8, s. 22 (7).

Employee or agent

(8) An employee or agent of an administrator is also subject to the standards that apply to the administrator under subsections (1), (2) and (4). R.S.O. 1990, c. P.8, s. 22 (8).

Benefits of administrator

(9) The administrator of a pension plan is not entitled to any benefit from the pension plan other than pension benefits, ancillary benefits and a refund of contributions. 2010, c. 24, s. 7.

Benefits of members of pension committee, etc.

(10) Subsection (9) applies, with necessary modifications, to a member of a pension committee or board of trustees that is the administrator of a pension plan and to a member of a board, agency or commission made responsible by an Act for the administration of a pension plan. 2010, c. 24, s. 7.

(11) REPEALED: 2010, c. 24, s. 7.

Payment of administrative fees and expenses

22.1 (1) The administrator of a pension plan is entitled to be paid from the pension fund the administrator's reasonable fees and expenses relating to the administration of the pension plan and the administration and investment of the pension fund. 2010, c. 24, s. 8 (1).

Exception

(2) However, the administrator is not entitled to be paid from the pension fund any fees and expenses relating to the administration of the pension plan or the administration and investment of the pension fund,

- (a) if payment to the administrator is prohibited, or payment of the fees and expenses is otherwise provided for, under the documents that create and support the pension plan or the pension fund; or
- (b) if payment to the administrator is prohibited, or payment of those fees and expenses is otherwise provided for, under the Act or regulations. 2010, c. 24, s. 8 (1).

Same, members of pension committee, etc.

(3) Subsections (1) and (2) apply, with necessary modifications, to a member of a pension committee or board of trustees that is the administrator of a pension plan and to a member of a board, agency or commission made responsible by an Act for the administration of a pension plan. 2010, c. 24, s. 8 (1).

Fees and expenses of agent, etc.

(4) The administrator of a pension plan may pay from the pension fund to an agent of the administrator, to the employer or to any other person who provides services relating to the administration of the pension plan or the administration and investment of the pension fund the reasonable fees and expenses of the agent, employer or other person. 2010, c. 24, s. 8 (1).

Exception

(5) However, the administrator is not permitted to pay from the pension fund to an agent, employer or other person described in subsection (4) the fees and expenses relating to the administration of the pension plan or the administration and investment of the pension fund,

- (a) if payment to the agent, employer or other person is prohibited, or payment of the fees and expenses is otherwise provided for, under the documents that create and support the pension plan or the pension fund; or
- (b) if payment to the agent, employer or other person is prohibited, or payment of those fees and expenses is otherwise provided for, under the Act or regulations. 2010, c. 24, s. 8 (1).

Fees and expenses of appointed administrator

(6) If the Superintendent appoints an administrator under subsection 8 (1.1), the appointed administrator is entitled to be paid, from the pension fund, the appointed administrator's reasonable fees and expenses relating to the administration of the pension plan and the administration and investment of the pension fund. 2010, c. 24, s. 8 (2).

Expenses of Superintendent

(7) If the Superintendent acts as administrator under subsection 8 (1.2), the Superintendent is entitled to be paid, from the pension fund, his or her reasonable expenses relating to the administration of the pension plan and the administration and investment of the pension fund. 2010, c. 24, s. 8 (2); 2016, c. 5, Sched. 22, s. 1.

Information from employer

23. An employer shall provide to the administrator of the pension plan any information required by the administrator for the purpose of complying with the terms of the pension plan or of this Act or the regulations. R.S.O. 1990, c. P.8, s. 23.

Advisory committee

24. (1) The members and retired members of a pension plan, by the decision of a majority of them participating in a vote, may establish an advisory committee. R.S.O. 1990, c. P.8, s. 24 (1); 2010, c. 9, s. 11 (1).

Note: On January 1, 2017, the day named by proclamation of the Lieutenant Governor, subsection (1) is amended by adding at the end "in accordance with such conditions and subject to such restrictions as may be prescribed". See: 2010, c. 9, ss. 11 (2), 80 (2).

Representation

(2) Each class of employees that is represented in the pension plan is entitled to appoint at least one representative to the advisory committee established under subsection (1). R.S.O. 1990, c. P.8, s. 24 (2).

Note: On January 1, 2017, the day named by proclamation of the Lieutenant Governor, subsection (2) is repealed and the following substituted:

Same

(2) If members of the pension plan are represented by a trade union, the trade union may act on their behalf for the purpose of establishing an advisory committee. 2010, c. 9, s. 11 (3).

See: 2010, c. 9, ss. 11 (3), 80 (2).

Idem, former members

(3) The former members of the pension plan are entitled to appoint one representative to the advisory committee established under subsection (1). R.S.O. 1990, c. P.8, s. 24 (3).

Note: On January 1, 2017, the day named by proclamation of the Lieutenant Governor, subsection (3) is repealed and the following substituted:

Representation

(3) The following rules govern the composition of the advisory committee:

1. Each class of employees that is represented in the pension plan is entitled to appoint at least one representative to the advisory committee.
2. If there is only one class of employees that is represented in the pension plan, that class is entitled to appoint at least two representatives to the committee.
3. The retired members of the pension plan are entitled to appoint at least two representatives to the committee. 2010, c. 9, s. 11 (3).

Same, former members

(3.1) One or more former members of the pension plan may be appointed as representatives on the advisory committee. 2010, c. 9, s. 11 (3).

See: 2010, c. 9, ss. 11 (3), 80 (2).

Purposes

(4) The purposes of an advisory committee are,

- (a) to monitor the administration of the pension plan;
- (b) to make recommendations to the administrator respecting the administration of the pension plan; and
- (c) to promote awareness and understanding of the pension plan on the part of members of the pension plan and persons receiving pension benefits under the pension plan. R.S.O. 1990, c. P.8, s. 24 (4).

Note: On January 1, 2017, the day named by proclamation of the Lieutenant Governor, clause (c) is repealed and the following substituted:

(c) to promote awareness and understanding of the pension plan.

See: 2010, c. 9, ss. 11 (4), 80 (2).

Note: On January 1, 2017, the day named by proclamation of the Lieutenant Governor, section 24 is amended by adding the following subsections:

Duties of the administrator

(4.1) Upon receiving written notice from members, a trade union acting on their behalf, or retired members of their intent to establish an advisory committee, and if such conditions as may be prescribed are satisfied, the administrator shall do the following things to help them to establish the committee:

1. Distribute the notice and such other information as may be prescribed to the members and retired members.
2. Provide such other assistance as may be prescribed. 2010, c. 9, s. 11 (5).

Same, to assist the committee

(4.2) Once the advisory committee has been established, the administrator has the following duties:

1. To meet with the committee as required by the regulations.
2. To provide such assistance to the committee as may be prescribed to help the committee carry out its purposes.
3. To give the committee or its representative such information as is under the administrator's control and is required by the committee or the representative for the purposes of the committee. 2010, c. 9, s. 11 (5).

See: 2010, c. 9, ss. 11 (5), 80 (2).

Examination of records

(5) The advisory committee or its representative has the right to examine the records of the administrator in respect of the administration of the pension plan and the pension fund and to make extracts from and copies of the records, but this subsection does not apply in respect of information as to the service, salary, pension benefits or other personal information related to any specific person without the person's prior consent. R.S.O. 1990, c. P.8, s. 24 (5).

Application of section

(6) This section does not apply,

(a) if the pension plan is administered by a pension committee at least one of the members of which is appointed by the members of the pension plan; or

Note: On January 1, 2017, the day named by proclamation of the Lieutenant Governor, clause (a) is amended by striking out "or" at the end. See: 2010, c. 9, ss. 11 (6), 80 (2).

(b) in respect of a multi-employer pension plan established pursuant to a collective agreement. R.S.O. 1990, c. P.8, s. 24 (6); 2016, c. 5, Sched. 22, s. 2 (1).

Note: On January 1, 2017, the day named by proclamation of the Lieutenant Governor, subsection (6) is amended by adding "or" at the end of clause (b) and by adding the following clause:

(c) in respect of a jointly sponsored pension plan.

See: 2010, c. 9, ss. 11 (6), 80 (2).

Note: On January 1, 2017, the day named by proclamation of the Lieutenant Governor, subsection 24 (6) of the Act is amended by striking out "or" at the end of clause (b), by adding "or" at the end of clause (c) and by adding the following clause: (See: 2016, c. 5, Sched. 22, s. 2 (2))

(d) in respect of a pension plan that satisfies such criteria as may be prescribed.

Administrator to provide information

(7) The administrator of a pension plan shall provide to the advisory committee or its representative such information as is under the control of the administrator and is required by the advisory committee or its representative for the purposes of the committee. R.S.O. 1990, c. P.8, s. 24 (7).

Note: On January 1, 2017, the day named by proclamation of the Lieutenant Governor, subsection (7) is repealed and the following substituted:

Costs of the committee

(7) Such costs associated with the advisory committee as may be prescribed are payable out of the pension fund, subject to the prescribed restrictions. 2010, c. 9, s. 11 (7).

See: 2010, c. 9, ss. 11 (7), 80 (2).

Note: On January 1, 2017, the day named by proclamation of the Lieutenant Governor, section 24 of the Act is amended by adding the following subsection: (See: 2016, c. 5, Sched. 22, s. 2 (3))

Transitional matters

(8) The regulations may provide for transitional rules for the application of this section and the regulations made under it to advisory committees that are established under this section before the day this subsection comes into force. 2016, c. 5, Sched. 22, s. 2 (3).

RECORD KEEPING AND DISCLOSURE

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section:

Duty to retain records

24.1 The administrator of a pension plan shall retain the prescribed records about the pension plan and the pension fund for the prescribed period of time. 2010, c. 9, s. 13.

See: 2010, c. 9, ss. 13, 80 (2).

Information from administrator

25. (1) The administrator of a pension plan shall provide in writing to each person who will be eligible or is required to become a member of the pension plan,

(a) an explanation of the provisions of the plan that apply to the person;

(b) an explanation of the person's rights and obligations in respect of the pension plan; and

(c) any other information prescribed by the regulations.

Time

- (2) The administrator shall provide the information mentioned in subsection (1),
- (a) to each person who becomes a member within the prescribed period of time after the date on which the pension plan is established;
 - (b) to a person who is likely to become eligible to become a member of the pension plan, within the prescribed period of time before the date on which the person is likely to become eligible;
 - (c) to each person who becomes eligible to become a member of the pension plan upon becoming employed by the employer, within the prescribed period of time after the date on which the person becomes so employed.

Information from employer

(3) The employer shall transmit to the administrator the information necessary to enable the administrator to comply with subsection (2) and shall transmit the information in sufficient time to enable the administrator to comply with the time limits set out in that subsection. R.S.O. 1990, c. P.8, s. 25.

Pension plan amendments**Notice of proposed amendment**

26. (1) If the administrator of a pension plan applies for registration of an amendment to the pension plan that would result in a reduction of pension benefits accruing subsequent to the effective date of the amendment or that would otherwise adversely affect the rights or obligations of a member or former member or of any other person entitled to payment from the pension fund, the Superintendent shall require the administrator to transmit to such persons as the Superintendent may specify a written notice containing an explanation of the amendment and inviting comments to be submitted to the administrator and the Superintendent, and the administrator shall provide to the Superintendent a copy of the notice and shall certify to the Superintendent the date on which the last such notice was transmitted. R.S.O. 1990, c. P.8, s. 26 (1).

Registration

(2) If the Superintendent has required the administrator to transmit notices under subsection (1), the Superintendent shall not register an amendment mentioned in that subsection before the expiration of forty-five days after the date certified to the Superintendent under that subsection, but after the expiration of the forty-five day period the Superintendent may register the amendment with such changes as are requested in writing by the administrator. R.S.O. 1990, c. P.8, s. 26 (2).

Notice after registration

(3) Within the prescribed period of time after an amendment to a pension plan is registered, the administrator shall transmit notice and a written explanation of the amendment to each member, former member or other person entitled to payment from the pension fund who is affected by the amendment. R.S.O. 1990, c. P.8, s. 26 (3).

Order dispensing with notice

- (4) The Superintendent need not require the transmittal of notices under subsection (1) or by order may dispense with the notice required by subsection (3), or both,
- (a) if the Superintendent is of the opinion that the amendment is of a technical nature or will not substantially affect the pension benefits, rights or obligations of a member or former member or will not adversely affect any person entitled to payments from the pension fund;
 - (b) if the amendment has been agreed to by a trade union that represents the members; or
 - (c) if the amendment is in respect of a multi-employer pension plan established pursuant to a collective agreement or a trust agreement. R.S.O. 1990, c. P.8, s. 26 (4).

Notice to trade union

(5) Where a proposed amendment affects members or former members represented by a trade union that is a party to a collective agreement filed as a document that creates or supports a pension plan, the administrator shall transmit to the trade union the written notice mentioned in subsection (1). R.S.O. 1990, c. P.8, s. 26 (5).

Same, conversion of pension plan

(6) This section does not apply with respect to an amendment that relates to a transfer of assets under section 80.4 from a single employer pension plan to a jointly sponsored pension plan. 2014, c. 7, Sched. 26, s. 3 (1).

Same

(7) Subsection (1) does not apply with respect to an amendment that relates to the conversion under section 81.0.1 of a single employer pension plan into a jointly sponsored pension plan. 2014, c. 7, Sched. 26, s. 3 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 26 is repealed and the following substituted:

Pension plan amendments

Notice of proposed amendment

26. (1) Before the administrator of a pension plan applies for registration of an amendment to the pension plan, the administrator shall give a notice to the members, former members and retired members and the notice must contain the prescribed information. 2010, c. 9, s. 15 (1).

Notice to trade union

(2) The administrator shall also give a notice to a trade union that represents members of the pension plan and the notice must contain the prescribed information. 2010, c. 9, s. 15 (1).

Timing

(3) The notice must be given within the prescribed period. 2010, c. 9, s. 15 (1).

Exception

(4) In such circumstances as may be prescribed and despite subsection (1), the administrator may give the notice required by subsection (1) to the members, former members and retired members after the amendment to the pension plan is filed. 2010, c. 9, s. 15 (1).

See: 2010, c. 9, ss. 15 (1), 80 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 26 is amended by adding the following subsection:

Exceptions

(5) This section does not apply with respect to an amendment that relates to a transfer of assets authorized by section 79.1, 80, 80.1, 80.2 or 81. 2010, c. 9, s. 15 (2).

Note: On July 1, 2017, subsection (5) is amended by striking out “80.1”. See: 2010, c. 9, ss. 15 (3), 80 (4); 2014, c. 7, Sched. 26, s. 14; 2016, c. 5, Sched. 22, s. 4.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (5) is amended by striking out “80.2 or 81” at the end and substituting “80.2, 80.3 or 81”. See: 2010, c. 24, ss. 9, 49 (4).

See: 2010, c. 9, ss. 15 (2), 80 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 26 is amended by adding the following subsection: (See: 2014, c. 7, Sched. 26, ss. 3 (2), 15 (1))

Same, conversion of pension plan

(6) This section does not apply with respect to an amendment that relates to a transfer of assets under section 80.4 from a single employer pension plan to a jointly sponsored pension plan. 2014, c. 7, Sched. 26, s. 3 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 26 is amended by adding the following subsection: (See: 2014, c. 7, Sched. 26, ss. 3 (4), 15 (1))

Same

(7) Subsection (1) does not apply with respect to an amendment that relates to the conversion under section 81.0.1 of a single employer pension plan into a jointly sponsored pension plan. 2014, c. 7, Sched. 26, s. 3 (4).

Annual statement of pension benefits

27. (1) The administrator of a pension plan shall transmit annually to each member a written statement containing the prescribed information in respect of the pension plan, the member’s pension benefits and any ancillary benefits. R.S.O. 1990, c. P.8, s. 27.

Other statements to former members, retired members

(2) When required by the regulations, the administrator of a pension plan shall transmit to each former member and retired member a written statement containing the prescribed information about the pension plan or about his or her pension benefits and any ancillary benefits. 2010, c. 9, s. 16.

Statement of benefits

28. (1) Where a member of a pension plan terminates employment with the employer or otherwise ceases to be a member, the administrator of the pension plan shall give to the member, or to any other person who as a result becomes entitled to a

payment under the pension plan, a written statement setting out the prescribed information in respect of the benefits, rights and obligations of the member or other person.

Multi-employer pension plan

(2) Subsection (1) applies in respect of a multi-employer pension plan where a member ceases to be a member, but does not apply where a member terminates employment with an employer but continues to be a member. R.S.O. 1990, c. P.8, s. 28.

Inspection of administrator's records

29. (1) On written request, the administrator of a pension plan shall make available the prescribed records about the pension plan and the pension fund for inspection without charge by,

- (a) a member, former member or retired member;
- (b) the spouse of a member, former member or retired member;
- (c) REPEALED: 2010, c. 9, s. 17 (2).
- (c.1) a former spouse, within the meaning of sections 67.1 to 67.6, of a member, former member or retired member but only in such circumstances and for such purposes as may be prescribed;
- (d) any other person entitled to pension benefits under the pension plan;
- (e) REPEALED: 1999, c. 15, s. 3 (1).
- (f) a representative of a trade union that represents members of the pension plan;
- (g) an employer;
- (h) a person required to make contributions under the pension plan on behalf of an employer;
- (i) an agent of a person described in any of clauses (a) to (h) who is authorized in writing; or
- (j) such other persons as may be prescribed. R.S.O. 1990, c. P.8, s. 29 (1); 1999, c. 6, s. 53 (3); 1999, c. 15, s. 3; 2005, c. 5, s. 56 (7); 2009, c. 11, s. 42; 2010, c. 9, s. 17 (1-3).

Place of inspection

- (2) The administrator shall make the prescribed records available,
- (a) at the premises of the employer where the member is employed or where the former member or retired member was employed, as the case may be; or
- (b) at a location that is agreed upon by the administrator and the person making the request. 2010, c. 9, s. 17 (5).

Restriction on inspections

(3) A person described in clause (1) (a), (b) or (d), or the person's agent is entitled to make an inspection under subsection (1) not more than once in a calendar year. 2010, c. 9, s. 17 (6); 2011, c. 9, Sched. 35, s. 2 (1).

Obtaining copies during inspection

(4) The administrator shall permit the person making the inspection to make extracts from, or to copy, the prescribed records and, upon request, the administrator shall give the person a copy of any of the prescribed records upon payment of the applicable fee to the administrator. 2010, c. 9, s. 17 (6).

Same, by mail or electronically

(5) If the administrator receives a written request from a person described in subsection (1) and receives payment of the applicable fee, the administrator shall provide prescribed records by mail or electronically to the person in such circumstances as may be prescribed. 2010, c. 9, s. 17 (6).

Restriction on copies

(6) A person described in clause (1) (a), (b) or (d), or the person's agent is entitled to make a request under subsection (5) for a particular prescribed record not more than once in a calendar year. 2010, c. 9, s. 17 (6); 2011, c. 9, Sched. 35, s. 2 (2).

Restriction on fees

(7) The applicable fee referred to in subsection (4) or (5) cannot exceed such amount as may be prescribed. 2010, c. 9, s. 17 (6).

Inspection of filed records

30. (1) The administrator of a pension plan and the persons described in subsection 29 (1) are entitled to inspect the following records at the office of the Superintendent during the business hours of that office:

1. The filed documents that create and support the pension plan and the pension fund.
2. Such other prescribed documents as are filed in respect of the pension plan and the pension fund. 1999, c. 15, s. 4; 2010, c. 9, s. 18 (1).

Obtaining copies during inspection

(2) Upon payment of the applicable fee, the Superintendent shall give the person making an inspection under subsection (1) a copy of any record that the person is entitled to inspect. 2010, c. 9, s. 18 (3).

Same, by mail or electronically

(3) If the Superintendent receives a written request from the administrator or from a person described in subsection 29 (1) and receives payment of the applicable fee, the Superintendent shall provide prescribed records by mail or electronically to the administrator or other person in such circumstances as may be prescribed. 2010, c. 9, s. 18 (3).

Authority to use electronic transmission

30.1 (1) The administrator of a pension plan may use electronic means that comply with the *Electronic Commerce Act, 2000* to send notices, statements and other records to members, former members, retired members and other persons entitled to benefits under the pension plan if the administrator has the person's permission to do so. 2010, c. 9, s. 19.

Exception

(2) Subsection (1) does not apply in such circumstances as may be prescribed. 2010, c. 9, s. 19.

MEMBERSHIP

Eligibility for membership

31. (1) Every employee of a class of employees for whom a pension plan is established is eligible to be a member of the pension plan.

Full-time employment

(2) An employee in a class of employees for whom a pension plan is maintained is entitled to become a member of the pension plan upon application at any time after completing twenty-four months of continuous full-time employment.

Part-time employment

(3) A pension plan may require not more than twenty-four months of less than full-time continuous employment with the employer, with the lesser of,

- (a) earnings of not less than 35 per cent of the Year's Maximum Pensionable Earnings; or
- (b) 700 hours of employment with the employer,

in each of two consecutive calendar years immediately prior to membership in the pension plan, or such equivalent basis as is approved by the Superintendent, as a condition precedent to membership in the pension plan.

Multi-employer pension plan

(4) A multi-employer pension plan may require not more than the lesser of,

- (a) earnings of not less than 35 per cent of the Year's Maximum Pensionable Earnings with one or more of the participating employers; or
- (b) 700 hours of employment with one or more participating employers,

in each of the two consecutive calendar years immediately before the year in which membership is applied for, or such equivalent basis as is approved by the Superintendent, as a condition precedent to membership in the multi-employer pension plan.

Approval

(5) The Superintendent may give the approval mentioned in subsection (3) or (4) if the Superintendent is of the opinion that the basis is equivalent in the circumstances to the earnings mentioned in the subsection. R.S.O. 1990, c. P.8, s. 31.

Loss of membership

32. A member of a pension plan who is employed continuously on a less than full-time basis does not cease to be a member by reason only that he or she has earnings of less than 35 per cent of the Year's Maximum Pensionable Earnings in a calendar year or is employed for fewer than 700 hours in a calendar year. R.S.O. 1990, c. P.8, s. 32.

Dispute as to member of class of employees

33. (1) Where there is a dispute as to whether or not an employee is a member of a class of employees for whom a pension plan is established or maintained, the Superintendent, subject to section 89, by order may require the administrator to accept the employee as a member.

Ground for order

(2) The Superintendent may make the order if the Superintendent is of the opinion that, on the basis of the nature of the employment or of the terms of employment of the employee, the employee is a member of the class. R.S.O. 1990, c. P.8, s. 33.

Separate pension plan

34. (1) An employer may establish or maintain a separate pension plan for employees employed in less than full-time continuous employment if the separate pension plan provides pension benefits and other benefits reasonably equivalent to those provided under the pension plan maintained by the employer for employees of the same class employed in full-time continuous employment. R.S.O. 1990, c. P.8, s. 34.

Same, jointly sponsored pension plan

(2) If the documents that create and support a jointly sponsored pension plan so authorize, a prescribed person or entity may establish or maintain a separate jointly sponsored pension plan for employees employed in less than full-time continuous employment if the separate plan provides pension benefits and other benefits reasonably equivalent to those provided under the jointly sponsored pension plan maintained for employees of the same class employed in full-time continuous employment. 2005, c. 31, Sched. 18, s. 4.

RETIREMENT

Normal retirement date

35. (1) The normal retirement date under a pension plan submitted for registration after the 1st day of January, 1988 shall not be later than one year after the attainment of sixty-five years of age. R.S.O. 1990, c. P.8, s. 35 (1).

Transitional

(2) Every pension plan registered or submitted for registration before the 1st day of January, 1988 shall be deemed to specify a normal retirement date in respect of pension benefits that accrue after the 1st day of January, 1988, that is not later than one year after attainment of sixty-five years of age, unless the pension plan specifies an earlier retirement date. R.S.O. 1990, c. P.8, s. 35 (2).

Right to pension

(3) If a member of a pension plan continues employment and membership in the pension plan after reaching the normal retirement date under the plan, he or she is entitled, on termination of employment, to payment of,

- (a) the pension benefits to which he or she would have been entitled upon terminating employment at the normal retirement date; and
- (b) any additional pension benefits accrued under the pension plan that result from his or her employment after the normal retirement date. 2010, c. 9, s. 21.

Continuation after normal retirement date

(4) A member of a pension plan who continues employment after attaining the age that is the normal retirement date under the pension plan and who is not receiving a pension under the pension plan is entitled to continue membership in the pension plan and has the right to continue to accrue pension benefits under the pension plan subject to any terms of the pension plan,

- (a) fixing a maximum number of years of employment or membership that can be taken into account for purposes of determining a pension benefit; or
- (b) fixing a maximum amount of the pension benefit. R.S.O. 1990, c. P.8, s. 35 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section:

Phased retirement option

35.1 (1) A pension plan that provides defined benefits may provide a phased retirement option for eligible members in the circumstances described in this section, and the option provided under the pension plan must comply with this Act and the regulations. 2010, c. 9, s. 22.

Application by member

(2) A member whose pension benefit is a defined benefit may apply to the administrator to participate in the phased retirement option if all of the following circumstances exist:

1. The member is at least 60 years of age or is at least 55 years of age and entitled to an unreduced pension under the pension plan.
2. The member has not yet reached the normal retirement date.
3. The member and his or her employer have entered into a written agreement governing the employment arrangements relating to the phased retirement option for the member and governing payments under the phased retirement option.
4. The agreement provides for a reduction in the member's regular hours of work when payments under the phased retirement option begin, and the reduction satisfies such requirements as may be prescribed.
5. The agreement complies with the requirements of the pension plan. 2010, c. 9, s. 22.

Approval

(3) The administrator shall approve an application that satisfies the requirements of this section and the regulations and shall do so within such period as may be prescribed. 2010, c. 9, s. 22.

Participation

(4) If the administrator approves the application, the member participates in the phased retirement option for the period specified by the agreement, and that period cannot begin before the date on which the administrator approves the agreement and it cannot end after the member's normal retirement date. 2010, c. 9, s. 22.

Accruing pension benefits, etc.

(5) During that period, the member continues to accrue pension benefits under the pension plan in the prescribed manner and all contributions shall continue to be made as required under the pension plan. 2010, c. 9, s. 22.

Entitlement to payments

(6) During that period, the member is entitled to periodic payments under the pension plan that are equal to a portion of the pension payments to which he or she would be entitled as a retired member, and the portion is specified in the agreement and cannot exceed 60 per cent of the pension payments to which he or she would be entitled as a retired member. 2010, c. 9, s. 22.

Status of payments

(7) For the purposes of this Act, the periodic payments do not constitute a pension. 2010, c. 9, s. 22.

Restriction on other payments

(8) A member is not entitled to be paid any other amounts under the pension plan during that period. 2010, c. 9, s. 22.

Same

(9) Subsection (8) does not prevent the refund of additional voluntary contributions and interest thereon to the member. 2010, c. 9, s. 22.

Restriction on eligibility

(10) If the member ceases to be a member of the pension plan during that period, he or she ceases to participate in the phased retirement option and the period referred to in subsections (4), (5) and (6) is deemed to have ended. 2010, c. 9, s. 22.

Restrictions affecting the pension plan

(11) A pension plan cannot make payments under a phased retirement option if the pension plan is being wound up or while the pension plan does not satisfy prescribed funding requirements. 2010, c. 9, s. 22.

Information

(12) If a member asks the administrator for information concerning the phased retirement option, if any, provided under a pension plan, the administrator shall provide information to him or her within such period as may be prescribed. 2010, c. 9, s. 22.

See: 2010, c. 9, ss. 22, 80 (2).

Deferred pension for service before 1987

36. (1) A member of a pension plan who terminates his or her employment with the employer on or after the day on which subsection 23 (1) of the *Pension Benefits Amendment Act, 2010* comes into force and before reaching the normal retirement date under the pension plan is entitled to the benefit described in subsection (3) in connection with his or her employment, if any, before January 1, 1987. 2010, c. 9, s. 23 (1).

(2) REPEALED: 2010, c. 9, s. 23 (1).

Amount

(3) The benefit is a deferred pension equal to the pension benefit provided under the pension plan as it existed on December 31, 1986 in respect of employment before January 1, 1987 in Ontario or in a designated jurisdiction,

- (a) under the terms of the pension plan, with respect to employment on or after the qualification date;
- (b) by an amendment to the pension plan made on or after the qualification date; and
- (c) by the creation of a new pension plan on or after the qualification date. R.S.O. 1990, c. P.8, s. 36 (3); 2010, c. 1, Sched. 23, s. 3.

Application of subss. (1, 3)

(4) Subsections (1) and (3) do not apply in respect of benefits that result from additional voluntary contributions. R.S.O. 1990, c. P.8, s. 36 (4); 2010, c. 9, s. 23 (2).

Deferred pension for service after 1986

37. (1) A member of a pension plan who is a member on or after the day on which subsection 24 (1) of the *Pension Benefits Amendment Act, 2010* comes into force and who terminates his or her employment with the employer before reaching the normal retirement date is entitled to the benefit described in subsection (3) in connection with his or her employment after December 31, 1986. 2010, c. 9, s. 24 (1).

(2) REPEALED: 2010, c. 9, s. 24 (1).

Amount

(3) The benefit is a deferred pension equal to the pension benefit provided in respect of employment in Ontario or in a designated jurisdiction,

- (a) under the pension plan in respect of employment by the employer after the later of the 31st day of December, 1986 or the qualification date;
- (b) under any amendment made to the pension plan after the 31st day of December, 1986; and
- (c) under any new pension plan established after the 31st day of December, 1986 for members of the pension plan. R.S.O. 1990, c. P.8, s. 37 (3); 2010, c. 1, Sched. 23, s. 4.

Application of subss. (1, 3)

(4) Subsections (1) and (3) do not apply in respect of benefits that result from additional voluntary contributions. R.S.O. 1990, c. P.8, s. 37 (4); 2010, c. 9, s. 24 (2).

Termination by member

38. (1) A person who is,

- (a) a member of a multi-employer pension plan;
- (b) a member of a pension plan who is employed by the employer on a less than full-time basis; or
- (c) a member of a pension plan who has been laid off from employment by the employer,

is entitled to terminate his or her membership in the pension plan if no contributions are paid or are required to be paid to the pension fund by or on behalf of the member for twenty-four consecutive months or for such shorter period of time as is specified in the pension plan. R.S.O. 1990, c. P.8, s. 38 (1).

Election

(1.1) If the person elects to terminate his or her membership in the pension plan, the membership is terminated when the person delivers written notice of his or her election to the administrator of the pension plan or at the end of the period described in subsection (1), whichever is later. 2010, c. 9, s. 25 (1).

Effect of termination

(2) For the purpose of determining benefits under this Act, the person is deemed to have terminated his or her employment when his or her membership in the pension plan is terminated. 2010, c. 9, s. 25 (2).

Application of subss. (1, 2)

(3) Subsections (1) and (2) do not apply if contributions are not paid or are not required to be paid because the person has become a member of another pension plan and there is a reciprocal transfer agreement respecting the two pension plans. R.S.O. 1990, c. P.8, s. 38 (3).

Determination of entitlement

(4) For the purpose of determining entitlement to a deferred pension, a member of a multi-employer pension plan who terminates employment with a participating employer or an employer on whose behalf contributions are made under the pension plan shall be deemed not to have terminated employment until the member terminates membership in the pension plan. R.S.O. 1990, c. P.8, s. 38 (4).

Certification of new bargaining agent

(5) Where a member of a multi-employer pension plan is represented by a trade union, which, in accordance with section 62 of the *Labour Relations Act, 1995*, ceases to represent the member, and the member joins a different pension plan, the member is entitled to terminate membership in the first plan. R.S.O. 1990, c. P.8, s. 38 (5); 2004, c. 31, Sched. 31, s. 2.

Application of subs. (5)

(6) Subsection (5) does not apply where there is a reciprocal agreement respecting the two pension plans. R.S.O. 1990, c. P.8, s. 38 (6).

BENEFITS

Value of deferred pension, etc.

39. (1) If the commuted value of a deferred pension accrued by a former member or a pension accrued by a retired member, as the case may be, in respect of employment before January 1, 1987 is less than the value of the contributions that he or she was required, as a member, to make under the pension plan before that date, plus interest credited to the contributions, he or she is entitled to have the commuted value of the deferred pension or the pension increased so that the commuted value is equal to the value of the contributions plus interest. 2010, c. 9, s. 26 (1).

Effect of amendment

(2) An increase in the value of the pension or deferred pension in respect of employment before the 1st day of January, 1987 that results from an amendment to the pension plan made on or after that date may be included in calculating the commuted value of the pension or deferred pension for the purposes of subsection (1). R.S.O. 1990, c. P.8, s. 39 (2).

50 per cent rule

(3) Contributions made on or after January 1, 1987 by a member, and interest on the contributions, shall not be used to provide more than 50 per cent of the commuted value of a deferred pension or pension in respect of contributory benefits accrued after that date to which the member is entitled under the pension plan on termination of employment or membership. 2010, c. 9, s. 26 (2).

Entitlement to excess amount

(4) A former member or retired member who is entitled to a deferred pension or a pension, as the case may be, on termination of employment or membership is entitled to a lump sum payment from the pension fund that is equal to the amount by which his or her contributions, as a member, made on or after January 1, 1987, and interest on the contributions, exceeds one-half of the commuted value of the deferred pension or pension in respect of contributory benefits accrued after that date. 2010, c. 9, s. 26 (2).

Right to transfer excess amount

(4.1) A person entitled to a lump sum payment under subsection (4) may require the administrator to pay the lump sum into a registered retirement savings arrangement by delivering a direction to the administrator within the prescribed period. 2010, c. 9, s. 26 (3).

Same

(4.2) Section 50.1 applies with respect to the payment into the registered retirement savings arrangement. 2010, c. 9, s. 26 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 39 is amended by adding the following subsection:

Reduction re target benefits

(4.3) If a former member transfers an amount under subsection 42 (1) in connection with his or her deferred pension under a pension plan that provides target benefits, and if the transferred amount was reduced under subsection 42 (2.1),

- (a) the lump sum payment to which the former member is entitled under subsection (4) must be reduced in the prescribed manner; and
- (b) subsection (3) does not apply with respect to the reduced lump sum payment. 2010, c. 24, s. 10 (1).

See: 2010, c. 24, ss. 10 (1), 49 (4).

Exclusions

(5) The following may be excluded in determining that part of the commuted value of a pension or deferred pension to which subsections (3) and (4) apply:

1. Defined contribution benefits.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (5) is amended by adding the following paragraph:

1.1 Optional benefits.

See: 2010, c. 24, ss. 10 (2), 49 (4).

2. Benefits that result from additional voluntary contributions.

2.1 Benefits that result from voluntary contributions for past service, as defined in the regulations.

3. In the case of a multi-employer pension plan that permits a member who has not accrued maximum pension benefits permitted under the plan in a fiscal year of the plan to make contributions to increase the member's pension benefit to the maximum permitted for the fiscal year, benefits resulting from such contributions.
4. Any other benefits prescribed for the purposes of this subsection. R.S.O. 1990, c. P.8, s. 39 (5); 1999, c. 15, s. 5.

Matters that may be included

(6) The following may be included by the administrator of the pension plan in calculating a member's contributory benefit for the purposes of subsection (3):

1. Ancillary benefits related to employment on or after the 1st day of January, 1987.
2. Increases to pension benefits and ancillary benefits related to employment before the date of the amendment resulting from an amendment to the pension plan made on or after the 1st day of January, 1987 but that are not included in calculating commuted value under subsection (2).
3. Pension benefits and ancillary benefits related to employment before the date of the establishment of the pension plan, in the case of a pension plan established on or after the 1st day of January, 1987. R.S.O. 1990, c. P.8, s. 39 (6).

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2015, c. 20, Sched. 34, s. 2)

Variable benefits

Definitions

39.1 (1) In this section,

"specified beneficiary" means a designated beneficiary of a retired member who is a specified beneficiary for the purposes of the *Income Tax Act* (Canada); ("bénéficiaire déterminé")

"variable benefits" means variable benefits for the purposes of the *Income Tax Act* (Canada); ("prestations variables")

"variable benefit account" means an account under the defined contribution provision of a pension plan that is used, or is to be used, for the payment of variable benefits to a retired member or a specified beneficiary of a retired member. ("compte de prestations variables") 2015, c. 20, Sched. 34, s. 2.

Payment of variable benefits authorized

(2) A pension plan that provides defined contribution benefits may authorize payment of pension benefits that are variable benefits in the manner authorized by the *Income Tax Act* (Canada) and in accordance with such requirements and subject to such restrictions as may be prescribed. 2015, c. 20, Sched. 34, s. 2.

Transfers in

(3) A pension plan that provides for the payment of variable benefits may provide that a retired member receiving variable benefits is entitled to transfer, to the extent authorized by the *Income Tax Act* (Canada) and in accordance with such requirements and subject to such restrictions as may be prescribed, any amount to the retired member's variable benefit account,

- (a) from the pension fund related to another defined contribution pension plan; or
- (b) from a prescribed retirement savings arrangement. 2015, c. 20, Sched. 34, s. 2.

Transfers out

(4) A pension plan that provides for the payment of variable benefits shall provide that a retired member receiving variable benefits is entitled to require the administrator to pay, to the extent authorized by the *Income Tax Act* (Canada) and in accordance with such requirements and subject to such restrictions as may be prescribed, any amount remaining in the retired member's variable benefit account,

- (a) to the pension fund related to another defined contribution pension plan, if the administrator of the other pension plan agrees to accept payment;
- (b) into a prescribed retirement savings arrangement; or
- (c) for the purchase of a life annuity. 2015, c. 20, Sched. 34, s. 2.

Limitation

(5) The entitlement under subsection (4) is subject to the prescribed limitations in respect of the transfer of funds from pension funds. 2015, c. 20, Sched. 34, s. 2.

Cessation of variable benefit payments

(6) Before a pension plan ceases to provide for the payment of a variable benefit, the administrator shall offer a retired member or specified beneficiary who receives that variable benefit the options referred to in subsection (4). 2015, c. 20, Sched. 34, s. 2.

Direction

(7) A retired member may exercise his or her entitlement under subsection (4) by delivering a direction to the administrator in accordance with the prescribed rules. 2015, c. 20, Sched. 34, s. 2.

Compliance with direction

(8) Subject to compliance with the requirements of this section and the regulations, the administrator shall comply with the direction within the prescribed period of time after delivery of the direction. 2015, c. 20, Sched. 34, s. 2.

Terms of arrangement or life annuity

- (9) The administrator shall not make a payment,
 - (a) under clause (4) (b) unless the retirement savings arrangement meets the prescribed requirements; or
 - (b) under clause (4) (c) unless the life annuity meets the prescribed requirements. 2015, c. 20, Sched. 34, s. 2.

Approval

(10) If a payment under subsection (4) does not meet the limitations prescribed in relation to transfers of funds from pension funds, the administrator shall not make the payment without the approval of the Superintendent. 2015, c. 20, Sched. 34, s. 2.

Terms and conditions

(11) The Superintendent may approve the payment subject to such terms and conditions as the Superintendent considers appropriate in the circumstances. 2015, c. 20, Sched. 34, s. 2.

Order for repayment

(12) If a payment that does not meet the limitations prescribed in relation to transfers of funds from pension funds is made without the approval of the Superintendent or there is failure to comply with a term or condition attached to the approval, the Superintendent by order, subject to section 89, may require any person to whom payment under subsection (4) has been made to repay an amount not greater than the amount of the payment together with interest thereon. 2015, c. 20, Sched. 34, s. 2.

Enforcement

(13) Subject to section 89, an order for payment under subsection (12), exclusive of the reasons therefor, may be filed in the Superior Court of Justice and is thereupon enforceable as an order of that court. 2015, c. 20, Sched. 34, s. 2.

Discharge of administrator

(14) The administrator is discharged in respect of the amount that is paid or transferred under subsection (4) on making the payment or transfer in accordance with the direction of the retired member if the payment or transfer complies with this Act and the regulations. 2015, c. 20, Sched. 34, s. 2.

Commutation or surrender

(15) Subsections 67 (1) and (2) do not apply to the commutation or surrender, in whole or in part, of the account balance in a variable benefit account in such circumstances or in such amounts as may be prescribed, subject to such restrictions as may be prescribed. 2015, c. 20, Sched. 34, s. 2.

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section:

Target benefits

39.2 (1) The pension benefits provided by a pension plan are target benefits if all of the following criteria are satisfied:

1. The pension benefits are not defined contribution benefits.
2. The obligation of the employer to contribute to the pension fund is limited to a fixed amount set out in one or more collective agreements.
3. The administrator is authorized, by the documents that create and support the pension plan and pension fund, to reduce benefits, deferred pensions or pensions accrued under the plan, both while the plan is ongoing and upon wind up.
4. The reduction referred to in paragraph 3 is not prohibited by the terms of any applicable collective agreement or by the pension legislation of a designated jurisdiction.
5. The pension benefits satisfy such other criteria as may be prescribed.
6. The pension plan satisfies such other criteria as may be prescribed. 2010, c. 24, s. 12 (1).

Same

(2) Despite subsection (1), the pension benefits provided by a pension plan are not target benefits if the administrator's authority to reduce benefits, deferred pensions or pensions accrued under the plan is restricted in a manner or to an extent that is prohibited by regulation for target benefits. 2010, c. 24, s. 12 (1).

Same

(3) Ancillary benefits provided by a pension plan that provides target benefits are also target benefits. 2010, c. 24, s. 12 (1).

Certain multi-jurisdictional pension plans

(4) For a designated multi-jurisdictional pension plan, the pension benefits are target benefits in such circumstances as may be prescribed even though, in a designated jurisdiction, the administrator's authority to reduce benefits, deferred pensions or pensions for members and former members in that jurisdiction is prohibited or restricted under the pension legislation of that jurisdiction. 2010, c. 24, s. 12 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (4) is amended by striking out "for members and former members" and substituting "for members, former members and retired members". See: 2010, c. 24, ss. 12 (2), 49 (4).

See: 2010, c. 24, ss. 12 (1), 49 (4).

Ancillary benefits

40. (1) A pension plan may provide the following ancillary benefits:

1. Disability benefits.
2. Death benefits in excess of those provided in section 48 (pre-retirement death benefit).
3. Bridging benefits.
4. Supplemental benefits, other than bridging benefits, payable for a temporary period of time.
5. Early retirement options and benefits in excess of those provided by section 41 (early retirement option).
6. Postponed retirement options and benefits in excess of those referred to in subsection 35 (4).

7. Any prescribed ancillary benefit. R.S.O. 1990, c. P.8, s. 40 (1).

Use in calculating pension benefit

(2) An ancillary benefit for which a member has met all eligibility requirements under the pension plan necessary to exercise the right to receive payment of the benefit shall be included in calculating the member's pension benefit or the commuted value of the pension benefit. R.S.O. 1990, c. P.8, s. 40 (2).

Consent of employer

(3) For the purposes of subsection (2) and clause 14 (1) (c), if the consent of an employer is an eligibility requirement for entitlement to receive an ancillary benefit and a member, former member or retired member has met all other eligibility requirements, the employer is deemed to have consented. 2010, c. 9, s. 27.

Same, jointly sponsored pension plan

(4) For the purposes of subsection (2) and clause 14 (1) (c), if the consent of the administrator is an eligibility requirement for entitlement to receive an ancillary benefit under a jointly sponsored pension plan and a member, former member or retired member has met all other eligibility requirements, the administrator is deemed to have consented. 2010, c. 9, s. 27.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 40 is amended by adding the following subsection:

Treatment re target benefits

(5) Subsection (2) applies with respect to ancillary benefits under a pension plan that provides target benefits, except in such circumstances as may be prescribed. 2010, c. 24, s. 13 (1).

See: 2010, c. 24, ss. 13 (1), 49 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 40 is amended by adding the following subsection:

Treatment of optional benefits

(6) Subsection (2) applies with respect to ancillary benefits that are optional benefits, except in such circumstances as may be prescribed. 2010, c. 24, s. 13 (2).

See: 2010, c. 24, ss. 13 (2), 49 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section:

Optional benefits

40.1 (1) A pension plan that provides defined benefits may provide as optional benefits such benefits as may be prescribed. 2010, c. 24, s. 14.

Optional contributions

(2) Optional contributions may be made by a member for optional benefits under the pension plan and, if the pension plan so permits, the member may choose or vary the amount of the optional contributions to be made. 2010, c. 24, s. 14.

Same

(3) The optional contributions made by a member must be applied, in accordance with the terms of the pension plan, to provide only optional benefits upon the termination of employment or membership. 2010, c. 24, s. 14.

Requirements re contributions

(4) A pension plan that provides optional benefits must satisfy such requirements as may be prescribed about the manner of determining the amount of the optional contributions for the optional benefits. 2010, c. 24, s. 14.

Requirements re conversion

(5) The conversion of optional contributions into optional benefits is subject to such requirements as may be prescribed by regulation. 2010, c. 24, s. 14.

Non-application

(6) Such provisions of the Act and regulations as may be prescribed do not apply with respect to optional benefits and optional contributions. 2010, c. 24, s. 14.

See: 2010, c. 24, ss. 14, 49 (4).

Early retirement option

41. (1) A former member is entitled to elect to receive an early retirement pension under the pension plan if he or she has terminated employment and is within 10 years of reaching the normal retirement date. 2010, c. 9, s. 28 (1).

Idem

(2) A member who is within ten years of attaining the normal retirement date and who would be entitled to a deferred pension on termination of employment with the employer is entitled upon termination of the employment or on the wind up of the pension plan in whole or in part to receive an early retirement pension under the pension plan. R.S.O. 1990, c. P.8, s. 41 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (2) is amended by striking out “in whole or in part”. See: 2010, c. 9, ss. 28 (2), 80 (2).

Commutated value

(3) The commuted value of a member’s early retirement pension must be not less than the commuted value of the member’s pension benefit under the pension plan. R.S.O. 1990, c. P.8, s. 41 (3).

Idem, former member

(4) The commuted value of a former member’s early retirement pension must be not less than the commuted value of the former member’s deferred pension benefit under the pension plan. R.S.O. 1990, c. P.8, s. 41 (4).

Payment

(5) The member or former member is entitled to require the commencement of payment of the early retirement pension at any time within the ten year period mentioned in subsection (1) or (2). R.S.O. 1990, c. P.8, s. 41 (5).

Election

(6) An election under subsection (1) or (2) shall be made in writing, signed by the member or former member and delivered to the administrator of the pension plan. R.S.O. 1990, c. P.8, s. 41 (6).

Transfer

42. (1) A former member of a pension plan is entitled to require the administrator to pay an amount equal to the commuted value of the former member’s deferred pension,

- (a) to the pension fund related to another pension plan, if the conditions set out in subsection (1.1) are satisfied;
- (b) into a prescribed retirement savings arrangement; or
- (c) if the pension plan so permits, for the purchase for the former member of a life annuity that will not commence before the earliest date on which the former member would have been entitled to receive payment of pension benefits under the pension plan. R.S.O. 1990, c. P.8, s. 42 (1); 2010, c. 9, s. 29 (1); 2010, c. 24, s. 15 (1); 2011, c. 9, Sched. 35, s. 3 (1).

Requirements re transfer to another pension plan

- (1.1) The transfer described in clause (1) (a) to the pension fund related to another pension plan is authorized,
 - (a) if the other pension plan is a pension plan registered under this Act, a pension plan established or governed by a statute in a designated jurisdiction, a pension plan registered in a designated jurisdiction or a pension plan prescribed for the purposes of this section; and
 - (b) if the administrator of the other pension plan agrees to accept the payment. 2010, c. 24, s. 15 (2).

Limitation

(2) The entitlement under subsection (1) is subject to the prescribed limitations in respect of the transfer of funds from pension funds. R.S.O. 1990, c. P.8, s. 42 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 42 is amended by adding the following subsection:

Reduction re target benefits

(2.1) If a pension plan that provides target benefits does not require contributions to be made in respect of any solvency deficiency that relates to the target benefits, the amount that a former member is entitled to require the administrator to pay under subsection (1) that relates to target benefits may be reduced in the prescribed manner and in the prescribed circumstances. 2010, c. 24, s. 15 (3).

See: 2010, c. 24, ss. 15 (3), 49 (4).

Application

(3) Subsection (1) does not apply to a former member who is entitled to immediate payment of a pension under the pension plan or under section 41 unless the pension plan provides such an entitlement. 2010, c. 9, s. 29 (2).

Direction

(4) A former member may exercise his or her entitlement under subsection (1) by delivering a direction to the administrator within the prescribed period. 2010, c. 9, s. 29 (3).

Compliance with direction

(5) Subject to compliance with the requirements of this section and the regulations, the administrator shall comply with the direction within the prescribed period of time after delivery of the direction. R.S.O. 1990, c. P.8, s. 42 (5).

Terms of arrangement or deferred annuity

(6) The administrator shall not make payment,

- (a) under clause (1) (b) unless the retirement savings arrangement meets the requirements prescribed by the regulations; or
- (b) under clause (1) (c) unless the contract to purchase the deferred life annuity meets the prescribed requirements. R.S.O. 1990, c. P.8, s. 42 (6).

Lump sum payment

(6.1) If the amount of the commuted value of the deferred pension of the former member to be paid into a prescribed retirement savings arrangement under clause (1) (b) is greater than the amount prescribed under the *Income Tax Act* (Canada) for such a transfer, the administrator shall pay the portion that exceeds the prescribed amount as a lump sum to the former member. 1999, c. 15, s. 6.

Purchase of life annuity

(6.2) If a life annuity is purchased under clause (1) (c) for a former member and if the amount of the commuted value of the former member's deferred pension that is used to purchase the life annuity is greater than the amount permitted under the *Income Tax Act* (Canada) for such a purchase, the administrator shall pay to the former member as a lump sum the portion of the commuted value that exceeds the amount permitted under that Act for the purchase of the life annuity. 2010, c. 26, Sched. 15, s. 1 (2); 2011, c. 9, Sched. 35, s. 3 (2).

Approval

(7) If a payment under subsection (1) does not meet the limitations prescribed in relation to transfers of funds from pension funds, the administrator shall not make the payment without the approval of the Superintendent. R.S.O. 1990, c. P.8, s. 42 (7).

Terms and conditions

(8) The Superintendent may approve the payment subject to such terms and conditions as the Superintendent considers appropriate in the circumstances. R.S.O. 1990, c. P.8, s. 42 (8).

Order for repayment

(9) If a payment that does not meet the limitations prescribed in relation to transfers of funds from pension funds is made without the approval of the Superintendent or there is failure to comply with a term or condition attached to the approval, the Superintendent by order, subject to section 89 (hearing and appeal), may require any person to whom payment under subsection (1) has been made to repay an amount not greater than the amount of the payment together with interest thereon. R.S.O. 1990, c. P.8, s. 42 (9).

Enforcement

(10) Subject to section 89 (hearing and appeal), an order for payment under subsection (9), exclusive of the reasons therefor, may be filed in the Superior Court of Justice and is thereupon enforceable as an order of that court. R.S.O. 1990, c. P.8, s. 42 (10); 2006, c. 19, Sched. C, s. 1 (1).

Discharge of administrator

(11) The administrator is discharged on making the payment or transfer in accordance with the direction of the former member if the payment or transfer complies with this Act and the regulations. R.S.O. 1990, c. P.8, s. 42 (11).

Purchase of pension

43. (1) The administrator of a pension plan who is required by the pension plan to provide a pension, a deferred pension or an ancillary benefit may purchase the pension, deferred pension or ancillary benefit from an insurance company. R.S.O. 1990, c. P.8, s. 43 (1).

Limitations

(2) The authority of the administrator under subsection (1) is subject to the entitlement of a member under section 42 and to the limitations prescribed in relation to transfers of funds from pension funds. R.S.O. 1990, c. P.8, s. 43 (2).

Approval by Superintendent

(3) If a purchase under subsection (1) does not meet the limitations prescribed in relation to transfers of funds from pension funds, the administrator shall not make the purchase without the prior approval of the Superintendent. R.S.O. 1990, c. P.8, s. 43 (3).

Idem

(4) The Superintendent may approve a purchase mentioned in subsection (3) subject to such terms and conditions as the Superintendent considers appropriate in the circumstances. R.S.O. 1990, c. P.8, s. 43 (4).

Order for repayment

(5) If a purchase that does not meet the limitations prescribed in relation to transfers of funds from pension funds is made without the approval of the Superintendent or there is a failure to comply with a term or condition attached to the approval, the Superintendent, subject to section 89 (hearing and appeal), by order may require any person to whom payment under subsection (1) has been made to repay an amount not greater than the amount of the payment together with interest thereon. R.S.O. 1990, c. P.8, s. 43 (5).

Enforcement

(6) Subject to section 89 (hearing and appeal), an order for payment under subsection (5), exclusive of the reasons therefor, may be filed in the Superior Court of Justice and is thereupon enforceable as an order of that court. R.S.O. 1990, c. P.8, s. 43 (6); 2006, c. 19, Sched. C, s. 1 (1).

Joint and survivor pension benefits

44. (1) Every pension paid under a pension plan to a retired member who has a spouse on the date that the payment of the first instalment of the pension is due shall be a joint and survivor pension. R.S.O. 1990, c. P.8, s. 44 (1); 1999, c. 6, s. 53 (5); 2005, c. 5, s. 56 (9); 2010, c. 9, s. 30 (1).

Interpretation re “spouse”

(1.1) If, on the date that the payment of the first instalment of the pension is due, a retired member has a spouse described in clause (a) of the definition of “spouse” in subsection 1 (1) from whom the retired member is living separate and apart, that person is not a spouse for the purposes of subsection (1). 2014, c. 7, Sched. 26, s. 4 (1).

Same

(1.2) If, on the date that the payment of the first instalment of the pension is due, a retired member has a spouse described in clause (b) of the definition of “spouse” in subsection 1 (1) and a spouse described in clause (a) of that definition from whom the retired member is living separate and apart, the spouse described in clause (b) of the definition is the spouse for the purposes of subsection (1). 2014, c. 7, Sched. 26, s. 4 (1).

Commuted value

(2) The commuted value of a joint and survivor pension under subsection (1) shall not be less than the commuted value of the pension that would be payable under the pension plan to the retired member. R.S.O. 1990, c. P.8, s. 44 (2); 2010, c. 9, s. 30 (2).

Amount of survivor benefit

(3) Upon the death of the retired member, the pension payable to his or her surviving spouse shall not be less than 60 per cent of the pension paid to the retired member during their joint lives. 2010, c. 9, s. 30 (3).

Same

(3.1) If the spouse of the retired member dies before the retired member, the pension payable to the retired member after the spouse’s death shall not be less than 60 per cent of the pension paid to the retired member during their joint lives. 2012, c. 8, Sched. 44, s. 2 (1).

Application of subss. (1-3.1)

(4) Subsections (1) to (3.1) do not apply in respect of a pension benefit if payment of the pension commenced before January 1, 1988. 2014, c. 7, Sched. 26, s. 4 (2).

Deferred life annuity

(5) Where,

- (a) prior to the 1st day of January, 1988, a deferred life annuity has been purchased from an insurance company for a person entitled to a deferred pension under the *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980;
- (b) payments have not commenced under the annuity on the 1st day of January, 1988; and
- (c) the recipient of the payments has a spouse on the date payments commence,

the annuity shall be paid as a joint and survivor pension in accordance with the requirements of this section and the insurance company shall make payments accordingly. R.S.O. 1990, c. P.8, s. 44 (5); 1999, c. 6, s. 53 (8); 2005, c. 5, s. 56 (12).

Application of ss. 45, 46

(6) For the purposes of subsection (5), the insurance company shall be deemed to be the administrator under sections 45 and 46. R.S.O. 1990, c. P.8, s. 44 (6).

Lump sum payment, small amounts

(7) A pension plan may provide for payment, upon the death of a retired member, of the commuted value of the survivor benefit to a person who is entitled to the survivor benefit if, at the date of death,

- (a) the annual benefit payable is not more than 4 per cent of the Year's Maximum Pensionable Earnings; or
- (b) the commuted value of the benefit is less than 20 per cent of the Year's Maximum Pensionable Earnings. 2010, c. 9, s. 30 (5); 2012, c. 8, Sched. 44, s. 2 (3).

Same

(7.1) However, if the first instalment of the retired member's pension is due before the date on which subsection (7) comes into force, subsection (7) does not apply unless the person entitled to the survivor benefit upon the retired member's death consents in writing to the payment of the commuted value of the survivor benefit. 2012, c. 8, Sched. 44, s. 2 (4).

Right to transfer lump sum

(8) The person to whom the payment under subsection (7) is to be made may require the administrator to pay the commuted value into a registered retirement savings arrangement and the person may exercise this entitlement by delivering a direction to the administrator within the prescribed period. 2010, c. 9, s. 30 (5).

Same

(9) Section 50.1 applies with respect to the payment into the registered retirement savings arrangement. 2010, c. 9, s. 30 (5).

Discharge

(10) An administrator who commenced payment of a pension under this section before the day on which subsection (1.2) comes into force is deemed to have been discharged on making the payment if all of the following circumstances exist:

1. On the date that the payment of the first instalment of the pension was due, the retired member had a spouse described in clause (b) of the definition of "spouse" in subsection 1 (1) and a spouse described in clause (a) of that definition from whom the retired member was living separate and apart.
2. The spouse described in clause (b) of the definition of "spouse" in subsection 1 (1) was the retired member's spouse for the purposes of determining that the pension is a joint and survivor pension under subsection (1).
3. The pension benefit was paid or continues to be paid to the retired member or to the spouse described in clause (b) of the definition of "spouse" in subsection 1 (1).
4. The payment otherwise complied with the requirements under this Act and the regulations. 2014, c. 7, Sched. 26, s. 4 (3).

Claims

(11) If, before the day on which subsection (1.2) comes into force, an administrator made a payment of a pension as a joint and survivor pension and the circumstances set out in subsection (10) existed, no person has a claim against the administrator or against the recipient of the payment in respect of the payment. 2014, c. 7, Sched. 26, s. 4 (3).

Information for payment

45. (1) Before commencing payment of a pension or pension benefit, the administrator of a pension plan shall require the person entitled to the payment to provide to the administrator the information needed to calculate and pay the pension or pension benefit.

Person to provide information

- (2) The person entitled to the payment shall provide the information to the administrator.

Discharge of administrator

(3) In the absence of actual notice to the contrary, the administrator is discharged on paying the pension or pension benefit in accordance with the information provided by the person in accordance with subsection (2) or, if the person does not provide the information, in accordance with the latest information in the records of the administrator. R.S.O. 1990, c. P.8, s. 45.

Waiver of joint and survivor pension benefit

46. (1) The persons entitled to a joint and survivor pension benefit may waive the entitlement to receive payment of pension benefits in the form of a joint and survivor pension by delivering to the administrator of the pension plan or, in the case of a deferred life annuity, to the insurance company a written waiver in the form approved by the Superintendent or a certified copy of a domestic contract containing the waiver. R.S.O. 1990, c. P.8, s. 46 (1); 1997, c. 28, s. 198; 2009, c. 11, s. 43.

Time

- (2) The waiver is not effective unless the following condition is satisfied:
1. For a written waiver in the form approved by the Superintendent, the form is dated and signed within the 12 months preceding commencement of payment of the pension benefit and is delivered to the administrator or insurance company within that 12-month period.
 2. For a certified copy of a domestic contract, the certified copy is delivered to the administrator or insurance company within the 12 months preceding commencement of payment of the pension benefit. 2010, c. 9, s. 31.

Cancellation of waiver

(3) Persons who have delivered a waiver may jointly cancel it by delivering a written and signed notice of cancellation to the administrator or the insurance company, as the case may be, before the commencement of payment of the pension benefit. 1999, c. 15, s. 7.

Remarriage, etc.

47. If the spouse of a deceased former member or retired member of a pension plan is receiving a pension under the pension plan, he or she is not disentitled to payment of the pension by reason only of becoming the spouse of another person after the death of the former member or retired member. 2010, c. 9, s. 32.

Pre-retirement death benefit

48. (1) If a member who is entitled under the pension plan to a deferred pension described in section 37 dies before payment of the first instalment is due, or if a former member or retired member dies before payment of the first instalment of his or her deferred pension or pension is due, the person who is his or her spouse on the date of death is entitled,

- (a) to receive a lump sum payment equal to the commuted value of the deferred pension;
- (b) to require the administrator to pay an amount equal to the commuted value of the deferred pension into a registered retirement savings arrangement; or
- (c) to receive an immediate or deferred pension, the commuted value of which is at least equal to the commuted value of the deferred pension. R.S.O. 1990, c. P.8, s. 48 (1); 1999, c. 6, s. 53 (10); 2005, c. 5, s. 56 (14); 2010, c. 9, s. 33 (1, 2).

Same

(2) If a member of a pension plan continues in employment after the normal retirement date under the pension plan and dies before payment of pension benefits referred to in section 37 begins, the person who is the spouse of the member on the date of death is entitled,

- (a) to receive a lump sum payment equal to the commuted value of the pension benefits;
- (b) to require the administrator to pay an amount equal to the commuted value of the pension benefits into a registered retirement savings arrangement; or
- (c) to receive an immediate or deferred pension, the commuted value of which is at least equal to the commuted value of the pension benefits. 2010, c. 9, s. 33 (3).

Interpretation re "spouse"

(3) If, on the date of death, a member, former member or retired member has a spouse described in clause (a) of the definition of “spouse” in subsection 1 (1) from whom the member, former member or retired member is living separate and apart, that spouse does not have an entitlement under subsection (1) or (2). 2014, c. 7, Sched. 26, s. 5 (1).

Same

(3.1) If, on the date of death, a member, former member or retired member has a spouse described in clause (b) of the definition of “spouse” in subsection 1 (1) and a spouse described in clause (a) of that definition from whom the member, former member or retired member is living separate and apart, the spouse described in clause (b) of the definition has an entitlement under subsection (1) or (2). 2014, c. 7, Sched. 26, s. 5 (1).

Same, entitlement as beneficiary or personal representative

(3.2) Subsection (3) does not prevent a spouse from having an entitlement as a designated beneficiary under subsection (6) or as a personal representative under subsection (7). 2014, c. 7, Sched. 26, s. 5 (1).

Application

(3.3) For greater certainty, subsections (3), (3.1) and (3.2) apply if the member, former member or retired member dies on or after the day subsection 5 (1) of Schedule 26 to the *Building Opportunity and Securing Our Future Act (Budget Measures), 2014* comes into force. 2014, c. 7, Sched. 26, s. 5 (1).

Direction

(4) A spouse may exercise his or her entitlement under subsection (1) or (2) by delivering a direction to the administrator within the prescribed period and, if the spouse does not do so, the spouse is deemed to have elected to receive an immediate pension. 2010, c. 9, s. 33 (5).

Calculation of benefit

(5) For the purposes of this section, the deferred pension or pension benefits to which a member is entitled if the member dies while employed shall be calculated as if the member’s employment were terminated immediately before the member’s death. R.S.O. 1990, c. P.8, s. 48 (5).

Designated beneficiary

(6) A member, former member or retired member described in subsection (1) may designate a beneficiary and the beneficiary is entitled to be paid an amount equal to the commuted value of the deferred pension or pension benefits mentioned in subsection (1) or (2) unless on the date of death the member, former member or retired member has a spouse who has an entitlement under subsection (1) or (2). 2014, c. 7, Sched. 26, s. 5 (2).

Estate entitlement

(7) The personal representative of a member, former member or retired member described in subsection (1) is entitled to receive payment of the commuted value mentioned in subsection (1) or (2) as the property of the member, former member or retired member unless,

- (a) on the date of death, the member, former member or retired member has a spouse who has an entitlement under subsection (1) or (2); or
- (b) the member, former member or retired member has designated a beneficiary who has an entitlement under subsection (6). 2014, c. 7, Sched. 26, s. 5 (2).

Dependent children

(8) If the pension plan provides for payment of pension benefits to or for a dependent child or dependent children of the member, former member or retired member upon the death of the member, former member or retired member,

- (a) the commuted value of the payments in respect of employment after December 31, 1986 may be deducted from the entitlement of a beneficiary designated under subsection (6) or of a personal representative under subsection (7); and
- (b) the commuted value of the payments in respect of employment before January 1, 1987 may be deducted from the entitlement in subsection (8.1) of a beneficiary designated under subsection (6) or of a personal representative under subsection (7). 2011, c. 9, Sched. 35, s. 4 (1).

Additional entitlement

(8.1) A spouse who has an entitlement under subsection (1) or (2), a designated beneficiary who has an entitlement under subsection (6) or a personal representative who has an entitlement under subsection (7) is entitled to a lump sum payment from the pension fund equal to the amount of any contributions that the member or former member was required to make

under the pension plan in respect of employment before January 1, 1987, plus interest credited to the contributions. 2010, c. 9, s. 33 (7).

Spouse's right to transfer additional entitlement

(8.2) A spouse entitled to a lump sum payment under subsection (8.1) may require the administrator to pay the lump sum into a registered retirement savings arrangement and may exercise this entitlement by delivering a direction to the administrator within the prescribed period. 2010, c. 9, s. 33 (7).

Payments into registered retirement savings arrangements

(8.3) Section 50.1 applies with respect to any payment into a registered retirement savings arrangement. 2010, c. 9, s. 33 (7).

Limitation on all payments

(8.4) The entitlements under this section are subject to the prescribed limitations in respect of the transfer of funds from pension funds. 2010, c. 9, s. 33 (7).

Information

(9) It is the responsibility of the person entitled to the payment to provide to the administrator the information needed to make the payment. R.S.O. 1990, c. P.8, s. 48 (9).

Discharge of administrator

(10) In the absence of actual notice to the contrary, the administrator is discharged on making payment in accordance with the information provided by the person. R.S.O. 1990, c. P.8, s. 48 (10).

Discharge, payments prior to October 31, 2012

(10.1) An administrator who made a payment under subsection (1) or (2) before October 31, 2012 is deemed to have been discharged on making the payment if all of the following circumstances exist:

1. On the date of death, the member, former member or retired member had a spouse described in clause (b) of the definition of "spouse" in subsection 1 (1) and a spouse described in clause (a) of that definition from whom the member, former member or retired member was living separate and apart.
2. The payment was made to the spouse described in clause (b) of the definition of "spouse" in subsection 1 (1).
3. The payment otherwise complied with the requirements under this Act and the regulations. 2014, c. 7, Sched. 26, s. 5 (3).

Claims

(10.2) If, before October 31, 2012, an administrator made a payment under subsection (1) or (2) and the circumstances set out in subsection (10.1) existed, no person has a claim against the administrator or against the recipient of the payment in respect of the payment. 2014, c. 7, Sched. 26, s. 5 (3).

Offset

(11) A pension plan may provide for reduction of an amount to which a person is entitled under this section to offset any part of a prescribed additional benefit that is attributable to an amount paid by an employer, subject to the following:

1. The reduction shall be calculated in the prescribed manner.
2. The reduction shall not exceed the prescribed limits. R.S.O. 1990, c. P.8, s. 48 (11).

Discharge of entitlement

(12) Payment in accordance with this section replaces the entitlement of a member, former member or retired member in respect of a deferred pension mentioned in section 37. R.S.O. 1990, c. P.8, s. 48 (12); 2010, c. 9, s. 33 (8).

Restriction on entitlement

(13) An entitlement to a benefit under this section is subject to any right to or interest in the benefit set out in an order made under Part I (Family Property) of the *Family Law Act*, a family arbitration award or a domestic contract. 2009, c. 11, s. 44.

Waiver

(14) The spouse of a member or former member may waive the spouse's entitlement under subsection (1) or (2) by delivering a written waiver, in the form approved by the Superintendent, to the administrator of the pension plan. 1999, c. 15, s. 8; 2005, c. 5, s. 56 (20).

Cancellation of waiver

(14.1) A spouse who has delivered a waiver may cancel it by delivering a written and signed notice of cancellation to the administrator before the date of death of the member or former member. 1999, c. 15, s. 8; 2005, c. 5, s. 56 (21).

Effect of waiver

(14.2) If a waiver is in effect on the date of death of the member or former member, subsections (6) and (7) apply as if the member or former member does not have a spouse on the date of death. 1999, c. 15, s. 8; 2005, c. 5, s. 56 (22).

Definition

(15) In this section,

“personal representative” has the same meaning as in the *Estates Administration Act*. R.S.O. 1990, c. P.8, s. 48 (15).

Variation of payment to disabled person

49. (1) A pension plan may permit variation in the terms of payment of a pension benefit, deferred pension or pension by reason of the mental or physical disability of a member, former member or retired member that is likely to considerably shorten his or her life expectancy. 2010, c. 9, s. 34.

Shortened life expectancy

(2) A pension plan shall be deemed to permit variation in the terms of payment of a pension or deferred pension in such circumstances of shortened life expectancy as may be prescribed, if the prescribed conditions are satisfied. 1999, c. 15, s. 9.

Unlocking for small amounts

50. (1) A pension plan may provide for payment of the commuted value of a benefit to a former member or retired member,

- (a) if the annual benefit payable at the normal retirement date is not more than 4 per cent of the Year’s Maximum Pensionable Earnings in the year that he or she terminated employment; or
- (b) if the commuted value of the benefit is less than 20 per cent of the Year’s Maximum Pensionable Earnings in the year that he or she terminated employment. 2010, c. 9, s. 35 (1, 2).

Idem

(2) A pension plan registered before the 1st day of January, 1988 may provide that upon termination of employment a person entitled to a deferred pension under section 36 (deferred pension) is entitled to payment of an amount not greater than 25 per cent of the commuted value of the deferred pension. R.S.O. 1990, c. P.8, s. 50 (2).

Right to transfer amount

(3) A person entitled to a payment described in subsection (1) or (2) may require the administrator to pay the applicable amount into a registered retirement savings arrangement and may exercise this entitlement by delivering a direction to the administrator within the prescribed period. 2010, c. 9, s. 35 (3).

Same

(4) Section 50.1 applies with respect to the payment into the registered retirement savings arrangement. 2010, c. 9, s. 35 (3).

Payments into registered retirement savings arrangements**Administrator’s duty**

50.1 (1) When a person delivers a direction to the administrator of a pension plan in accordance with subsection 39 (4.1), 44 (8), 48 (4) or (8.2), 50 (3) or 63 (9) to pay an amount into a registered retirement savings arrangement, the administrator shall make the payment in accordance with the direction and shall do so within the prescribed period. 2010, c. 9, s. 36.

Lump sum payment

(2) If the amount to be paid into the registered retirement savings arrangement is greater than the amount prescribed under the *Income Tax Act* (Canada) for such a transfer, the administrator shall pay the portion that exceeds the prescribed amount as a lump sum to the person who gave the administrator the direction. 2010, c. 9, s. 36.

Discharge of administrator

(3) The administrator is discharged on making the payment in accordance with the person’s direction if the payment complies with this Act and the regulations. 2010, c. 9, s. 36.

51. REPEALED: 2009, c. 11, s. 45.

Discrimination on basis of sex

52. (1) The sex of a member, former member, retired member or other beneficiary under a pension plan shall not be taken into account in,

- (a) determining the amount of contributions required to be made by a member of the plan;
- (b) determining the pension benefits, deferred pension or pension or the commuted value of pension benefits, deferred pension or pension to which the member, former member, retired member or other beneficiary may become entitled;
- (c) the provision of eligibility conditions for membership; and
- (d) the provision of ancillary benefits. R.S.O. 1990, c. P.8, s. 52 (1); 2010, c. 9, s. 37.

Administration

(2) In order to comply with subsection (1), the administrator may,

- (a) use annuity factors that do not differentiate as to sex;
- (b) provide for employer contributions that vary according to the sex of the employee; or
- (c) use any prescribed method of calculation or valuation. R.S.O. 1990, c. P.8, s. 52 (2).

Application

(3) This section applies in respect of contributions, benefits and conditions in relation to,

- (a) employment after the 31st day of December, 1986;
- (b) employment before the 1st day of January, 1987, in so far as it is dealt with in an amendment made to the pension plan after the 31st day of December, 1986; and
- (c) employment before the 1st day of January, 1987, in so far as it is dealt with in a pension plan established after the 31st day of December, 1986. R.S.O. 1990, c. P.8, s. 52 (3).

Inflation protection

53. (1) Pension benefits, pensions or deferred pensions shall be adjusted in accordance with the established formula or formulas and in the prescribed manner to provide inflation-related increases.

Idem

(2) Any formula or formulas for any inflation related adjustments to pension benefits, pensions or deferred pensions shall be established only by amendment to this Act. R.S.O. 1990, c. P.8, s. 53.

C.P.P. / Q.P.P. offsets

54. (1) The reduction of a pension benefit that may be required by a pension plan in relation to payments under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act* (Canada) shall not exceed the reduction calculated in accordance with the prescribed formula applied in the prescribed manner. R.S.O. 1990, c. P.8, s. 54 (1).

Restriction

(2) The amount of the reduction that is required by the pension plan in relation to those payments shall not be increased by reason of an increase in those payments after the date on which the member's employment or membership in the plan is terminated. 2010, c. 9, s. 38 (1).

Reduction re *Old Age Security Act* (Canada)

(3) A pension plan for registration of which application is made on or after the 1st day of January, 1988 shall not permit the reduction of a pension benefit based on a person's entitlement under the *Old Age Security Act* (Canada). R.S.O. 1990, c. P.8, s. 54 (3).

Application of subs. (3)

(4) Subsection (3) does not apply to a pension plan that is a successor of a pension plan registered under the *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980, that permitted such a reduction. R.S.O. 1990, c. P.8, s. 54 (4).

Idem

(5) A pension plan shall not permit reduction of a pension benefit based on a person's entitlement under the *Old Age Security Act* (Canada) in respect of a benefit accrued on or after the 1st day of January, 1987. R.S.O. 1990, c. P.8, s. 54 (5).

Bridging benefit

(6) If a pension plan provides for the reduction of a bridging benefit because a person receives or is eligible to receive retirement benefits under the *Canada Pension Plan* or the *Quebec Pension Plan* before he or she reaches 65 years of age, the reduction may only be made in the prescribed circumstances. 2010, c. 9, s. 38 (2).

Variations based on other benefits

(7) Where a pension plan provides for the variation of a pension benefit by reason of benefits payable under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act* (Canada), the variation shall be applied in the prescribed manner. R.S.O. 1990, c. P.8, s. 54 (7).

CONTRIBUTIONS

Funding

55. (1) A pension plan must provide for funding sufficient to provide the pension benefits, ancillary benefits and other benefits under the pension plan in accordance with this Act and the regulations. R.S.O. 1990, c. P.8, s. 55 (1); 2010, c. 9, s. 39 (1).

Payment by employers, etc.

(2) An employer required to make contributions under a pension plan, or a person or entity required to make contributions under a pension plan on behalf of an employer, shall make the contributions in accordance with the prescribed requirements for funding and shall make the contributions in the prescribed manner and at the prescribed times,

- (a) to the pension fund; or
- (b) if pension benefits under the pension plan are paid by an insurance company, to the insurance company that is the administrator of the pension plan. R.S.O. 1990, c. P.8, s. 55 (2); 2005, c. 31, Sched. 18, s. 6 (1); 2010, c. 9, s. 39 (2).

Payment by members

(3) Members of a pension plan that provides contributory benefits shall make the contributions required under the plan in the prescribed manner and at the prescribed times. 2005, c. 31, Sched. 18, s. 6 (2).

Same, jointly sponsored pension plans

(4) Members of a jointly sponsored pension plan shall make the contributions required under the plan (including their obligations in respect of any going concern unfunded liability and, except in the case of plans described in subsection 1 (2.1), in respect of any solvency deficiency) in accordance with the prescribed requirements for funding and shall make the contributions in the prescribed manner and at the prescribed times. 2010, c. 24, s. 16.

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section:

Contribution holidays

55.1 (1) An employer required to make contributions under a pension plan, or a person or entity required to make contributions under a pension plan on behalf of an employer, may reduce or suspend, in the prescribed manner, contributions for the normal cost of the pension plan if the pension plan has a surplus and if such other requirements as may be prescribed are satisfied. 2010, c. 24, s. 17.

Same

(2) The contributions that members of a pension plan are required to make for the normal cost of the pension plan may be reduced or suspended in the prescribed manner if the pension plan has a surplus and if such other requirements as may be prescribed are satisfied. 2010, c. 24, s. 17.

Exception

(3) However, contributions cannot be reduced or suspended under this section if the documents that create and support the pension plan or the pension fund prohibit the reduction or suspension. 2010, c. 24, s. 17.

Conflict

(4) This section prevails over subsections 55 (2), (3) and (4). 2010, c. 24, s. 17.

See: 2010, c. 24, ss. 17, 49 (4).

Letters of credit

55.2 (1) This section applies if a prescribed employer is required to make payments into the pension fund with respect to a solvency deficiency. 2010, c. 24, s. 18.

Use of letter of credit

(2) Instead of making payments into the pension fund with respect to the solvency deficiency, the employer may provide a letter of credit to a prescribed person or entity if the requirements of this section are satisfied. 2010, c. 24, s. 18.

Requirements

(3) The letter of credit must satisfy such requirements as may be prescribed. 2010, c. 24, s. 18.

Restrictions

(4) The employer is not entitled to provide a letter of credit if the total amount of all letters of credit provided to the prescribed person or entity for the pension plan would exceed 15 per cent of the solvency liabilities of the pension plan. 2010, c. 24, s. 18.

Same

(5) For the purposes of subsection (4), the regulations may specify that solvency liabilities must be determined in a manner that may differ from the requirements that otherwise apply. 2010, c. 24, s. 18.

Distribution

(6) The employer must provide the letter of credit to the prescribed person or entity within such period after it is issued as may be prescribed and the employer must give a copy of the letter of credit to the administrator within the same period. 2010, c. 24, s. 18.

Notice to the Superintendent

(7) The administrator shall notify the Superintendent in the prescribed manner and within the prescribed period that a letter of credit has been provided and, upon request, the administrator shall give the Superintendent such information about the letter of credit as the Superintendent may specify. 2010, c. 24, s. 18.

Held in trust

(8) The prescribed person or entity holds the letter of credit in trust for the pension plan. 2010, c. 24, s. 18.

Demand for payment

(9) In such circumstances as may be prescribed, the prescribed person or entity shall demand payment of the amount of the letter of credit into the pension fund by the issuer of the letter of credit. 2010, c. 24, s. 18.

Costs of letter of credit

(10) The fees or expenses associated with obtaining, holding, amending or cancelling a letter of credit are not payable from the pension fund. However, subject to section 22.1, the fees and expenses associated with enforcing a letter of credit are payable from the pension fund. 2010, c. 24, s. 18.

Status of public sector pension plans

(11) This section does not apply with respect to a public sector pension plan unless the regulations specify that it applies to the pension plan. 2010, c. 24, s. 18.

Other exclusions

(12) Despite subsection (11), this section does not apply with respect to a jointly sponsored pension plan or a multi-employer pension plan. 2012, c. 8, Sched. 44, s. 3.

Conflict

(13) This section prevails over subsection 55 (2). 2010, c. 24, s. 18.

Duty re payment of contributions

56. (1) The administrator of a pension plan and the agent, if any, of the administrator who is responsible for receiving contributions under the pension plan shall ensure that all contributions are paid when due.

Notice

(2) If a contribution is not paid when due, the administrator and the agent, if any, shall notify the Superintendent in the prescribed manner and within the prescribed period. 1999, c. 15, s. 10.

Duty to pension fund trustees

56.1 (1) The administrator shall give the persons who are prescribed for the purposes of subsection 22 (6) (trustee of pension fund) a summary of the contributions required to be made in respect of the pension plan, and shall do so in the prescribed manner and within the prescribed period. 1999, c. 15, s. 10.

Exception

(1.1) Subsection (1) does not apply if the administrator is also the trustee of the pension fund. 2005, c. 31, Sched. 18, s. 7.

Notice re summary

(2) A person who is entitled to receive a summary shall notify the Superintendent in the prescribed manner and within the prescribed period if the person is not given the summary in accordance with subsection (1). 1999, c. 15, s. 10.

Notice re contributions

(3) A person who is entitled to receive a summary shall notify the Superintendent in the prescribed manner and within the prescribed period if a contribution is not paid when due. 1999, c. 15, s. 10.

Trust property

57. (1) Where an employer receives money from an employee under an arrangement that the employer will pay the money into a pension fund as the employee's contribution under the pension plan, the employer shall be deemed to hold the money in trust for the employee until the employer pays the money into the pension fund. R.S.O. 1990, c. P.8, s. 57 (1).

Money withheld

(2) For the purposes of subsection (1), money withheld by an employer, whether by payroll deduction or otherwise, from money payable to an employee shall be deemed to be money received by the employer from the employee. R.S.O. 1990, c. P.8, s. 57 (2).

Accrued contributions

(3) An employer who is required to pay contributions to a pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to the employer contributions due and not paid into the pension fund. R.S.O. 1990, c. P.8, s. 57 (3).

Wind up

(4) Where a pension plan is wound up in whole or in part, an employer who is required to pay contributions to the pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to employer contributions accrued to the date of the wind up but not yet due under the plan or regulations. R.S.O. 1990, c. P.8, s. 57 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (4) is amended by striking out "in whole or in part". See: 2010, c. 9, ss. 40, 80 (2).

Jointly sponsored pension plans

(4.1) An employer who transfers assets under section 80.4 from a single employer pension plan to a jointly sponsored pension plan and who is required to make a payment under subsection 80.4 (18) for the benefit of transferred members and other transferees shall be deemed to hold in trust for the transferred members and other transferees an amount of money equal to any payment due under subsection 80.4 (18) that has not been paid into the pension fund of the jointly sponsored pension plan. 2014, c. 7, Sched. 26, s. 6 (1).

Lien and charge

(5) The administrator of the pension plan has a lien and charge on the assets of the employer in an amount equal to the amounts deemed to be held in trust under this section. R.S.O. 1990, c. P.8, s. 57 (5); 2014, c. 7, Sched. 26, s. 6 (2).

Application of subss. (1, 3, 4, 4.1)

(6) Subsections (1), (3), (4) and (4.1) apply whether or not the money has been kept separate and apart from other money or property of the employer. R.S.O. 1990, c. P.8, s. 57 (6); 2014, c. 7, Sched. 26, s. 6 (3).

Money to be paid to insurance company

(7) Subsections (1) to (6) apply with necessary modifications in respect of money to be paid to an insurance company that guarantees pension benefits under a pension plan. R.S.O. 1990, c. P.8, s. 57 (7).

Accrual

58. (1) Money that an employer is required to pay into a pension fund accrues on a daily basis.

Interest

(2) Interest on contributions shall be calculated and credited at a rate not less than the prescribed rates and in accordance with prescribed requirements. R.S.O. 1990, c. P.8, s. 58.

Collection of contributions

59. The administrator may commence proceedings in a court of competent jurisdiction to obtain payment of contributions due under the pension plan, this Act and the regulations. R.S.O. 1990, c. P.8, s. 59.

Bond

60. The administrator of a multi-employer pension plan may require a person who receives contributions to the pension fund or who administers or invests the pension fund to be bonded in an amount required by the administrator or in the prescribed amount. R.S.O. 1990, c. P.8, s. 60.

Statement of employer's obligation

61. An employer who is required to make contributions to a multi-employer pension plan shall transmit to the administrator of the plan a copy of the agreement that requires the employer to make the contributions or a written statement that sets out the contributions the employer is required to make and any other obligations of the employer under the pension plan. R.S.O. 1990, c. P.8, s. 61.

Investment of pension fund

62. Every person engaged in selecting an investment to be made with the assets of a pension fund shall ensure that the investment is selected in accordance with the criteria set out in this Act and prescribed by the regulations. R.S.O. 1990, c. P.8, s. 62.

Overpayments, etc., by employer

62.1 (1) This section applies,

- (a) if an employer pays an amount in respect of a pension plan that should have been paid out of the pension fund; or
- (b) if an employer makes an overpayment into the pension fund. 2010, c. 24, s. 19.

Prerequisite for reimbursement

(2) The administrator of the pension plan is not permitted to make or authorize a payment from the pension fund to reimburse the employer for a payment described in subsection (1) unless the Superintendent consents in advance to the payment from the pension fund to the employer. 2010, c. 24, s. 19.

Application for reimbursement

(3) The employer or, in the case of a jointly sponsored pension plan or multi-employer pension plan, the administrator may apply to the Superintendent for consent to the payment from the pension fund to reimburse the employer for a payment described in subsection (1). 2010, c. 24, s. 19.

Deadline

(4) The application must be made before the later of,

- (a) 24 months after the date on which the employer made the payment described in subsection (1); and
- (b) six months after the date on which the administrator, acting reasonably, becomes aware of the payment described in subsection (1). 2010, c. 24, s. 19.

Consent

(5) Subject to section 89, the Superintendent may consent to the payment from the pension fund to the employer if the application is made before the deadline described in subsection (4). 2010, c. 24, s. 19.

LOCKING IN

Refunds

63. (1) No member, former member or retired member is entitled to a refund from a pension fund of contributions made in respect of employment in Ontario or a designated jurisdiction on or after the qualification date. R.S.O. 1990, c. P.8, s. 63 (1); 2010, c. 1, Sched. 23, s. 5; 2010, c. 9, s. 41 (1).

Idem

(2) Subsection (1) does not prevent the refund of an additional voluntary contribution and interest thereon to a member, former member or retired member or a payment under subsection 39 (4) (entitlement to excess amount). R.S.O. 1990, c. P.8, s. 63 (2); 2010, c. 9, s. 41 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 63 is amended by adding the following subsection:

Same, optional contributions

(2.1) Subsection (1) does not prevent the refund of an optional contribution and interest thereon to a former member. 2010, c. 24, s. 20 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (2.1) is amended by striking out “to a former member” at the end and substituting “to a former member or retired member”. See: 2010, c. 24, ss. 20 (2), 49 (4).

See: 2010, c. 24, ss. 20 (1), 49 (4).

(3), (4) REPEALED: 2010, c. 9, s. 41 (3).

Application of subs. (1)

(5) Subsection (1) does not apply,

(a) to prevent the commutation of a pension benefit under subsection 50 (1) (commuted value);

(b) to prevent a payment under subsection 50 (2); or

(c) to such other circumstances as are prescribed. R.S.O. 1990, c. P.8, s. 63 (5).

(6) REPEALED: 2010, c. 9, s. 41 (4).

Refund with consent

(7) Despite subsection (1), on application by the administrator of a pension plan, contributions may be refunded to a member, former member or retired member with the consent of the Superintendent. 1997, c. 28, s. 199; 2010, c. 9, s. 41 (5).

Consent of Superintendent

(8) On application by the administrator of a pension plan, the Superintendent may consent to a refund under subsection (7) if the pension plan provides or has been amended to provide for the refund and the employer has assumed responsibility for funding all pension benefits associated with the contributions. R.S.O. 1990, c. P.8, s. 63 (8); 1997, c. 28, s. 200; 2010, c. 9, s. 41 (6).

Right to transfer amount

(9) A person entitled to a payment under subsection (2) or (7) may require the administrator to pay the applicable amount into a registered retirement savings arrangement and may exercise this entitlement by delivering a direction to the administrator within the prescribed period. 2010, c. 9, s. 41 (7).

Same

(10) Section 50.1 applies with respect to the payment into the registered retirement savings arrangement. 2010, c. 9, s. 41 (7).

64. REPEALED: 2010, c. 9, s. 42.

Void transactions

65. (1) Every transaction that purports to assign, charge, anticipate or give as security money payable under a pension plan is void. R.S.O. 1990, c. P.8, s. 65 (1).

Idem

(2) Every transaction that purports to assign, charge, anticipate or give as security money transferred from a pension fund in accordance with section 42 (transfer), 43 (purchase of pension), clause 48 (1) (b) (pre-retirement death benefit), section 67.3 (transfer of a lump sum for certain family law purposes), 67.4 (division of a pension for certain family law purposes) or subsection 73 (2) (transfer rights on wind up) is void. R.S.O. 1990, c. P.8, s. 65 (2); 2009, c. 11, s. 46 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 65 (2) of the Act is amended by striking out “section 42 (transfer), 43 (purchase of pension), clause 48 (1) (b) (pre-retirement death benefit), section 67.3 (transfer of a lump sum for certain family law purposes), 67.4 (division of a pension for certain family law purposes)” and substituting “section 39.1 (variable benefits), 42 (transfer) or 43 (purchase of pension), clause 48 (1) (b) (pre-retirement death benefit), section 67.3 (transfer of a lump sum for certain family law purposes) or 67.4 (division of a pension for certain family law purposes)”. (See: 2015, c. 20, Sched. 34, s. 3 (1))

Exemptions

(3) Subsections (1) and (2) do not apply to prevent the assignment of an interest in money payable under a pension plan or money payable as a result of a purchase or transfer under section 42, 43, clause 48 (1) (b), section 67.3 or 67.4 or subsection 73 (2) by an order under the *Family Law Act*, by a family arbitration award or by a domestic contract. 2009, c. 11, s. 46 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 65 (3) of the Act is amended by striking out “or transfer under section 42, 43” and substituting “or transfer under section 39.1, 42 or 43”. (See: 2015, c. 20, Sched. 34, s. 3 (2))

Exemption from execution, seizure or attachment

66. (1) Money payable under a pension plan is exempt from execution, seizure or attachment. R.S.O. 1990, c. P.8, s. 66 (1).

Idem

(2) Money transferred from a pension fund to a prescribed retirement savings arrangement or for the purchase of a life annuity under section 42, 43, 48, 67.3 or 67.4 or subsection 73 (2) is exempt from execution, seizure or attachment. R.S.O. 1990, c. P.8, s. 66 (2); 2009, c. 11, s. 47 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 66 (2) of the Act is amended by striking out “under section 42, 43” and substituting “under section 39.1, 42, 43”. (See: 2015, c. 20, Sched. 34, s. 4 (1))

Idem

(3) Money payable from a prescribed retirement savings arrangement or from a life annuity purchased in accordance with section 42, 43, 48, 67.3 or 67.4 or subsection 73 (2) is exempt from execution, seizure or attachment. R.S.O. 1990, c. P.8, s. 66 (3); 2009, c. 11, s. 47 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 66 (3) of the Act is amended by striking out “in accordance with section 42, 43” and substituting “in accordance with section 39.1, 42, 43”. (See: 2015, c. 20, Sched. 34, s. 4 (2))

Order for support

(4) Despite subsection (1), payments under a pension or that result from a purchase or transfer under section 42 or 43, clause 48 (1) (b), section 67.3 or 67.4 or subsection 73 (2) are subject to execution, seizure or attachment in satisfaction of an order for support enforceable in Ontario to a maximum of one-half the money payable. R.S.O. 1990, c. P.8, s. 66 (4); 2009, c. 11, s. 47 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 66 (4) of the Act is amended by striking out “transfer under section 42 or 43” and substituting “transfer under section 39.1, 42 or 43”. (See: 2015, c. 20, Sched. 34, s. 4 (3))

Application of subs. (4)

(5) Subsection (4) applies to orders for support enforceable in Ontario whether made before or after the 1st day of January, 1988. R.S.O. 1990, c. P.8, s. 66 (5).

Restriction, locked-in retirement account

(6) The entitlement of a person, in his or her discretion, to withdraw money from a locked-in retirement account as defined in the regulations shall not be considered when determining, for the purposes of any other Act, the income or assets available to the person. 1999, c. 15, s. 11.

Commutation or surrender

67. (1) A pension, deferred pension, pension benefit, annuity or prescribed retirement savings arrangement that results from a purchase or transfer under section 42, 43, 48, 67.3 or 67.4 or subsection 73 (2) to which a person is entitled is not capable of being commuted or surrendered, in whole or in part, during the person's life. R.S.O. 1990, c. P.8, s. 67 (1); 1998, c. 34, s. 91 (1); 2009, c. 11, s. 48.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 67 (1) of the Act is amended by striking out “transfer under section 42, 43” and substituting “transfer under section 39.1, 42, 43”. (See: 2015, c. 20, Sched. 34, s. 5)

Void transaction

(2) A transaction that purports to commute or surrender, in whole or in part, such a pension, deferred pension, pension benefit, annuity or prescribed retirement savings arrangement is void. R.S.O. 1990, c. P.8, s. 67 (2); 1998, c. 34, s. 91 (2).

Application of subss. (1, 2)

(3) Subsections (1) and (2) do not apply to a variation of a pension or deferred pension under section 49 (variation of payment to disabled person) or to a commutation of a benefit under section 50 (commuted value). R.S.O. 1990, c. P.8, s. 67 (3).

Same

(4) Subsections (1) and (2) do not apply to the commutation or surrender, in whole or in part, of a prescribed retirement savings arrangement in such circumstances or in such amounts as may be prescribed, subject to such restrictions as may be prescribed. 1998, c. 34, s. 91 (3).

(5)-(7) REPEALED: 2012, c. 8, Sched. 44, s. 4.

FAMILY LAW MATTERS

Interpretation

67.1 (1) In this section and in sections 67.2 to 67.6,

“family law valuation date” means, with respect to a member, former member or retired member of a pension plan and his or her spouse,

- (a) the spouses’ valuation date under Part I (Family Property) of the *Family Law Act*, or
- (b) for spouses to whom Part I of that Act does not apply, the date on which they separate and there is no reasonable prospect that they will resume cohabitation; (“date d’évaluation en droit de la famille”)

“spouse” has the same meaning as in section 29 of the *Family Law Act*. (“conjoint”) 2009, c. 11, s. 49; 2010, c. 9, s. 43 (1).

Former spouse

(2) A reference in this section and in sections 67.2 to 67.6 to the spouse of a member, former member or retired member of a pension plan is, where circumstances require, a reference to him or her as the former spouse of the member, former member or retired member. 2010, c. 9, s. 43 (2).

Valuation for family law purposes

Preliminary valuation, member, former member or retired member

67.2 (1) The preliminary value of a member’s pension benefits, a former member’s deferred pension or a retired member’s pension under a pension plan, before apportionment for family law purposes, is determined by the administrator in accordance with the regulations and as of the family law valuation date of the member, former member or retired member and his or her spouse. 2010, c. 9, s. 44 (1).

Same, spouse

(2) The preliminary value of the pension of the spouse of a retired member under a pension plan, before apportionment for family law purposes, is determined by the administrator in accordance with the regulations and as of the family law valuation date of the spouse and the retired member. 2010, c. 9, s. 44 (2).

Adjustments

(3) If the pension benefits, pension or deferred pension are provided under a pension plan that provides defined benefits, the preliminary value includes such adjustments as may be prescribed for ancillary benefits and other entitlements. 2009, c. 11, s. 49.

Same

(4) There is no preliminary value attributable to ancillary benefits and other entitlements otherwise than by virtue of subsection (3). 2009, c. 11, s. 49.

Imputed value for family law purposes

(5) The imputed value, for family law purposes, of each spouse’s pension benefits, deferred pension or pension, as the case may be, is that portion of the preliminary value that is attributed by the administrator, in accordance with the regulations,

- (a) to the period beginning with the date of the spouses’ marriage and ending on their family law valuation date, for the purposes of an order under Part I (Family Property) of the *Family Law Act*; or
- (b) to the period beginning with the date determined in accordance with the regulations and ending on the spouses’ family law valuation date, for the purposes of a family arbitration award or domestic contract. 2009, c. 11, s. 49.

Application for statement of imputed value

(6) The following persons may apply to the administrator of the pension plan, in accordance with the regulations, for a statement of the imputed value, for family law purposes, of each spouse’s pension benefits, deferred pension or pension, as the case may be:

1. In the case of spouses to whom Part I of the *Family Law Act* applies, either spouse.
2. In the case of spouses to whom Part I of the *Family Law Act* does not apply, the member, former member or retired member. 2009, c. 11, s. 49; 2010, c. 9, s. 44 (3).

Application fee

(7) The application must be accompanied by the applicable fee, if any, imposed by the administrator and the applicable fee must not exceed the prescribed amount. 2009, c. 11, s. 49.

Duty to determine imputed value

(8) Once the application is complete, the administrator shall determine the imputed value, for family law purposes, of each spouse's pension benefits, deferred pension or pension, as the case may be. 2009, c. 11, s. 49.

Duty to provide statement

(9) The administrator shall give a statement containing the prescribed information to both spouses within the prescribed period. 2009, c. 11, s. 49.

Transition

(10) Neither spouse is eligible to apply under paragraph 1 of subsection (6) for the statement if an order made under Part I of the *Family Law Act* before the day on which this section comes into force requires one spouse to pay to the other spouse the amount to which the other spouse is entitled under section 5 (equalization of net family properties) of that Act. 2009, c. 11, s. 49.

Transfer of a lump sum for certain family law purposes

Eligibility

67.3 (1) A spouse of a member, former member or retired member of a pension plan is eligible to apply under this section for an immediate transfer of a lump sum from the plan if all of the following circumstances exist:

1. The spouses are separated and there is no reasonable prospect that they will resume cohabitation.
2. No payment of an instalment of the member's or former member's pension was due on or before the family law valuation date.
3. A statement of the imputed value, for family law purposes, of the member's pension benefits or the former member's deferred pension has been obtained from the administrator under section 67.2.
4. The transfer is provided for by an order made under Part I (Family Property) of the *Family Law Act* or is authorized under a family arbitration award or domestic contract.
5. In the order, family arbitration award or domestic contract, the amount to be transferred as a lump sum is expressed,
 - i. as a specified amount, or
 - ii. as a proportion of the imputed value, for family law purposes, of the member's pension benefits or the former member's deferred pension. 2009, c. 11, s. 49; 2010, c. 9, s. 45.

Application for transfer

(2) The eligible spouse may apply, in accordance with the regulations, to the administrator of the plan for any of the following:

1. Transfer of a lump sum from the plan to another pension plan registered under the pension benefits legislation in any jurisdiction in Canada or provided by a government in Canada. This option is available only if the administrator of the other plan agrees to accept the transfer.
2. Transfer of a lump sum from the plan to a prescribed retirement savings arrangement.
3. Transfer of a lump sum to another prescribed arrangement.
4. Implementation of the transfer of a lump sum by leaving it in the plan to the credit of the eligible spouse. This option is available in such circumstances as may be prescribed and only if the administrator agrees to it. 2009, c. 11, s. 49; 2010, c. 1, Sched. 23, s. 6.

Restrictions on transfers

(3) The transfer is subject to the restrictions set out in this section and to such other restrictions as may be prescribed. 2009, c. 11, s. 49.

Duty to transfer

(4) Once the application is complete, the administrator shall make the transfer within the prescribed period. 2009, c. 11, s. 49.

Transfer to eligible spouse's estate

(5) If the lump sum is not transferred under subsection (4) before the death of the eligible spouse, the lump sum is payable instead to the eligible spouse's estate or as otherwise permitted by regulation. 2009, c. 11, s. 49.

Maximum percentage

(6) The order, family arbitration award or domestic contract is not effective to the extent that it purports to entitle the eligible spouse to the transfer of a lump sum that exceeds 50 per cent of the imputed value, for family law purposes, of the pension benefits or deferred pension, as updated for the purposes of this subsection if the regulations require the imputed value to be updated. 2009, c. 11, s. 49.

Partial transfer directly to spouse

(7) If the amount that would otherwise be transferred in accordance with the application is greater than the amount prescribed under the *Income Tax Act* (Canada) for such a transfer, the administrator shall pay the portion that exceeds the prescribed amount as a lump sum to the eligible spouse. 2009, c. 11, s. 49.

Duty to adjust pension benefits, etc.

(8) Upon making the transfer, the administrator shall, in accordance with the regulations, adjust the benefits and entitlements of the member or former member under the pension plan to take into account the transfer. 2009, c. 11, s. 49.

Discharge of administrator

(9) In the absence of actual notice to the contrary, the administrator is entitled to rely upon the information provided by the spouse in the application and is discharged upon making the transfer in accordance with the application and this section and making the adjustments required by subsection (8). 2009, c. 11, s. 49.

Effect of transfer

(10) Once the transfer is made in accordance with the application and this Act, the eligible spouse has no further claim against the pension plan in respect of the member or former member. 2009, c. 11, s. 49.

Orders for support

(11) This section does not affect any order for support enforceable in Ontario. 2009, c. 11, s. 49.

Priorities

(12) An entitlement to a transfer under this section prevails over any other entitlement under this Act to a payment from the pension plan in respect of the member or former member. 2009, c. 11, s. 49.

Same

(13) For the purposes of subsection (12), an entitlement to a transfer under this section arises on application under subsection (2) by an eligible spouse. 2009, c. 11, s. 49.

Division of a pension for certain family law purposes

Eligibility

67.4 (1) A spouse of a retired member of a pension plan is eligible to apply under this section for the division of the retired member's pension if all of the following circumstances exist:

1. The spouses are separated and there is no reasonable prospect that they will resume cohabitation.
2. Payment of the first instalment of the retired member's pension was due on or before the family law valuation date.
3. A statement of the imputed value, for family law purposes, of the retired member's pension has been obtained from the administrator under section 67.2.
4. The division of the pension is provided for by an order made under Part I (Family Property) of the *Family Law Act* or is authorized under a family arbitration award or domestic contract.
5. In the order, family arbitration award or domestic contract, the amount of each pension instalment to be paid to the spouse is expressed,
 - i. as a specified amount, or
 - ii. as a proportion of the instalment otherwise payable to the retired member. 2009, c. 11, s. 49; 2010, c. 9, s. 46 (1-4).

Application for division and payment

(2) The eligible spouse may apply, in accordance with the regulations, to the administrator of the plan for division of the retired member's pension and for payment of the eligible spouse's share to him or her. 2009, c. 11, s. 49; 2010, c. 9, s. 46 (5).

Restrictions

(3) The division and payment of the pension is subject to the restrictions set out in this section and to such other restrictions as may be prescribed. 2009, c. 11, s. 49.

Duties of administrator

(4) Once the application is complete, the administrator shall revalue the retired member's pension in the prescribed manner and begin the payments to the eligible spouse within the prescribed period. 2009, c. 11, s. 49; 2010, c. 9, s. 46 (6).

Maximum percentage

(5) The order, family arbitration award or domestic contract is not effective to the extent that it purports to entitle the eligible spouse to a share that exceeds 50 per cent of the imputed value, for family law purposes, of the pension, as updated for the purposes of this subsection if the regulations require the imputed value to be updated. 2009, c. 11, s. 49.

Discharge of administrator

(6) In the absence of actual notice to the contrary, the administrator is entitled to rely upon the information provided by the spouse in the application and is discharged on revaluing the retired member's pension and making the payments to the eligible spouse in accordance with the application and this section. 2009, c. 11, s. 49; 2010, c. 9, s. 46 (7).

Orders for support

(7) This section does not affect any order for support enforceable in Ontario. 2009, c. 11, s. 49.

Waiver of joint and survivor pension

(8) Despite subsection 46 (2), the eligible spouse may waive his or her entitlement to a joint and survivor pension after payment of the first instalment of the retired member's pension is due and before the pension is divided in accordance with this section. 2009, c. 11, s. 49; 2010, c. 9, s. 46 (8).

No cancellation

(9) A waiver authorized by subsection (8) cannot be cancelled. 2009, c. 11, s. 49.

Special case, combining payments

(10) The following rules apply if the eligible spouse is entitled to a joint and survivor pension in respect of the retired member in addition to being entitled to payment of a share of the retired member's pension in accordance with this section:

1. The eligible spouse may make a written request, in the form approved by the Superintendent, to the administrator for payment of a single pension from the pension plan instead of payment of a share of the retired member's pension and payment of a joint and survivor pension.
2. If the pension plan so permits, the administrator may comply with the request.
3. When the eligible spouse begins to receive the single pension, he or she ceases to be entitled to payment of the share of the retired member's pension and to payment of the joint and survivor pension in respect of the retired member. 2009, c. 11, s. 49; 2010, c. 9, s. 46 (9-11).

Restriction on other ways of dividing pension benefits, etc.

67.5 (1) An order made under Part I (Family Property) of the *Family Law Act*, a family arbitration award or a domestic contract is not effective to the extent that it purports to require the administrator of a pension plan to divide the pension benefits, deferred pension or pension, as the case may be, of a member, former member or retired member of the plan otherwise than as provided under section 67.3 or 67.4. 2009, c. 11, s. 49; 2010, c. 9, s. 47 (1).

Transition, valuation date

(2) This section applies whether the family law valuation date for the member, former member or retired member and his or her spouse is before, on or after the date on which this section comes into force. 2009, c. 11, s. 49; 2010, c. 9, s. 47 (2).

Transition, previous orders, etc.

(3) This section does not apply to an order, family arbitration award or domestic contract to which section 67.6 applies. 2009, c. 11, s. 49.

Other transitional matters

67.6 (1) This section applies to an order under Part I (Family Property) of the *Family Law Act*, family arbitration award or domestic contract that requires one spouse to pay to the other spouse the amount to which that spouse is entitled under section 5 (equalization of net family properties) of that Act, if the order, award or contract was made before the date on which this section comes into force. 2009, c. 11, s. 49.

Amendments

(2) The application of this section to an order, family arbitration award or domestic contract described in subsection (1) is not affected by an amendment or variation made on or after the date on which this section comes into force to the order, award or contract, if,

- (a) the order, award or contract provided, before that date, for the division of a party's interest in a pension plan; and
- (b) the amendment or variation is made in order to facilitate or effect the division of the party's interest in the pension plan in accordance with the order, award or contract. 2009, c. 11, s. 49.

Timing of payment

(3) The order, family arbitration award or domestic contract is not effective to require payment of a pension benefit before the earlier of,

- (a) the date on which payment of the pension benefit commences; or
- (b) the normal retirement date of the relevant member or former member. 2009, c. 11, s. 49.

Maximum percentage

(4) The order, family arbitration award or domestic contract is not effective to cause the spouse to become entitled to more than 50 per cent of the pension benefits, calculated in the prescribed manner, accrued by the member, former member or retired member during the period when they were spouses. 2009, c. 11, s. 49; 2010, c. 9, s. 48 (1).

Discharge of administrator

(5) If payment of a pension or a deferred pension is divided between spouses by the order, family arbitration award or domestic contract, the administrator is discharged on making payment in accordance with the order, award or contract. 2009, c. 11, s. 49.

Revaluation of joint and survivor pension

(6) If the order, family arbitration award or domestic contract affects a pension, the administrator of the pension plan shall revalue the pension in the prescribed manner. 2009, c. 11, s. 49.

Entitlement to options

(7) The spouse has the same entitlement, on termination of employment by the member, former member or retired member, to any option available in respect of the spouse's interest in the pension benefits as the member, former member or retired member has in respect of his or her pension benefits. 2010, c. 9, s. 48 (2).

WINDING UP

Winding up

68. (1) The employer or, in the case of a multi-employer pension plan, the administrator may wind up the pension plan. R.S.O. 1990, c. P.8, s. 68 (1); 2010, c. 9, s. 49 (1).

Same, jointly sponsored pension plans

(1.1) The following rules apply, and subsection (1) does not apply, with respect to jointly sponsored pension plans:

- 1. If a jointly sponsored pension plan is also a multi-employer pension plan, the administrator may wind up the plan unless the documents that create and support the plan authorize another person or entity to do so. In that case, the authorized person or entity may wind up the plan.
- 2. If a jointly sponsored pension plan is not a multi-employer pension plan, the administrator or another person or entity may wind up the plan if the documents that create and support the plan authorize the administrator, person or entity to do so. 2005, c. 31, Sched. 18, s. 8; 2010, c. 9, s. 49 (2, 3).

Notice

(2) If the employer or the administrator, as the case may be, intends to wind up the pension plan, the administrator shall give written notice of the intended wind up to,

- (a) the Superintendent;

- (b) each member, former member and retired member of the pension plan;
 - (c) each trade union that represents members of the pension plan or that, on the date of the wind up, represented the members, former members or retired members of the pension plan;
 - (d) the advisory committee of the pension plan; and
 - (e) any other person entitled to a payment from the pension fund. 2010, c. 9, s. 49 (4); 2010, c. 24, s. 21 (2).
- (3) REPEALED: 2010, c. 24, s. 21 (5).

Contents of notice

- (4) The notice of the intended wind up must contain such information as may be prescribed. 2010, c. 24, s. 21 (6, 7).

Additional information and documents

(4.1) The Superintendent may require the administrator to give specified additional information and documents to the persons entitled to notice of the intended wind up, and to do so within a specified period. 2011, c. 9, Sched. 35, s. 5.

Effective date

(5) The effective date of the wind up shall not be earlier than the date member contributions, if any, cease to be deducted, in the case of contributory pension benefits, or, in any other case, on the date notice is given to members. R.S.O. 1990, c. P.8, s. 68 (5).

Order by Superintendent

(6) Subject to section 89, the Superintendent by order may change the effective date of the wind up if the Superintendent is of the opinion that there are reasonable grounds for the change. R.S.O. 1990, c. P.8, s. 68 (6); 2010, c. 24, s. 21 (8).

Winding up order by Superintendent

69. (1) The Superintendent by order may require the wind up of a pension plan if,
- (a) there is a cessation or suspension of employer contributions to the pension fund;
 - (b) the employer fails to make contributions to the pension fund as required by this Act or the regulations;
 - (c) the employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act* (Canada);
 - (d) all or substantially all of the members of the pension plan cease to be employed by the employer;
 - (e) REPEALED: 2010, c. 9, s. 50 (2).
 - (f) all or substantially all of the employer's business or all or substantially all of the assets of the business are sold, assigned or otherwise disposed of and the person or entity who acquires the business or assets does not provide a pension plan for the members of the employer's pension plan who become employees of the person or entity;
 - (g) the liability of the Guarantee Fund is likely to be substantially increased unless the pension plan is wound up;
 - (h) in the case of a multi-employer pension plan,
 - (i) there is a significant reduction in the number of members, or
 - (ii) there is a cessation of contributions under the pension plan or a significant reduction in such contributions; or
 - (i) any other prescribed event or prescribed circumstance occurs. R.S.O. 1990, c. P.8, s. 69 (1); 2002, c. 18, Sched. H, s. 5 (1); 2010, c. 9, s. 50 (1-4).

Effective date

- (2) The order must specify the effective date of the wind up. 2010, c. 9, s. 50 (5).

Notice of the order

(3) The administrator of the pension plan shall give notice of the order to the persons and entities listed in clauses 68 (2) (b) to (e) and shall include in the notice such information about the wind up as the order may specify. 2010, c. 9, s. 50 (5).

Duty to file notice

(4) The administrator shall file with the Superintendent a copy of the notice given under subsection (3). 2010, c. 9, s. 50 (5).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 69 is amended by adding the following subsection:

Interpretation

(5) A reduction or suspension of contributions under section 55.1 (contribution holidays) does not constitute a cessation or suspension of employer contributions for the purposes of clause (1) (a) or subclause (1) (h) (ii). 2010, c. 24, s. 22.

See: 2010, c. 24, ss. 22, 49 (4).

Partial wind up not permitted

69.1 A pension plan cannot be wound up in part if the effective date of the wind up would fall on or after the date on which this section comes into force. 2010, c. 9, s. 51.

Wind up report

70. (1) The administrator of a pension plan that is to be wound up shall file a wind up report that sets out,
- (a) the assets and liabilities of the pension plan;
 - (b) the benefits to be provided under the pension plan to members, former members, retired members and other persons;
 - (c) the methods of allocating and distributing the assets of the pension plan and determining the priorities for payment of benefits; and
 - (d) such other information as is prescribed. R.S.O. 1990, c. P.8, s. 70 (1); 2010, c. 9, s. 52 (1, 2).

Restriction on payments

(2) If the administrator has given notice under section 68 or 69 of the intended wind up of the pension plan, no payment shall be made out of the pension fund until the Superintendent has approved the wind up report. 2010, c. 24, s. 23.

Same

(3) However, subsection (2) does not prevent the continued payment of a pension or other benefit if the payment commenced before the administrator gave notice of the intended wind up and it does not prevent any other payment that is prescribed or that is approved by the Superintendent. 2010, c. 24, s. 23.

Approval

(4) An administrator shall not make payment out of the pension fund except in accordance with the wind up report approved by the Superintendent. R.S.O. 1990, c. P.8, s. 70 (4).

Refusal to approve

(5) The Superintendent may refuse to approve a wind up report that does not meet the requirements of this Act and the regulations or that does not protect the interests of the members, former members, retired members and other persons entitled to benefits under the pension plan. R.S.O. 1990, c. P.8, s. 70 (5); 2010, c. 9, s. 52 (3).

(6) REPEALED: 2010, c. 9, s. 52 (5).

71. REPEALED: 2010, c. 24, s. 24.

Notice of entitlement upon wind up and election

72. (1) Within the prescribed period of time, the administrator of a pension plan that is to be wound up shall give to each person entitled to a pension, deferred pension or other benefit or to a refund in respect of the pension plan a statement setting out the person's entitlement under the plan, the options available to the person and such other information as may be prescribed. 1999, c. 15, s. 14 (1); 2010, c. 9, s. 54 (1).

Additional information

(1.1) The Superintendent may require the administrator to give specified additional information and documents to persons to whom notice is to be given under subsection (1), and to do so within a specified period. 2012, c. 8, Sched. 44, s. 5.

Election

(2) If a person to whom notice is given under subsection (1) is required to make an election, the person shall make the election within the prescribed period of time or shall be deemed to have elected to receive immediate payment of a pension benefit, if eligible therefor, or, if not eligible to receive immediate payment of a pension benefit, to receive a pension commencing at the earliest date mentioned in clause 74 (1.3) (b). R.S.O. 1990, c. P.8, s. 72 (2); 1999, c. 15, s. 14 (2); 2010, c. 9, s. 54 (2, 3).

Same, certain pension plans

(2.1) If the notice under subsection (1) is given in respect of a pension plan for which an election under section 74.1 is in effect and if the person to whom the notice is given does not make an election within the prescribed period of time,

- (a) he or she is deemed to have elected to receive immediate payment of a pension benefit, if he or she is eligible to receive the immediate payment; and
- (b) in any other case, he or she is deemed to have elected to receive a pension beginning at the earliest date on which the person would be entitled to an unreduced pension under the pension plan as of the effective date of the wind up. 2010, c. 9, s. 54 (4).

Payment

(3) Within the prescribed period of time, the administrator shall make payment in accordance with the election or deemed election. 1999, c. 15, s. 14 (3).

Determination of entitlements

73. (1) For the purpose of determining the amounts of pension benefits and any other benefits and entitlements on the winding up of a pension plan,

- (a) the employment of each member of the pension plan shall be deemed to have been terminated on the effective date of the wind up;
- (b) each member's pension benefits as of the effective date of the wind up shall be determined as if the member had satisfied all eligibility conditions for a deferred pension; and
- (c) provision shall be made for the rights, if any, under section 74. R.S.O. 1990, c. P.8, s. 73 (1); 2010, c. 9, s. 55 (1-3).

Transfer rights on wind up

(2) A person entitled to a pension benefit on the wind up of a pension plan, other than a person who is receiving a pension, is entitled to the rights under subsection 42 (1) (transfer) of a member who terminates employment and, for the purpose, subsection 42 (3) does not apply. R.S.O. 1990, c. P.8, s. 73 (2).

Purchase of annuities on partial wind up

(3) Except as provided under subsection (2), the administrator is not required to purchase life annuities for members, former members, retired members or other persons entitled to benefits under the pension plan in order to distribute the assets of the pension fund in connection with a partial wind up. 2010, c. 9, s. 55 (4).

Distribution of assets

(4) If the administrator does not purchase life annuities in the circumstances described in subsection (3), the administrator shall comply with such requirements as may be prescribed in connection with the distribution of the assets of the pension fund in connection with a partial wind up. 2010, c. 9, s. 55 (4).

Repeal

(5) Subsections (3) and (4) are repealed on a day to be named by proclamation of the Lieutenant Governor. 2010, c. 9, s. 55 (4).

Application

- (6) This section applies if the effective date of the wind up is on or after April 1, 1987. 2010, c. 9, s. 55 (5).

Grow-in benefits for members

Activating events

74. (1) This section applies if a person ceases to be a member of a pension plan on the effective date of one of the following activating events:

1. The wind up of a pension plan, if the effective date of the wind up is on or after April 1, 1987.
2. The employer's termination of the member's employment, if the effective date of the termination is on or after July 1, 2012. However, this paragraph does not apply if the termination occurs in any of the circumstances described in subsection (1.1).
3. The occurrence of such other events as may be prescribed in such circumstances as may be specified by regulation. 2010, c. 9, s. 56 (1); 2011, c. 9, Sched. 35, s. 6.

Same, termination of employment

(1.1) Termination of employment is not an activating event if the termination is a result of wilful misconduct, disobedience or wilful neglect of duty by the member that is not trivial and has not been condoned by the employer or if the termination occurs in such other circumstances as may be prescribed. 2010, c. 9, s. 56 (1).

Exceptions, election by certain pension plans

(1.2) This section does not apply with respect to a jointly sponsored pension plan or a multi-employer pension plan while an election made under section 74.1 for the plan and its members is in effect. 2010, c. 9, s. 56 (1).

Benefit

(1.3) A member in Ontario of a pension plan whose combination of age plus years of continuous employment or membership in the pension plan equals at least 55 on the effective date of the activating event has the right to receive,

- (a) a pension in accordance with the terms of the pension plan, if, under the pension plan, the member is eligible for immediate payment of the pension benefit;
- (b) a pension in accordance with the terms of the pension plan, beginning at the earlier of,
 - (i) the normal retirement date under the pension plan, or
 - (ii) the date on which the member would be entitled to an unreduced pension under the pension plan if the activating event had not occurred and if the member's membership continued to that date; or
- (c) a reduced pension in the amount payable under the terms of the pension plan beginning on the date on which the member would be entitled to the reduced pension under the pension plan if the activating event had not occurred and if the member's membership continued to that date. 2010, c. 9, s. 56 (1).

Part year

(2) In determining the combination of age plus employment or membership, one-twelfth credit shall be given for each month of age and for each month of continuous employment or membership on the effective date of the activating event. R.S.O. 1990, c. P.8, s. 74 (2); 2010, c. 9, s. 56 (2).

Member for 10 years

(3) Bridging benefits offered under the pension plan to which a member would be entitled if the activating event had not occurred and if his or her membership were continued shall be included in calculating the pension benefit under subsection (1.3) of a person who has at least 10 years of continuous employment with the employer or has been a member of the pension plan for at least 10 years. 2010, c. 9, s. 56 (3).

Prorated bridging benefit

(4) For the purposes of subsection (3), if the bridging benefit offered under the pension plan is not related to periods of employment or membership in the pension plan, the bridging benefit shall be prorated by the ratio that the member's actual period of employment bears to the period of employment that the member would have to the earliest date on which the member would be entitled to payment of pension benefits and a full bridging benefit under the pension plan if the activating event had not occurred. R.S.O. 1990, c. P.8, s. 74 (4); 2010, c. 9, s. 56 (4).

Notice of termination of employment

(5) Membership in a pension plan that is wound up includes the period of notice of termination of employment required under Part XV of the *Employment Standards Act, 2000*. R.S.O. 1990, c. P.8, s. 74 (5); 2004, c. 31, Sched. 31, s. 3; 2010, c. 9, s. 56 (5).

Application of subs. (5)

(6) Subsection (5) does not apply for the purpose of calculating the amount of a pension benefit of a member who is required to make contributions to the pension fund unless the member makes the contributions in respect of the period of notice of termination of employment. R.S.O. 1990, c. P.8, s. 74 (6).

Consent of employer

(7) For the purposes of this section, where the consent of an employer is an eligibility requirement for entitlement to receive an ancillary benefit, the employer shall be deemed to have given the consent. R.S.O. 1990, c. P.8, s. 74 (7).

Consent of administrator, jointly sponsored pension plans

(7.1) For the purposes of this section, where the consent of the administrator of a jointly sponsored pension plan is an eligibility requirement for entitlement to receive an ancillary benefit, the administrator shall be deemed to have given the consent. 2005, c. 31, Sched. 18, s. 9.

Use in calculating pension benefit

(8) A benefit described in clause (1.3) (a), (b) or (c) for which a member has met all eligibility requirements under this section shall be included in calculating the member's pension benefit or the commuted value of the pension benefit. 2010, c. 9, s. 56 (6).

(9) REPEALED: 2010, c. 9, s. 56 (7).

Election re grow-in benefits, certain pension plans**Jointly sponsored pension plans**

74.1 (1) The employers (or any persons or entities who make contributions on behalf of the employers or who represent the employers) and the members (or the representatives of the members) of a jointly sponsored pension plan may elect, in accordance with this section, to exclude the plan and its members from the operation of section 74. 2010, c. 9, s. 57.

Multi-employer pension plans

(2) The administrator of a multi-employer pension plan may elect, in accordance with this section, to exclude the plan and its members from the operation of section 74. 2010, c. 9, s. 57.

Restrictions

(3) An election may only be made within the prescribed period and the persons or entities making the election must satisfy such requirements as may be prescribed in connection with the election. 2010, c. 9, s. 57.

Same

(4) Only one election may be made in respect of a pension plan. 2010, c. 9, s. 57.

Notice of election

(5) An election to exclude a pension plan and its members from the operation of section 74 takes effect when notice of the election is filed with the Superintendent or on a later date specified in the notice. 2010, c. 9, s. 57.

Rescission

(6) An election may be rescinded by the persons and entities described in subsection (1) or (2), as the case may be, and the rescission takes effect when notice of the rescission is filed with the Superintendent or on a later date specified in the notice. 2010, c. 9, s. 57.

Liability of employer on wind up

75. (1) Where a pension plan is wound up, the employer shall pay into the pension fund,

- (a) an amount equal to the total of all payments that, under this Act, the regulations and the pension plan, are due or that have accrued and that have not been paid into the pension fund; and
- (b) an amount equal to the amount by which,
 - (i) the value of the pension benefits under the pension plan that would be guaranteed by the Guarantee Fund under this Act and the regulations if the Superintendent declares that the Guarantee Fund applies to the pension plan,
 - (ii) the value of the pension benefits accrued with respect to employment in Ontario vested under the pension plan, and
 - (iii) the value of benefits accrued with respect to employment in Ontario resulting from the application of subsection 39 (3) (50 per cent rule) and section 74,

exceed the value of the assets of the pension fund allocated as prescribed for payment of pension benefits accrued with respect to employment in Ontario. R.S.O. 1990, c. P.8, s. 75 (1); 1997, c. 28, s. 200; 2010, c. 9, s. 58.

Payment

(2) The employer shall pay the money due under subsection (1) in the prescribed manner and at the prescribed times. R.S.O. 1990, c. P.8, s. 75 (2).

Exception, jointly sponsored pension plans

(3) This section does not apply with respect to jointly sponsored pension plans. 2005, c. 31, Sched. 18, s. 10.

Same

(4) This section does not apply with respect to a single employer pension plan that has transferred assets under section 80.4 to a jointly sponsored pension plan. 2014, c. 7, Sched. 26, s. 7.

Liability on wind-up, jointly sponsored pension plans

Employers, etc.

75.1 (1) Where a jointly sponsored pension plan is wound up, the employer or the person or entity required to make contributions under the plan on behalf of the employer shall pay into the pension fund,

- (a) an amount equal to the total of all payments that, under this Act, the regulations and the plan, are payable by the employer or by the person or entity on behalf of the employer, that are due or have accrued and that have not been paid into the pension fund; and
- (b) any additional amounts that, under the documents that create and support the plan, are payable in the circumstances by the employer or the person or entity on behalf of the employer. 2005, c. 31, Sched. 18, s. 11; 2010, c. 9, s. 59 (1).

Same re: transfer of assets

(1.1) If an employer has transferred assets under section 80.4 from a single employer pension plan to a jointly sponsored pension plan that is subsequently wound up, the employer shall, in prescribed circumstances, pay the prescribed amount into the pension fund of the jointly sponsored pension plan for the benefit of the transferred members and other transferees under section 80.4. 2014, c. 7, Sched. 26, s. 8 (1).

Same re: conversion of single employer pension plan

(1.2) If an employer has converted a single employer pension plan under section 81.0.1 into a jointly sponsored pension plan that is subsequently wound up, the employer shall, in prescribed circumstances, pay the prescribed amount into the pension fund of the jointly sponsored pension plan for the benefit of the members, former members, retired members and other persons entitled to benefits under the plan. 2014, c. 7, Sched. 26, s. 8 (2).

Members

- (2) Where a jointly sponsored pension plan is wound up, the members shall pay into the pension fund,
 - (a) an amount equal to the total of all payments that, under this Act, the regulations and the plan, are payable by the members, that are due or have accrued and that have not been paid into the pension fund; and
 - (b) any additional amounts that, under the documents that create and support the plan, are payable in the circumstances by the members. 2005, c. 31, Sched. 18, s. 11; 2010, c. 9, s. 59 (2).

Payments

(3) The payments required by this section shall be made in the prescribed manner and at the prescribed times. 2005, c. 31, Sched. 18, s. 11; 2014, c. 7, Sched. 26, s. 8 (3).

Same

(4) Any payments that may be required by subsections (1.1) and (1.2) are in addition to the payments required by subsection (1). 2014, c. 7, Sched. 26, s. 8 (4).

Insufficient pension fund

(5) If the amount paid under subsection (1.1) and the money in the pension fund of the jointly sponsored pension plan, allocated in accordance with the regulations, is not sufficient to pay all the pension benefits and other benefits of the transferred members and other transferees under section 80.4, the pension benefits and other benefits shall be reduced in the prescribed manner on the wind up of the jointly sponsored pension plan. 2014, c. 7, Sched. 26, s. 8 (5).

Same

(6) If the amount paid under subsection (1.2) and the money in the pension fund of the jointly sponsored pension plan, allocated in accordance with the regulations, is not sufficient to pay all the pension benefits and other benefits of the members, former members, retired members and other persons entitled to benefits under the plan, the pension benefits and other benefits shall be reduced in the prescribed manner on the wind up of the plan. 2014, c. 7, Sched. 26, s. 8 (6).

Pension fund continues subject to Act and regulations

76. The pension fund of a pension plan that is wound up continues to be subject to this Act and the regulations until all the assets of the pension fund have been disbursed. R.S.O. 1990, c. P.8, s. 76.

Insufficient pension fund

77. Subject to the application of the Guarantee Fund, where the money in a pension fund is not sufficient to pay all the pension benefits and other benefits on the wind up of the pension plan, the pension benefits and other benefits shall be reduced in the prescribed manner. R.S.O. 1990, c. P.8, s. 77; 2010, c. 9, s. 60.

TRANSITION – PARTIAL WIND UP

Authority for partial wind up

77.1 (1) A pension plan may be wound up in part if the effective date of the partial wind up precedes the date on which this section comes into force. 2010, c. 9, s. 61.

Restriction

(2) A pension plan cannot be wound up in part if the effective date of the partial wind up would fall on or after the date on which this section comes into force. 2010, c. 9, s. 61.

Effective date

(3) The effective date of the partial wind up may be determined after the date on which this section comes into force. 2010, c. 9, s. 61.

Same

(4) The Superintendent by order may change the effective date of the partial wind up if the Superintendent is of the opinion that there are reasonable grounds for the change. 2010, c. 9, s. 61.

Definition

(5) In this section and in sections 77.2 to 77.9, “partial wind up” means the termination of part of a pension plan and the distribution of the assets of the pension fund related to that part of the pension plan. 2010, c. 9, s. 61.

Partial wind up by employer, administrator

77.2 Section 68 applies, with necessary modifications, with respect to a partial wind up of a pension plan. 2010, c. 9, s. 61.

Order by Superintendent for partial wind up

77.3 (1) The Superintendent by order may require the partial wind up of a pension plan,

- (a) if a significant number of members of the pension plan cease to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer;
- (b) if all or a significant portion of the business carried on by the employer at a specific location is discontinued;
- (c) if part of the employer’s business or part of the assets of the business are sold, assigned or otherwise disposed of and the person or entity who acquires the business or assets does not provide a pension plan for the members of the employer’s pension plan who become employees of the person or entity;
- (d) if the liability of the Guarantee Fund is likely to be substantially increased unless the pension plan is wound up in part;
- (e) if any of the circumstances described in clauses 69 (1) (a), (b), (c) or (h) exists; or
- (f) if any other prescribed event or prescribed circumstance occurs. 2010, c. 9, s. 61.

Date

(2) The order must specify the effective date of the partial wind up. 2010, c. 9, s. 61.

Notice of the order

(3) The administrator of the pension plan shall give notice of the order to the persons and entities listed in clauses 68 (2) (b) to (e) and shall include in the notice such information about the partial wind up as the order may specify. 2010, c. 9, s. 61.

Duty to file notice

(4) The administrator shall file with the Superintendent a copy of the notice given under subsection (3). 2010, c. 9, s. 61.

Wind up report for partial wind up

77.4 (1) Section 70 applies, with necessary modifications, with respect to a partial wind up of a pension plan. 2010, c. 9, s. 61.

Rights and benefits

(2) On a partial wind up, the members, former members, retired members and other persons entitled to benefits under the pension plan shall have rights and benefits that are not less than the rights and benefits they would have on a full wind up of the pension plan on the effective date of the partial wind up. 2010, c. 9, s. 61.

77.5 REPEALED: 2010, c. 24, s. 25.

Notice of entitlement upon partial wind up

77.6 (1) Within the prescribed period of time, the administrator of a pension plan that is to be wound up in part shall give to each person who is affected by the wind up and who is entitled to a pension, deferred pension or other benefit or to a refund in respect of the pension plan a statement setting out his or her entitlement under the plan, the options available to the person and such other information as may be prescribed. 2010, c. 9, s. 61.

Same

(2) Subsections 72 (2) and (3) apply, with necessary modifications, with respect to the partial wind up of a pension plan. 2010, c. 9, s. 61.

Determination of entitlements on partial wind up

77.7 (1) Section 73 applies, with necessary modifications, with respect to members' entitlements on a partial wind up of a pension plan. 2010, c. 9, s. 61.

Purchase of annuities on partial wind up

(2) Except as provided under subsection 73 (2), the administrator is not required to purchase life annuities for members, former members, retired members or other persons entitled to benefits under the pension plan in order to distribute the assets of the plan in connection with the partial wind up. 2010, c. 9, s. 61.

Distribution of assets

(3) If the administrator does not purchase life annuities in the circumstances described in subsection (2), the administrator shall comply with such requirements as may be prescribed in connection with the distribution of the assets of the pension fund in connection with the partial wind up. 2010, c. 9, s. 61.

Grow-in on partial wind up

(4) Section 74 applies, with necessary modifications, with respect to members' entitlements on a partial wind up of a pension plan. 2010, c. 9, s. 61.

Liability on partial wind up

77.8 Sections 75 and 75.1 apply, with necessary modifications, with respect to a partial wind up of a pension plan. 2010, c. 9, s. 61.

Administration of partial wind up

77.9 Sections 76 and 77 apply, with necessary modifications, with respect to a partial wind up of a pension plan. 2010, c. 9, s. 61.

Repeal of transitional provisions

77.10 Sections 77.1 to 77.9 are repealed on a day to be named by proclamation of the Lieutenant Governor. 2010, c. 9, s. 61.

SURPLUS

Entitlement to surplus

77.11 (1) The documents that create and support a pension plan and pension fund govern the entitlement of the employer and other persons to payment of surplus under the pension plan, except as otherwise provided under this Act and subject to the restrictions on payment set out in sections 78 and 79. 2010, c. 24, s. 26 (1).

If no provision in a pension plan

(2) A pension plan that does not provide for the withdrawal of surplus money while the pension plan continues in existence shall be construed to prohibit the withdrawal of surplus money accrued after December 31, 1986. 2010, c. 24, s. 26 (1).

Same, on wind up

(3) If a pension plan does not provide for payment of surplus to the employer on the wind up of the pension plan, the pension plan shall be construed to require that surplus accrued after December 31, 1986 shall be distributed proportionately

on the wind up of the pension plan among members, former members, retired members and other persons entitled to payments under the pension plan on the date of the wind up. 2010, c. 24, s. 26 (1, 2).

On wind up of successor pension plan

(4) If a pension plan is a successor pension plan and if it is being wound up in whole or in part, the employer is not entitled to payment of surplus under the pension plan unless the documents that created and supported the original pension plan and pension fund and those that create and support the successor pension plan and pension fund both provide for payment of surplus to the employer on the wind up or partial wind up, as the case may be, of the pension plan. 2010, c. 24, s. 26 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (4) is amended by striking out “if it is being wound up in whole or in part” and substituting “if it is being wound up” and by striking out “on the wind up or partial wind up, as the case may be, of the pension plan” at the end and substituting “on the wind up of the pension plan”. See: 2010, c. 24, ss. 26 (3), 49 (4).

Same

(5) Subsection (4) does not preclude a written agreement described in subsection (7) from providing for payment of surplus to the employer in the circumstances specified in the agreement. 2010, c. 24, s. 26 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (5) is amended by adding “or an arbitration award made in accordance with section 77.12” after “a written agreement described in subsection (7)”. See: 2010, c. 24, ss. 26 (4), 49 (4).

Transition

(6) Subsection (4) does not apply if the effective date of the transfer of assets from the original pension plan to the successor pension plan is earlier than the date on which the *Securing Pension Benefits Now and for the Future Act, 2010* received Royal Assent. 2010, c. 24, s. 26 (1).

Agreement about surplus

(7) A written agreement among the following persons may provide for payment of surplus to the employer in the circumstances specified in the agreement and as of the date specified in the agreement:

1. If the surplus is to be paid to the employer while the pension plan continues in existence,
 - i. the employer,
 - ii. at least two-thirds of the members of the pension plan (and, for this purpose, a trade union that represents members may agree on behalf of those members), and
 - iii. the number which is considered appropriate in the circumstances by the Superintendent of former members, retired members and other persons who are entitled to payments under the pension plan as of the specified date for payment of the surplus.
2. If the surplus is to be paid to the employer on the wind up of the pension plan in whole,

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 2 is amended by striking out “on the wind up of the pension plan in whole” in the portion before subparagraph i and substituting “on the wind up of the pension plan”. See: 2010, c. 24, ss. 26 (6), 49 (4).

- i. the employer,
 - ii. at least two-thirds of the members of the pension plan (and, for this purpose, a trade union that represents or represented members on the date of the wind up may agree on behalf of those members), and
 - iii. the number which is considered appropriate in the circumstances by the Superintendent of former members, retired members and other persons who are entitled to payments under the pension plan as of the date of the wind up.
3. If the surplus is to be paid to the employer on the partial wind up of the pension plan,
 - i. the employer,
 - ii. at least two-thirds of the members of the pension plan affected by the partial wind up (and, for this purpose, a trade union that represents or represented affected members on the date of the partial wind up may agree on behalf of those members), and
 - iii. the number which is considered appropriate in the circumstances by the Superintendent of former members, retired members and other persons who are affected by the partial wind up and who are entitled to payments under the pension plan as of the date of the partial wind up. 2010, c. 24, s. 26 (1, 5).

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 3 is repealed. See: 2010, c. 24, ss. 26 (7), 49 (4).

Effect of agreement

(8) A written agreement prevails over any document that creates and supports the pension plan and pension fund, it prevails over subsections (2), (3) and (4), and it prevails despite any trust that may exist in favour of any person. 2010, c. 24, s. 26 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 77.11 is amended by adding the following subsections:

Arbitration award

(9) If a pension plan is being wound up in whole or in part, an arbitration award made in accordance with section 77.12 may provide for the allocation of surplus between the employer, members, former members and other persons entitled to a pension, deferred pension or other benefit under the plan who are affected by the wind up or partial wind up. 2010, c. 24, s. 26 (8).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (9) is amended by striking out “the employer, members, former members” and substituting “the employer, members, former members, retired members”. See: 2010, c. 24, ss. 26 (9), 49 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (9) is amended by striking out “wound up in whole or in part” and substituting “wound up” and by striking out “or partial wind up” at the end. See: 2010, c. 24, ss. 26 (10), 49 (4).

Effect of arbitration award

(10) An arbitration award prevails over any document that creates and supports the pension plan and pension fund, it prevails over subsections (3) and (4), and it prevails despite any trust that may exist in favour of any person. 2010, c. 24, s. 26 (8).

See: 2010, c. 24, ss. 26 (8), 49 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section:

Arbitration re allocation of surplus on wind up

77.12 (1) This section applies with respect to the wind up of a pension plan in whole or in part,

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out “the wind up of a pension plan in whole or in part” in the portion before clause (a) and substituting “the wind up of a pension plan”. See: 2010, c. 24, ss. 27 (2), 40 (4).

- (a) if the Superintendent has not consented, before the expiry of the prescribed period after the date of the wind up, to the payment of surplus to the employer; and
- (b) if no agreement described in subsection 77.11 (7) is entered into before the expiry of the prescribed period after the date of the wind up. 2010, c. 24, s. 27 (1).

Proposal for arbitration

(2) Any of the following persons may file a notice with the Superintendent proposing that arbitration be used to allocate the surplus under the pension plan, and the notice must be accompanied by such information and documents as may be prescribed or as may be specified by the Superintendent:

1. The employer.
2. A trade union that represents members of the pension plan or that, on the date of the wind up, represented members or former members of the pension plan.
3. Any member of the pension plan.
4. Any former member or other person who is entitled to payments under the pension plan as of the date of the wind up. 2010, c. 24, s. 27 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 4 is amended by striking out “Any former member” at the beginning and substituting “Any former member, retired member”. See: 2010, c. 24, ss. 27 (3), 49 (4).

Same

(3) The employer or the trade union, if any, may file the notice with the Superintendent either before or after the expiry of the prescribed period after the date of the wind up. 2010, c. 24, s. 27 (1).

Proposal by Superintendent

(4) The Superintendent, on his or her own initiative, may propose that arbitration be used to allocate the surplus under the pension plan, and may do so either before or after the expiry of the prescribed period after the date of the wind up. 2010, c. 24, s. 27 (1).

Information

(5) At the Superintendent's request, the employer and the administrator of the pension plan shall give the Superintendent such additional information and documents as the Superintendent may specify in connection with the proposed arbitration. 2010, c. 24, s. 27 (1).

Notice of proposed arbitration

(6) The Superintendent may require the administrator to give notice of the proposed arbitration to the persons and in the manner specified by the Superintendent and within a specified period, and the administrator shall do so. 2010, c. 24, s. 27 (1).

Same

(7) When deciding whether to require an administrator to give notice of the proposed arbitration, and the time and manner in which any notice is to be given, the Superintendent may consider the factors that he or she considers appropriate, including such factors as may be prescribed. 2010, c. 24, s. 27 (1).

Appointment of arbitrator

(8) An arbitrator may be appointed by an agreement entered into by the persons who would be authorized to make an agreement under subsection 77.11 (7) and, if no agreement to appoint an arbitrator is reached before the expiry of the prescribed period after notice is given under subsection (6), the Superintendent may appoint an arbitrator if and when he or she considers it appropriate to do so. 2010, c. 24, s. 27 (1).

Same

(9) When deciding whether, or when, to appoint an arbitrator, the Superintendent may consider the factors that he or she considers appropriate, including such factors as may be prescribed. 2010, c. 24, s. 27 (1).

Effect of appointment

(10) If an arbitrator is appointed, either by agreement or by the Superintendent, all of the persons described in paragraphs 1 to 4 of subsection (2) are deemed to have agreed to arbitration under this section and none of them is permitted to commence a civil proceeding in respect of any person's entitlement to surplus under the pension plan. 2010, c. 24, s. 27 (1).

Jurisdiction of arbitrator

(11) The arbitrator shall make an arbitration award allocating the surplus or determining the manner in which the surplus is to be allocated and the proportions to be allocated to the affected persons or classes of persons. 2010, c. 24, s. 27 (1).

Same

(12) When making an arbitration award, the arbitrator may consider the factors that he or she considers appropriate, including such factors as may be prescribed. 2010, c. 24, s. 27 (1).

Parties

(13) The parties to the arbitration are determined in accordance with the regulations, but the Superintendent is not a party to any arbitration under this section. 2010, c. 24, s. 27 (1).

Procedures, etc.

(14) The *Arbitration Act, 1991* applies with respect to the arbitration, with such restrictions and exclusions as may be prescribed by regulation, and the regulations may establish requirements that apply with respect to arbitrations under this section. 2010, c. 24, s. 27 (1).

Effect of arbitration award

(15) The arbitration award is final and binds the parties to the arbitration and every other person affected by it. 2010, c. 24, s. 27 (1).

Costs of arbitration

(16) The arbitrator shall determine how and by whom the costs of the arbitration shall be paid, including whether the costs may be paid out of the pension fund, but the arbitrator cannot order the Superintendent to pay any of the costs of the arbitration. 2010, c. 24, s. 27 (1).

Transition

(17) If the date of the wind up or partial wind up of a pension plan falls before the day on which this section comes into force, and if there is no written agreement before this section comes into force with respect to the payment of surplus, the

allocation of the surplus may be determined by arbitration under this section within the prescribed transitional period and in accordance with such requirements as may be prescribed. 2010, c. 24, s. 27 (1).

See: 2010, c. 24, ss. 27 (1), 49 (4).

Payment out of pension fund to employer

78. (1) No money that is surplus may be paid out of a pension fund to the employer without the prior consent of the Superintendent. R.S.O. 1990, c. P.8, s. 78 (1); 1997, c. 28, s. 200; 2010, c. 24, s. 28 (1).

Application for payment

(2) An employer who applies to the Superintendent for consent to payment of money that is surplus to the employer out of a pension fund shall transmit notice of the application, containing the prescribed information, to,

- (a) each member, former member and retired member of the pension plan to which the pension fund relates;
- (b) each trade union that represents members of the pension plan;
- (b.1) each trade union that represents the members, former members or retired members of the pension plan on the date of the wind up, if the pension plan is being wound up;
- (c) any other individual who is receiving payments out of the pension fund; and
- (d) the advisory committee of the pension plan. R.S.O. 1990, c. P.8, s. 78 (2); 1997, c. 28, s. 200; 2010, c. 9, s. 62 (1, 2).

Representations

(3) A person to whom notice has been transmitted under subsection (2) may make written representations to the Superintendent with respect to the application within thirty days after receiving the notice. R.S.O. 1990, c. P.8, s. 78 (3); 1997, c. 28, s. 200.

(4), (5) REPEALED: 2010, c. 24, s. 28 (2).

Payment of surplus

Continuing pension plan, payment to employer

79. (1) Subject to section 89, the Superintendent shall not consent to payment of surplus to an employer out of a continuing pension plan unless,

- (a) the Superintendent is satisfied, based on reports provided with the employer's application for payment of the surplus, that the pension plan has a surplus;
 - (b) the withdrawal of surplus by the employer while the pension plan continues in existence is authorized either as provided in section 77.11 or by a court order declaring that the employer is entitled to the surplus while the plan continues;
 - (c) where all pension benefits under the pension plan are guaranteed by an insurance company, an amount equal to at least two years of the normal cost of the pension plan, determined in accordance with the regulations, is retained in the pension fund as surplus;
 - (d) the greater of the following amounts is retained in the pension fund as surplus:
 - (i) the sum of "A" and "B" where,
 - "A" is an amount equal to twice the normal cost of the pension plan, and
 - "B" is an amount equal to 5 per cent of the liabilities of the pension plan, determined in accordance with the regulations, and
 - (ii) an amount equal to 25 per cent of the liabilities of the pension plan, determined in accordance with the regulations; and
 - (e) REPEALED: 2010, c. 24, s. 29 (1).
 - (f) the applicant and the pension plan comply with all other requirements prescribed under other sections of this Act in respect of the payment of surplus money out of a pension fund. R.S.O. 1990, c. P.8, s. 79 (1); 1997, c. 28, s. 202 (1, 2); 2010, c. 9, s. 63 (1, 2); 2010, c. 24, s. 29 (1).
- (2) REPEALED: 2010, c. 24, s. 29 (2).

Wind up, payment to employer

(3) Subject to section 89, the Superintendent shall not consent to payment of surplus to an employer out of a pension plan that is being wound up in whole unless,

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (3) is amended by striking out “being wound up in whole” in the portion before clause (a) and substituting “being wound up”. See: 2010, c. 24, ss. 29 (4), 49 (4).

- (a) the Superintendent is satisfied, based on reports provided with the employer’s application for payment of the surplus, that the pension plan has a surplus;
- (b) the payment of surplus to the employer on the wind up of the pension plan is authorized either as provided in section 77.11 or by a court order declaring that the employer is entitled to the surplus when the plan is being wound up;

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) is amended by striking out “section 77.11 or” and substituting “section 77.11, or by an arbitration award made under section 77.12, or”. See: 2010, c. 24, ss. 29 (5), 49 (4).

- (c) provision has been made for the payment of all liabilities of the pension plan as calculated for purposes of the termination of the pension plan; and
- (d) the applicant and the pension plan comply with all other requirements prescribed under other sections of this Act in respect of the payment of surplus. 2010, c. 24, s. 29 (3).

Same, partial wind up

(3.1) Subject to section 89, the Superintendent shall not consent to payment of surplus to an employer out of a pension plan that is being wound up in part unless,

- (a) all of the criteria described in clauses (3) (a), (c) and (d) are satisfied; and
- (b) the payment of surplus to the employer on the partial wind up of the pension plan is authorized either as provided in section 77.11 or by a court order declaring that the employer is entitled to the surplus when the plan is being wound up in part. 2010, c. 24, s. 29 (6).

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) is amended by striking out “section 77.11 or” and substituting “section 77.11, or by an arbitration award made under section 77.12, or”. See: 2010, c. 24, ss. 29 (7), 49 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (3.1) is repealed. See: 2010, c. 24, ss. 29 (8), 49 (4).

(3.2) REPEALED: 2010, c. 24, s. 29 (6).

Wind up, payment to members, etc.

(4) If a pension plan is being wound up in whole or in part, payment from surplus may be made to or for the benefit of members, former members, retired members and other persons, other than an employer, who are entitled to payments under the plan as of the date of the wind up or partial wind up. 2010, c. 24, s. 29 (9, 10).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (4) is amended by striking out “being wound up in whole or in part” and substituting “being wound up” and by striking out “or partial wind up” at the end. See: 2010, c. 24, ss. 29 (11), 49 (4).

(5)-(8) REPEALED: 1997, c. 28, s. 202 (5).

Superintendent’s order re surplus

79.0.1 (1) The Superintendent may order the administrator of a pension plan to distribute surplus in accordance with a written agreement described in subsection 77.11 (7). 2010, c. 24, s. 30 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by adding at the end “or an arbitration award made under section 77.12”. See: 2010, c. 24, ss. 30 (2), 49 (4).

Same

- (2) The order of the Superintendent is final. 2010, c. 24, s. 30 (1).

Enforcement

(3) An order under this section, excluding the reasons for the order, may be filed in the Superior Court of Justice and upon being filed it is enforceable as an order of that Court. 2010, c. 24, s. 30 (1).

ASSET TRANSFERS BETWEEN PENSION PLANS

Prohibition on asset transfers

Transfers re defined benefits

79.1 (1) No person shall transfer assets between pension plans if the transferred assets relate to the provision of defined benefits unless,

- (a) the transfer is authorized under section 21, 42, 80, 80.1, 80.2, 80.4 or 81; or

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (a) is repealed and the following substituted: (See: 2014, c. 7, Sched. 26, ss. 9 (2), 15 (1))

- (a) the transfer is authorized under section 21, 42, 80, 80.2, 80.4 or 81; or

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (a) is repealed and the following substituted: (See: 2014, c. 7, Sched. 26, ss. 9 (3), 15 (1))

- (a) the transfer is authorized under section 21, 42, 80, 80.1, 80.2, 80.3, 80.4 or 81; or

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (a) is repealed and the following substituted: (See: 2014, c. 7, Sched. 26, ss. 9 (4), 15 (1))

- (a) the transfer is authorized under section 21, 42, 80, 80.2, 80.3, 80.4 or 81; or

- (b) the transfer satisfies the prescribed requirements and the Superintendent has consented in advance to the transfer. 2010, c. 9, s. 65 (1); 2014, c. 7, Sched. 26, s. 9 (1).

Transfers re defined contributions

(2) No person shall transfer assets between pension plans if the transferred assets relate to the provision of defined contribution benefits unless,

- (a) the transfer is authorized under section 21, 42, 80, 80.2 or 81; or

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 79.1 (2) (a) of the Act is amended by striking out “transfer is authorized under section 21, 42” and substituting “transfer is authorized under section 21, 39.1, 42”. (See: 2015, c. 20, Sched. 34, s. 6)

- (b) the transfer satisfies the prescribed requirements and the Superintendent has consented to the transfer. 2012, c. 8, Sched. 44, s. 6.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 79.1 is amended by adding the following subsection:

Transfers re target benefits

(3) No person shall transfer assets between pension plans if the transferred assets relate to the provision of target benefits unless the transfer satisfies the prescribed requirements and the Superintendent has consented in advance to the transfer. 2010, c. 24, s. 31 (2).

See: 2010, c. 24, ss. 31 (2), 49 (4).

Requirements, etc., for all asset transfers

79.2 (1) In this section,

“original pension plan” means the pension plan from which assets are transferred, and includes the pension fund for that pension plan; (“premier régime de retraite”)

“successor pension plan” means the pension plan to which assets are transferred, and includes the pension fund for that pension plan. (“régime de retraite subséquent”) 2010, c. 9, s. 66 (1).

Application

(2) This section applies to every transfer of assets between pension plans that is authorized under section 79.1, 80, 80.1, 80.2 or 81. 2010, c. 9, s. 66 (1).

Note: On July 1, 2017, subsection (2) is amended by striking out “80.1”. See: 2010, c. 9, ss. 66 (2), 80 (4); 2014, c. 7, Sched. 26, s. 14; 2016, c. 5, Sched. 22, s. 4.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 79.2 is amended by adding the following subsection:

Same, transfers between certain public sector pension plans

(2.1) For a transfer of assets to which section 80.3 applies,

- (a) subsections (4), (5), (6), (7) and (14) apply, with necessary modifications, with respect to the original pension plan and its administrator; and

- (b) subsections (8) and (9) apply with respect to individuals. 2010, c. 24, s. 32 (1).

See: 2010, c. 24, ss. 32 (1), 49 (4).

Same, transfers to jointly sponsored pension plan

(2.2) Subsections (3) to (5), (7) to (9) and (14) to (16) apply, with necessary modifications, with respect to a transfer of assets to which section 80.4 applies. 2014, c. 7, Sched. 26, s. 10.

Effective date

(3) The effective date of the transfer of assets is determined in accordance with the regulations. 2010, c. 9, s. 66 (1).

Conditions re defined benefits

(4) If any of the assets to be transferred relate to the provision of defined benefits in the original pension plan, the transferred assets must be used to provide defined benefits in the successor pension plan at the effective date, in accordance with such requirements as may be prescribed. 2010, c. 9, s. 66 (1).

Conditions re funding

(5) Every transfer of assets must satisfy such funding requirements as may be prescribed. 2010, c. 9, s. 66 (1).

Same

(6) If either pension plan has going concern unfunded liabilities or solvency deficiencies determined as of the effective date of the transfer, the transfer of assets must satisfy such additional requirements as may be prescribed. 2010, c. 9, s. 66 (1).

Duty of administrator

(7) The administrator of each pension plan shall comply with such requirements as may be prescribed with respect to the transfer of assets between the pension plans, including any requirement to give notice about the transfer. 2010, c. 9, s. 66 (1); 2010, c. 24, s. 32 (2).

Transfer to prescribed retirement savings arrangement

(8) If the amount of the assets to be transferred in relation to an individual's pension benefits and other benefits under the original pension plan is greater than the amount allowed under the *Income Tax Act* (Canada) for such a transfer, the administrator of the original pension plan shall pay the portion that exceeds that allowed amount into a prescribed retirement savings arrangement on behalf of the individual. 2010, c. 24, s. 32 (3).

Exception

(9) If the amount to be paid under subsection (8) into a prescribed retirement savings arrangement is greater than the amount prescribed under the *Income Tax Act* (Canada) for such a transfer, the administrator shall pay the portion that exceeds the prescribed amount as a lump sum to the individual. 2010, c. 9, s. 66 (1).

Effect of transfer of assets

(10) When the assets are transferred in accordance with this Act and the regulations, the transferred assets become part of the assets of the pension fund for the successor pension plan and they cease to be identified as assets of the original pension plan. 2010, c. 9, s. 66 (1).

Same, status of transferred members, etc.

(11) When the assets are transferred in accordance with this Act and the regulations,

- (a) the employer who is the sponsor of the successor pension plan assumes responsibility for providing pension benefits and other benefits under the original pension plan to the transferred members, former members, retired members and other persons entitled to payments under that plan, and they have no further claim against the original pension plan; or
- (b) in the case of a transfer of assets between multi-employer pension plans that are established pursuant to a collective agreement or trust agreement,
 - (i) the successor pension plan shall be amended to provide that the pension benefits and other benefits provided under the original pension plan to the transferred members, former members, retired members and other persons entitled to payments under the original pension plan shall be provided under the successor pension plan, and
 - (ii) the transferred members, former members, retired members and other persons entitled to payments under the original pension plan have no further claim against the original pension plan. 2015, c. 38, Sched. 17, s. 1.

Pension benefits, etc., under successor pension plan

(12) Subsection (11) does not require the successor pension plan to provide the same pension benefits and other benefits for the transferred members that were provided for them under the original pension plan. 2010, c. 9, s. 66 (1).

Claims of transferred members, etc.

(13) Subsection (12) does not affect any claims of the transferred members, former members, retired members or other persons under the successor pension plan. 2010, c. 9, s. 66 (1).

Discharge of administrator

(14) If the transfer of assets is made with the consent of the transferred member, former member, retired member or other person, the administrator of the original pension plan is discharged on transferring the assets in accordance with this Act and the regulations. 2010, c. 9, s. 66 (1).

Order to return assets

(15) The Superintendent by order may require the administrator of the successor pension plan to return to the original pension plan, with interest calculated in the prescribed manner, assets transferred in contravention of this Act or the regulations. 2010, c. 9, s. 66 (1).

Enforcement

(16) Subject to section 89, an order under subsection (15), exclusive of the reasons therefor, may be filed in the Superior Court of Justice and is thereupon enforceable as an order of that court. 2010, c. 9, s. 66 (1).

Transfers upon the sale of a business

Definitions

80. (1) In this section,

“employers’ agreement” means the agreement described in subsection (6); (“accord des employeurs”)

“original employer” means the employer who sells, assigns or otherwise disposes of all or part of the employer’s business or all or part of the assets of the employer’s business; (“premier employeur”)

“original pension plan” means the original employer’s pension plan; (“premier régime de retraite”)

“sale of the business” means the sale, assignment or other disposal referred to in subsection (2) of all or part of a business or all or part of the assets of the business; (“vente de l’entreprise”)

“successor employer” means the person who acquires the business or the assets of the original employer; (“employeur subséquent”)

“successor pension plan” means the successor employer’s pension plan; (“régime de retraite subséquent”)

“transferred member” means the original employer’s employee who is a member of the original pension plan who becomes the successor employer’s employee and a member of the successor pension plan in connection with the sale of the business. (“participant transféré”) 2010, c. 9, s. 68.

Application

(2) This section applies if an employer who contributes under a pension plan (or on whose behalf another person or entity makes contributions under a pension plan) sells, assigns or otherwise disposes of all or part of the employer’s business or all or part of the assets of the employer’s business to another person or entity. 2010, c. 9, s. 68.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 80 is amended by adding the following subsection:

Same, transfers between certain public sector pension plans

(2.1) If section 80.3 applies with respect to a transfer of assets,

(a) subsections (3) and (5) to (9) apply, with necessary modifications, with respect to the transfer; and

(b) if the transfer requires the consent of the eligible former employee and if he or she does not consent to the transfer, clauses (4) (a) and (c) apply. 2010, c. 24, s. 33 (1).

See: 2010, c. 24, ss. 33 (1), 49 (4).

Transfer of employment

(3) If, in conjunction with the sale of the business, an employee of the original employer who is a member of the original pension plan becomes an employee of the successor employer and a member of the successor pension plan, his or her employment is deemed, for the purposes of this Act, not to have been terminated by the change of employer. 2010, c. 9, s. 68.

Transferred employees’ entitlements

(4) If the original employer's employee who is a member of the original pension plan becomes the successor employer's employee and a member of the successor pension plan,

- (a) he or she continues to be entitled to the benefits provided under the original pension plan in respect of employment in Ontario or in a designated jurisdiction to the effective date of the sale of the business without further accrual;
- (b) he or she is entitled to credit in the successor pension plan for the period of his or her membership in the original pension plan, for the purpose of determining eligibility for membership in or entitlement to benefits under the successor pension plan; and
- (c) he or she is entitled to credit in the original pension plan for the period of employment with the successor employer for the purpose of determining entitlement to benefits under the original pension plan. 2010, c. 9, s. 68; 2010, c. 1, Sched. 23, s. 7 (4).

Exception

(5) If the successor employer assumes responsibility for the accrued pension benefits of the transferred member under the original pension plan, clause (4) (a) does not apply with respect to him or her and the successor pension plan is deemed to be a continuation of the original pension plan with respect to any benefits or assets transferred. 2010, c. 9, s. 68.

Employers' agreement to transfer assets, etc.

- (6) The original employer and the successor employer may enter into an agreement,
 - (a) to transfer to the successor employer the responsibility for providing pension benefits and other benefits under the original pension plan for transferred members, former members, retired members and other persons entitled to benefits or for classes of them; and
 - (b) to transfer assets from the original pension plan to the successor pension plan in connection with this transfer of responsibility. 2010, c. 9, s. 68.

Same

(7) A person or entity required to make contributions on behalf of the original employer or the successor employer, as the case may be, under the employer's pension plan may enter into the employers' agreement on behalf of that employer. 2010, c. 9, s. 68.

Same

(8) Clause (6) (a) does not require the successor pension plan to provide the same pension benefits and other benefits for the transferred members that were provided for them under the original pension plan. 2010, c. 9, s. 68.

Consent of members, etc.

(9) If the employers' agreement provides for the consent of any member, the consent of any former member, the consent of any retired member or the consent of any other person to the transfer of assets in respect of his or her pension benefits and ancillary benefits for which any eligibility requirements have been met,

- (a) the agreement must give all members, all former members, all retired members or all other persons, as the case may be, the opportunity to consent to the transfer of assets in respect of their pension benefits and ancillary benefits for which any eligibility requirements have been met; and
- (b) their prior consent must be obtained in accordance with such requirements as may be prescribed. 2011, c. 9, Sched. 35, s. 7 (1).

Requirement for Superintendent's consent

(10) The Superintendent's prior consent is required to authorize the transfer of assets from the original pension plan to the successor pension plan. 2010, c. 9, s. 68.

Application for consent

(11) The administrator of either pension plan or such other person as may be prescribed may apply for the Superintendent's consent to the transfer of assets from the original pension plan to the successor pension plan. 2010, c. 9, s. 68.

Notice of application

(12) If the employers' agreement to transfer assets requires the consent of transferred members, former members, retired members or other persons, the applicant shall ensure that notice of the application for the Superintendent's consent is given in accordance with such requirements as may be prescribed. 2010, c. 9, s. 68.

Statutory criteria for Superintendent's consent

(13) The Superintendent shall consent to the transfer of assets in accordance with the application and in accordance with the employers' agreement if all of the following criteria, and such other criteria as may be prescribed, are satisfied:

1. The original employer and the successor employer must have entered into an agreement to transfer the assets, and the applicant must give the Superintendent notice of their agreement.
2. If the agreement requires the consent of the transferred members, former members and retired members of the original pension plan, or the consent of other persons entitled to benefits under the original pension plan, their consent must have been given for the transfer, and the applicant must give the Superintendent notice of their consent.
3. The administrators of the two pension plans must have agreed upon the manner of determining the amount of the assets to be transferred, and the applicant must give the Superintendent notice of their agreement.
4. If the pension benefits and other benefits to be provided under the successor pension plan for the transferred members are not the same as the pension benefits and other benefits provided for them under the original pension plan, the commuted value of the benefits provided for the transferred members under the successor pension plan must not be less than the commuted value of the benefits provided for them under the original pension plan, as adjusted for any payments made from the original pension plan to a prescribed retirement savings arrangement or directly to the transferred members in connection with the transfer of the assets.
5. The commuted value of the benefits referred to in paragraph 4 is determined as of the effective date of the transfer of the assets.
6. If the original pension plan has a surplus as of the effective date of the transfer of assets, the amount of assets to be transferred must include a portion of the surplus determined in accordance with the regulations. 2010, c. 9, s. 68; 2010, c. 24, s. 33 (2, 3); 2011, c. 9, Sched. 35, s. 7 (2).

Notices

(14) The notices required by subsection (13) must comply with such requirements as may be prescribed. 2010, c. 9, s. 68.

Waiver of conditions

(15) The Superintendent may waive one or more of the conditions referred to in subsections 79.2 (5) and (6) in the prescribed circumstances. 2010, c. 9, s. 68.

Transition, transfers upon the sale of a business

Interpretation

80.1 (1) In this section,

“original employer” means the employer who sells, assigns or otherwise disposes of all or part of the employer's business or all or part of the assets of the employer's business; (“premier employeur”)

“original pension plan” means the original employer's pension plan; (“premier régime de retraite”)

“sale of the business” means the sale, assignment or other disposal referred to in subsection (2) of all or part of a business or all or part of the assets of the business; (“vente de l'entreprise”)

“successor employer” means the person who acquires the business or the assets of the original employer; (“employeur subséquent”)

“successor pension plan” means the successor employer's pension plan; (“régime de retraite subséquent”)

“transfer agreement” means the agreement described in subsection (4). (“accord de transfert”) 2010, c. 9, s. 68.

Application

(2) This section applies if both of the following criteria are satisfied:

1. Before the day on which this section comes into force, an employer who contributes under a pension plan (or on whose behalf another person or entity makes contributions under a pension plan) sells, assigns or otherwise disposes of all or part of the employer's business or all or part of the assets of the employer's business to another person or entity.
2. The pension plan is in a prescribed class of pension plans or is a prescribed pension plan. 2011, c. 9, Sched. 35, s. 8 (1).

Eligible employees

(3) This section applies with respect to employees of the original employer who were members of the original pension plan and who, in connection with the sale of the business, become the successor employer's employees and members of the successor pension plan. 2010, c. 9, s. 68.

Transfer agreement

(4) The administrator of the original pension plan and the administrator of the successor pension plan or such other persons as may be prescribed may enter into one or more agreements,

- (a) authorizing eligible employees who are employed by the successor employer on the day this section comes into force to elect to transfer the value of their accrued pension benefits under the original pension plan to the successor pension plan;
- (a.1) authorizing eligible employees whose employment with the successor employer or whose membership in the successor pension plan terminated on or after May 18, 2010 and before the date on which this section comes into force to elect to transfer the value of their accrued pension benefits under the original pension plan to the successor pension plan;
- (b) transferring to the successor employer the responsibility for providing pension benefits and other benefits under the original pension plan for all or any of the eligible employees who make the election described in clause (a) or (a.1);
- (c) authorizing the transfer of assets from the original pension plan to the successor pension plan in connection with this transfer; and
- (d) establishing the manner of determining the amount of assets to be transferred. 2010, c. 9, s. 68; 2010, c. 24, s. 34 (1); 2011, c. 9, Sched. 35, s. 8 (2, 3); 2014, c. 7, Sched. 26, s. 11 (1).

Same

(4.1) A transfer agreement may authorize the election described in clause (4) (a) or (a.1) or in both clauses. 2011, c. 9, Sched. 35, s. 8 (4).

Same, employers

(5) A person or entity required to make contributions on behalf of the original employer or the successor employer, as the case may be, under the employer's pension plan may enter into the transfer agreement on behalf of that employer. 2010, c. 9, s. 68.

Same, eligible employees

(6) The transfer agreement cannot authorize individuals to elect to make the transfer described in clause (4) (a) or (a.1) if, before May 18, 2010, they began receiving a pension from the original pension plan or the successor pension plan. 2012, c. 8, Sched. 44, s. 7.

Same, benefits

(7) Neither clause (4) (b) nor subsection 79.2 (11) requires the successor pension plan to provide the same pension benefits and other benefits for the eligible employees who make the election described in clause (4) (a) or (a.1) that were provided for them under the original pension plan. 2014, c. 7, Sched. 26, s. 11 (2).

Same, prescribed requirements

(8) The transfer agreement must satisfy such requirements as may be prescribed. 2010, c. 9, s. 68.

Duty to transfer assets

(9) The administrator of the original pension plan shall transfer assets to the successor pension plan in accordance with the transfer agreement if all of the following criteria, and such other criteria as may be prescribed, are satisfied:

1. The transfer agreement must be filed with the Superintendent before the assets are transferred.
2. The transfer agreement must establish the manner of determining the amount of assets to be transferred.
3. Eligible employees must have been given notice of their right, under the transfer agreement, to elect to transfer the value of their accrued pension benefits and the ancillary benefits for which they have met the eligibility requirements to the successor pension plan, and the notice must satisfy such requirements as may be prescribed.
4. The eligible employees who elected to make this transfer must have made their election in accordance with the transfer agreement and in accordance with such other requirements as may be prescribed. 2010, c. 9, s. 68; 2010, c. 24, s. 34 (2).

Repeal

(10) This section is repealed on July 1, 2017. 2010, c. 9, s. 68; 2014, c. 7, Sched. 26, s. 11 (3); 2015, c. 20, Sched. 34, s. 7.

Transfers upon a change of trade unions, MEPPs

80.2 (1) This section applies if a group of members of a multi-employer pension plan (the “original pension plan”) are represented by a trade union and, in accordance with section 62 of the *Labour Relations Act, 1995*, the trade union ceases to represent the members and they become represented by a different trade union certified as their bargaining agent and become members of a different pension plan (the “successor pension plan”). 2010, c. 9, s. 69.

Transfer, election by members

(2) The administrator of the original pension plan shall transfer to the successor pension plan all the assets and liabilities respecting those members who have elected under section 42 to transfer their entitlement to the successor pension plan and the administrator of the successor pension plan shall accept them as assets and liabilities of the successor pension plan. 2010, c. 9, s. 69.

Transfer, other circumstances

(3) If the members of the original pension plan are not entitled to make an election under section 42, the administrator shall transfer to the successor pension plan all assets and liabilities of the pension plan attributable to such members determined as prescribed and the administrator of the successor pension plan shall accept them as assets and liabilities, determined as prescribed, of the successor pension plan. 2010, c. 9, s. 69.

Exception

(4) This section does not apply where there is a reciprocal transfer agreement respecting the pension plans or in such other circumstances as may be prescribed. 2010, c. 9, s. 69; 2010, c. 24, s. 35.

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section:

Transfers between certain public sector pension plans

Definitions

80.3 (1) In this section,

“federal public service” has the same meaning as “public service” in subsection 2 (1) of the *Public Service Employment Act* (Canada); (“fonction publique fédérale”)

“Public Service Superannuation Plan (Canada)” means the pension plan established under the *Public Service Superannuation Act* (Canada). (“Régime de pension de retraite de la fonction publique (Canada)”) 2010, c. 24, s. 36.

Interpretation

(2) Expressions used in this section have the same meaning as in section 80 unless the context requires otherwise. 2010, c. 24, s. 36.

Eligible former employees

(3) A person who ceases to be employed in the Ontario public sector is an eligible former employee for the purposes of this section if he or she becomes an employee in the federal public service in connection with the sale of a business to the Government of Canada. 2010, c. 24, s. 36.

Application

(4) This section applies with respect to the transfer of assets from such public sector pension plans as may be prescribed to the Public Service Superannuation Plan (Canada) in respect of eligible former employees. 2010, c. 24, s. 36.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 80.3 is amended by adding the following subsection:

Exception

(4.1) However, this section does not apply with respect to a transfer of assets under section 6.1 of the *Ministry of Revenue Act*. 2011, c. 9, Sched. 35, s. 9.

See: 2011, c. 9, Sched. 35, ss. 9, 14 (2).

Requirement for Superintendent’s consent

(5) The Superintendent’s prior consent is required to authorize a transfer of assets from the original pension plan to the successor pension plan, and the Superintendent shall consent to the transfer if the requirements of this Act are satisfied. 2010, c. 24, s. 36.

Same

(6) The administrator of the original pension plan or such other person as may be prescribed may apply for the Superintendent's consent to the transfer of assets from the original pension plan to the successor pension plan. 2010, c. 24, s. 36.

Same, if eligible former employee's consent is required

(7) If the employers' agreement requires the prior consent of an eligible former employee to the transfer of assets in respect of his or her benefits and if the eligible former employee gives his or her consent in accordance with the agreement, the administrator of the original pension plan is authorized to transfer the assets in accordance with the employers' agreement. 2010, c. 24, s. 36.

Commuted value

(8) If the pension benefits and other benefits to be provided under the successor pension plan for the eligible former employees are not the same as the pension benefits and other benefits provided for them under the original pension plan, the commuted value of the benefits provided for them under the successor pension plan must not be less than the commuted value of the benefits provided for them under the original pension plan, as adjusted for any payments made from the original pension plan to a prescribed retirement savings arrangement or directly to the eligible former members in connection with the transfer of assets. 2010, c. 24, s. 36.

Same

(9) The commuted value of the benefits referred to in subsection (8) is determined as of the effective date of the transfer of the assets. 2010, c. 24, s. 36.

See: 2010, c. 24, ss. 36, 49 (4).

Transfers to jointly sponsored pension plan (conversion of single employer pension plan)

80.4 (1) This section applies with respect to pension plans that are public sector pension plans and with respect to prescribed pension plans or classes of pension plans. 2014, c. 7, Sched. 26, s. 12.

Proposed conversion and transfer of assets

(2) This section applies if an employer proposes to convert a single employer pension plan that provides defined benefits into a jointly sponsored pension plan, and proposes to implement the conversion through a transfer of assets and liabilities from the single employer pension plan to another pension plan that is a jointly sponsored pension plan. 2014, c. 7, Sched. 26, s. 12.

Requirements re: defined contribution benefits

(3) If the single employer pension plan provides defined contribution benefits as well as defined benefits, the transfer of assets is not authorized unless the employer complies with such requirements relating to the defined contribution benefits as may be prescribed. 2014, c. 7, Sched. 26, s. 12.

Notice of proposal

(4) The administrator shall give the members, former members, retired members and other persons entitled to benefits under the single employer pension plan a notice about the proposed conversion of the pension plan and transfer of assets to the jointly sponsored pension plan, in accordance with such requirements as may be prescribed by regulation, and the notice must contain the following information and such other information as may be prescribed:

1. A statement that the employer and the members of a jointly sponsored pension plan are required to make contributions in respect of any going concern unfunded liability and solvency deficiency, if applicable, and that these contributions may be required in respect of benefits that accrued before the date of the transfer of assets.
2. A statement indicating that on the wind up of a jointly sponsored pension plan, the amount or commuted value of a pension benefit, a deferred pension or an ancillary benefit may be reduced.
3. A statement that pension benefits provided by jointly sponsored pension plans are not guaranteed by the Guarantee Fund.
4. If applicable, a statement that the jointly sponsored pension plan and its members are excluded from the operation of section 74 (grow-in benefits for members). 2014, c. 7, Sched. 26, s. 12.

Same, to trade union

(5) The administrator shall give notice of the proposed conversion and transfer of assets to any trade union that represents members of the single employer pension plan, and the notice must be given within the prescribed period and must contain the information specified by the regulations. 2014, c. 7, Sched. 26, s. 12.

Requirement re: consent of members, etc.

(6) The transfer of assets is not authorized unless the members, former members, retired members and other persons entitled to benefits under the single employer pension plan consent to the proposed conversion and transfer of assets, or are deemed in accordance with the regulations to have consented to the conversion and transfer. 2014, c. 7, Sched. 26, s. 12.

Same

(7) The consent of the members, former members, retired members and other persons entitled to benefits under the single employer pension plan to the proposed conversion and transfer of assets must be obtained in accordance with such requirements as may be prescribed by regulation, and the regulations may permit a trade union that represents members of the pension plan to consent on their behalf. 2014, c. 7, Sched. 26, s. 12.

Same

(8) The regulations may authorize the Superintendent to vary the prescribed requirements for determining whether consent is given or is deemed to have been given by the members of the single employer pension plan, and to vary the prescribed requirements for obtaining their consent. 2014, c. 7, Sched. 26, s. 12.

Notice to Superintendent

(9) The administrator shall give notice of the proposed conversion and transfer of assets to the Superintendent and the notice must be given within the prescribed period and must contain the information specified by the regulations. 2014, c. 7, Sched. 26, s. 12.

Requirement re: consent of Superintendent

(10) The transfer of assets is not authorized unless the Superintendent consents to it in advance. 2014, c. 7, Sched. 26, s. 12.

Application for Superintendent's consent

(11) The employer may apply for the Superintendent's consent to the transfer of assets from the single employer pension plan to the jointly sponsored pension plan. 2014, c. 7, Sched. 26, s. 12.

Notice of application

(12) The administrator shall ensure that notice of the application for the Superintendent's consent is given to members, former members, retired members and other persons entitled to benefits under the single employer pension plan, and to any trade union that represents members of the plan, in accordance with such requirements as may be prescribed. 2014, c. 7, Sched. 26, s. 12.

Statutory criteria for Superintendent's consent

(13) The Superintendent shall consent to the transfer of assets in accordance with the application if all of the following criteria, and such other criteria as may be prescribed, are satisfied:

1. Notice of the application for the Superintendent's consent has been given in accordance with this section to the members, former members, retired members and other persons entitled to benefits under the single employer pension plan and to any trade union that represents members of the plan.
2. The employer of the single employer pension plan and the sponsors of the jointly sponsored pension plan have entered into an agreement with respect to the proposed transfer of assets.
3. Notice of the proposed conversion of the pension plan and transfer of assets has been given in accordance with this section to the members, former members, retired members and other persons entitled to benefits under the plan, to any trade union that represents members of the plan and to the Superintendent.
4. Consent to the proposed conversion and transfer of assets has been given or is deemed to have been given, in accordance with this section, by the members, former members, retired members and other persons entitled to benefits under the plan.
5. As of the effective date of the transfer, the employer is a participating employer under the jointly sponsored pension plan.
6. As of the effective date of the transfer, the transferred members and other transferees cease to be entitled to benefits under the single employer pension plan and they are entitled to benefits under the jointly sponsored pension plan.

7. As of the effective date of the transfer, the commuted value of the pension benefits provided under the jointly sponsored pension plan for the transferred members is not less than the commuted value of their pension benefits under the single employer pension plan.
8. As of the effective date of the transfer, the pension benefits provided under the jointly sponsored pension plan for the other transferees are, at a minimum, the same as the pension benefits provided for them under the single employer pension plan.
9. As of the effective date of the transfer, every transferred member is entitled to credit in the jointly sponsored pension plan for the period of his or her membership in the single employer pension plan for the purpose of determining eligibility for membership in, or entitlement to benefits under, the jointly sponsored pension plan. 2014, c. 7, Sched. 26, s. 12.

Amount of assets to be transferred

(14) The regulations may authorize the Superintendent, in prescribed circumstances, to vary the amount of assets otherwise required to be transferred from the single employer pension plan to the jointly sponsored pension plan. 2014, c. 7, Sched. 26, s. 12.

Surplus

(15) If any assets remain in the single employer pension plan after the transfer of assets under this section, the amount of the remaining assets, excluding any assets that relate to defined contribution benefits, is deemed to be surplus under the single employer pension plan. 2014, c. 7, Sched. 26, s. 12.

Exclusion from grow-in benefits

(16) If the jointly sponsored pension plan and its members are excluded from the operation of section 74 (grow-in benefits for members) on the effective date of the transfer of assets, the transferred members are excluded from the operation of section 74 as of that date. 2014, c. 7, Sched. 26, s. 12.

Cancellation, etc., of special payments

(17) If, before the effective date of the transfer of assets, the employer is required to make special payments under the single employer pension plan in respect of a going concern unfunded liability or solvency deficiency, the regulations may specify circumstances in which the requirement to make special payments on or after the effective date of the transfer of assets is cancelled or the amount of the special payments is reduced, and the regulations may impose conditions relating to the cancellation or reduction. 2014, c. 7, Sched. 26, s. 12.

Withdrawal as participating employer

(18) If, after the transfer of assets, the employer withdraws as a participating employer in the jointly sponsored pension plan, the employer shall, in the prescribed circumstances, pay the prescribed amount into the pension fund of the jointly sponsored pension plan for the benefit of the transferred members and other transferees. 2014, c. 7, Sched. 26, s. 12.

Conflict

(19) This section prevails over any document that creates and supports the single employer pension plan or the jointly sponsored pension plan and over any collective agreement and it prevails despite any trust that may exist in favour of any person. 2014, c. 7, Sched. 26, s. 12.

Crown immunity

(20) The following rules apply with respect to the transfer of assets from the single employer pension plan to the jointly sponsored pension plan, if the transfer complies with this Act and the regulations:

1. Any reduction in the amount or the commuted value of a pension benefit, an ancillary benefit, a pension or a deferred pension that results from the transfer of assets is deemed not to constitute an expropriation.
2. No amount on account of damages, compensation or costs is owing or payable to any person and no remedy is available to any person against the Crown in connection with the transfer of assets. This rule does not apply with respect to an arbitration proceeding under section 77.12.
3. No action, claim or demand that is directly or indirectly related to the transfer of assets may be brought or maintained against the Crown. This rule does not apply with respect to an arbitration proceeding under section 77.12. 2014, c. 7, Sched. 26, s. 12.

Expenses incurred by trade union

(21) If a trade union that represents members of the single employer pension plan is entitled to vote on the conversion and transfer of assets on behalf of the members, the trade union is entitled to be reimbursed from the pension fund its reasonable fees and expenses, of the type that are prescribed, relating to the vote. 2014, c. 7, Sched. 26, s. 12.

Order to return contributions

(22) If the transfer of assets does not comply with this Act or the regulations, the Superintendent may, by order, require the administrator of the jointly sponsored pension plan to pay to a transferred member from the pension fund the amount by which the transferred member's contributions, made on or after the effective date of the transfer of assets, exceed the amount that would have been payable by him or her if the transfer had not been implemented, with interest calculated in the prescribed manner. 2014, c. 7, Sched. 26, s. 12.

Enforcement

(23) Subject to section 89, an order under subsection (22), exclusive of the reasons therefor, may be filed in the Superior Court of Justice and is thereupon enforceable as an order of that court. 2014, c. 7, Sched. 26, s. 12.

Definitions

(24) In this section,

“other transferees” means the individuals who are former members, retired members and other persons entitled to benefits under the single employer pension plan immediately before the effective date of the transfer of assets described in this section to the jointly sponsored pension plan; (“autres personnes transférées”)

“transferred members” means the individuals who are members of the single employer pension plan immediately before the effective date of the transfer of assets described in this section to the jointly sponsored pension plan. (“participants transférés”) 2014, c. 7, Sched. 26, s. 12.

Adoption of successor pension plan

81. (1) Where a pension plan is established by an employer to be a successor to an existing pension plan and the employer ceases to make contributions to the original pension plan, the original pension plan shall be deemed not to be wound up and the successor pension plan shall be deemed to be a continuation of the original pension plan. R.S.O. 1990, c. P.8, s. 81 (1); 2010, c. 9, s. 70 (1).

Same, multi-employer pension plans

(1.1) Where a multi-employer pension plan established pursuant to a collective agreement or trust agreement is amended to be a successor to an existing multi-employer pension plan established pursuant to a collective agreement or trust agreement and the participating employers cease to make contributions to the original multi-employer pension plan, the original pension plan shall be deemed not to be wound up and the successor pension plan shall be deemed to be a continuation of the original pension plan. 2015, c. 38, Sched. 17, s. 2 (1).

Continuation of benefits

(2) The benefits under the original pension plan in respect of employment and membership before the establishment of the successor pension plan are deemed to be benefits under the successor pension plan. 2010, c. 9, s. 70 (2); 2015, c. 38, Sched. 17, s. 2 (2).

Same

(2.1) Subsection (2) does not require the successor pension plan to provide the same pension benefits and other benefits for the transferred members that were provided for them under the original pension plan. 2010, c. 9, s. 70 (2).

Application of subs. (2)

(3) Subsection (2) applies whether or not the assets and liabilities of the original pension plan are consolidated with those of the successor pension plan. R.S.O. 1990, c. P.8, s. 81 (3); 2010, c. 9, s. 70 (3).

Requirement for Superintendent's consent

(4) The Superintendent's prior consent is required to authorize the transfer of assets from the original pension plan to the successor pension plan. 2010, c. 9, s. 70 (4).

Application

(5) The administrator of either pension plan or such other persons as may be prescribed may apply for the Superintendent's consent to the transfer of assets from the original pension plan to the successor pension plan. 2010, c. 9, s. 70 (4).

Statutory criteria for Superintendent's consent

(6) The Superintendent shall consent to the transfer of assets in accordance with the application if all of the following criteria, and such other criteria as may be prescribed, are satisfied:

1. The administrators of the two pension plans must have agreed upon the manner of determining the amount of assets to be transferred, and the applicant must give the Superintendent notice of their agreement.
2. If the pension benefits and other benefits to be provided under the successor pension plan for the transferred members are not the same as the pension benefits and other benefits provided for them under the original pension plan, the commuted value of the benefits provided for the transferred members under the successor pension plan must not be less than the commuted value of the benefits provided for them under the original pension plan, as adjusted for any payments made from the original pension plan to a prescribed retirement savings arrangement or directly to the transferred members in connection with the transfer of the assets.
3. The commuted value of the benefits referred to in paragraph 2 is determined as of the effective date of the transfer of the assets.
4. If the original pension plan has a surplus as of the effective date of the transfer of assets, the amount of assets to be transferred must include a portion of the surplus determined in accordance with the regulations. 2010, c. 9, s. 70 (4); 2010, c. 24, s. 37.

Waiver of conditions

(7) The Superintendent may waive one or more of the conditions referred to in subsections 79.2 (5) and (6) in the prescribed circumstances. 2010, c. 9, s. 70 (4).

(8) REPEALED: 2010, c. 9, s. 70 (5).

CONVERSION OF SINGLE EMPLOYER PENSION PLANS

Conversion by amending the pension plan

81.0.1 (1) This section applies with respect to single employer pension plans that are public sector pension plans and with respect to prescribed pension plans or classes of pension plans. 2014, c. 7, Sched. 26, s. 13.

Proposed conversion

(2) This section applies if an employer proposes to convert a single employer pension plan that provides defined benefits into a jointly sponsored pension plan, and proposes to implement the conversion by amending the pension plan. 2014, c. 7, Sched. 26, s. 13.

Restriction re: filing of amendments

(3) Amendments to the pension plan to convert it into a jointly sponsored pension plan cannot be filed under section 12 until the requirements of this section are satisfied. 2014, c. 7, Sched. 26, s. 13.

Requirements re: defined contribution benefits

(4) If the single employer pension plan provides defined contribution benefits as well as defined benefits, the conversion of the pension plan is not authorized unless the employer complies with such requirements relating to the defined contribution benefits as may be prescribed. 2014, c. 7, Sched. 26, s. 13.

Notice of proposed conversion

(5) The administrator shall give notice of the proposed conversion to the members, former members, retired members and other persons entitled to benefits under the plan, in accordance with such requirements as may be prescribed by regulation, and the notice must contain the following information and such other information as may be prescribed:

1. A statement that the employer and the members of a jointly sponsored pension plan are required to make contributions in respect of any going concern unfunded liability and solvency deficiency, if applicable, and that these contributions may be required in respect of benefits that accrued before the date of the conversion.
2. A statement indicating that on the wind up of a jointly sponsored pension plan, the amount or commuted value of a pension benefit, a deferred pension or an ancillary benefit may be reduced.
3. A statement that pension benefits provided by jointly sponsored pension plans are not guaranteed by the Guarantee Fund. 2014, c. 7, Sched. 26, s. 13.

Same, for trade union

(6) The administrator shall give notice of the proposed conversion to any trade union that represents members of the pension plan, and the notice must be given within the prescribed period and must contain the information specified by the regulations. 2014, c. 7, Sched. 26, s. 13.

Requirement re: consent of members, etc.

(7) The conversion of the pension plan is not authorized unless the members, former members, retired members and other persons entitled to benefits under the plan consent to the conversion, or are deemed in accordance with the regulations to have consented to the conversion. 2014, c. 7, Sched. 26, s. 13.

Same

(8) The consent of the members, former members, retired members and other persons entitled to benefits under the pension plan to the proposed conversion of the plan must be obtained in accordance with such requirements as may be prescribed by regulation, and the regulations may permit a trade union that represents members of the pension plan to consent on their behalf. 2014, c. 7, Sched. 26, s. 13.

Same

(9) The regulations may authorize the Superintendent to vary the prescribed requirements for determining whether consent is given or is deemed to have been given by the members of the pension plan, and to vary the prescribed requirements for obtaining their consent. 2014, c. 7, Sched. 26, s. 13.

Notice to Superintendent

(10) The administrator shall give notice of the proposed conversion to the Superintendent and the notice must be given within the prescribed period and must contain the information specified by the regulations. 2014, c. 7, Sched. 26, s. 13.

Requirement re: consent of Superintendent

(11) The conversion of the pension plan is not authorized unless the Superintendent consents to it in advance. 2014, c. 7, Sched. 26, s. 13.

Application for consent

(12) The employer may apply for the Superintendent's consent to the proposed conversion of the pension plan. 2014, c. 7, Sched. 26, s. 13.

Notice of application

(13) The administrator shall ensure that notice of the application for the Superintendent's consent is given to members, former members, retired members and other persons entitled to benefits under the plan, and to any trade union that represents members of the plan, in accordance with such requirements as may be prescribed. 2014, c. 7, Sched. 26, s. 13.

Statutory criteria for Superintendent's consent

(14) The Superintendent shall consent to the conversion of the pension plan in accordance with the application if all of the following criteria and such other criteria as may be prescribed are satisfied:

1. Notice of the application for the Superintendent's consent has been given in accordance with this section to the members, former members, retired members and other persons entitled to benefits under the plan, and to any trade union that represents members of the plan.
2. Notice of the proposed conversion has been given in accordance with this section to the members, former members, retired members and other persons entitled to benefits under the plan, to any trade union that represents members of the plan and to the Superintendent.
3. Consent to the proposed conversion has been given or is deemed to have been given, in accordance with this section, by the members, former members, retired members and other persons entitled to benefits under the plan.
4. The effective date of the conversion has been determined in accordance with the regulations.
5. As of the effective date of the conversion, the commuted value of the pension benefits provided for the members is not less than the commuted value of their pension benefits under the single employer pension plan.
6. As of the effective date of the conversion, the pension benefits provided for former members, retired members and other persons entitled to benefits under the plan are, at a minimum, the same as their pension benefits under the single employer pension plan.

7. If the plan has a going concern unfunded liability or solvency deficiency as of the effective date of the conversion, the employer is required to make contributions in accordance with the regulations to liquidate the liability or deficiency. 2014, c. 7, Sched. 26, s. 13.

Conflict

(15) This section prevails over any document that creates and supports the pension plan and over any collective agreement and it prevails despite any trust that may exist in favour of any person. 2014, c. 7, Sched. 26, s. 13.

Crown immunity

(16) The following rules apply with respect to the conversion of the pension plan, if the conversion complies with this Act and the regulations:

1. Any reduction in the amount or the commuted value of a pension benefit, an ancillary benefit, a pension or a deferred pension that results from the conversion is deemed not to constitute an expropriation.
2. No amount on account of damages, compensation or costs is owing or payable to any person and no remedy is available to any person against the Crown in connection with the conversion.
3. No action, claim or demand that is directly or indirectly related to the conversion may be brought or maintained against the Crown. 2014, c. 7, Sched. 26, s. 13.

Expenses incurred by trade union

(17) If a trade union that represents members of the pension plan is entitled to vote on the conversion on behalf of the members, the trade union is entitled to be reimbursed from the pension fund its reasonable fees and expenses, of the type that are prescribed, relating to the vote. 2014, c. 7, Sched. 26, s. 13.

Order to return contributions

(18) If the conversion of the pension plan does not comply with this Act or the regulations, the Superintendent may, by order, require the administrator to pay to a member of the pension plan from the pension fund the amount by which the member's contributions, made on or after the effective date of the conversion, exceed the amount that would have been payable by him or her if the conversion had not been implemented, with interest calculated in the prescribed manner. 2014, c. 7, Sched. 26, s. 13.

Enforcement

(19) Subject to section 89, an order under subsection (18), exclusive of the reasons therefor, may be filed in the Superior Court of Justice and is thereupon enforceable as an order of that court. 2014, c. 7, Sched. 26, s. 13.

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section:

INSOLVENCY AND BANKRUPTCY

Authority to approve agreements re insolvency, etc.

Companies' Creditors Arrangement Act (Canada)

81.1 (1) For the purposes of subsection 6 (7) of the *Companies' Creditors Arrangement Act* (Canada), the Superintendent may approve an agreement by the relevant parties referred to in that subsection respecting the payment to a pension fund of certain amounts referred to in subsection 6 (6) of that Act in connection with a compromise or arrangement under that Act. 2010, c. 9, s. 71.

Bankruptcy and Insolvency Act (Canada)

(2) For the purposes of subsection 60 (1.6) of the *Bankruptcy and Insolvency Act* (Canada), the Superintendent may approve an agreement by the relevant parties referred to in that subsection respecting the payment to a pension fund of certain amounts referred to in subsection 60 (1.5) of that Act in connection with a proposal under that Act. 2010, c. 9, s. 71.

Prerequisites

(3) The Superintendent shall not approve an agreement under this section unless it satisfies such requirements as may be prescribed. 2010, c. 9, s. 71.

Decision

(4) A decision by the Superintendent under this section to approve or not to approve an agreement is final and is not subject to a hearing or an appeal. 2010, c. 9, s. 71.

See: 2010, c. 9, ss. 71, 80 (2).

PENSION BENEFITS GUARANTEE FUND

Guarantee Fund continued

82. (1) The Pension Benefits Guarantee Fund is continued under the name Pension Benefits Guarantee Fund in English and Fonds de garantie des prestations de retraite in French. R.S.O. 1990, c. P.8, s. 82 (1).

Administration

(2) The Superintendent is responsible for the administration of the Guarantee Fund including the investment of the assets of the Guarantee Fund. R.S.O. 1990, c. P.8, s. 82 (2); 1997, c. 28, s. 203.

Expenses

(3) The Superintendent may charge to the Guarantee Fund the reasonable expenses incurred by the Superintendent in the administration of the Guarantee Fund. R.S.O. 1990, c. P.8, s. 82 (3); 1997, c. 28, s. 203.

Funding of the Guarantee Fund

(3.1) The Guarantee Fund is to be funded by all employers required to make contributions under pension plans that provide defined benefits that are not exempt from the application of the Guarantee Fund by this Act or the regulations. 2009, c. 18, Sched. 24, s. 1 (1).

Same

(3.2) The amounts to be paid under subsection (3.1) by employers to the Guarantee Fund shall be determined in accordance with the prescribed rules. 2009, c. 18, Sched. 24, s. 1 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 82 is amended by adding the following subsection:

Matters to be considered in determining amount of funding

(3.3) In making regulations to prescribe rules for determining the amount to be paid by employers to the Guarantee Fund, the Lieutenant Governor in Council shall take into account the following:

1. The risk of claims against the Guarantee Fund and the estimated amount of potential claims to be paid by the Guarantee Fund.
2. That the amount standing to the credit of the Guarantee Fund should be sufficient for the purpose of paying claims without any additional amount provided by a loan or grant under subsection (4) or (5).
3. That the level of funding required from employers should be reasonably stable over the long term. 2009, c. 18, Sched. 24, s. 1 (2).

See: 2009, c. 18, Sched. 24, ss. 1 (2), 3 (2).

Loans to Guarantee Fund

(4) If at any time the amount standing to the credit of the Guarantee Fund is insufficient for the purpose of paying claims, the Lieutenant Governor in Council may authorize the Minister of Finance to make loans out of the Consolidated Revenue Fund to the Guarantee Fund on such terms and conditions as the Lieutenant Governor in Council directs. R.S.O. 1990, c. P.8, s. 82 (4); 2004, c. 31, Sched. 31, s. 5.

Grant to Guarantee Fund

(5) If at any time the amount standing to the credit of the Guarantee Fund is insufficient for the purpose of paying claims, the Lieutenant Governor in Council may authorize the Minister of Finance to make a grant, on such terms and conditions as the Lieutenant Governor in Council directs, to the Guarantee Fund out of money appropriated for that purpose by the Legislature. 2009, c. 18, Sched. 24, s. 1 (3); 2010, c. 1, Sched. 23, s. 8.

Loans and grants discretionary

(6) Nothing in this Act or the regulations requires the Lieutenant Governor in Council to authorize the Minister of Finance to make either a loan or a grant to the Guarantee Fund. 2009, c. 18, Sched. 24, s. 1 (3).

Liability of Guarantee Fund limited

(7) The total liability of the Guarantee Fund to guarantee pension benefits at any particular time is limited to the assets of the Guarantee Fund at that time, calculated after including any loan or grant that may have been made to the Guarantee Fund under subsection (4) or (5). 2009, c. 18, Sched. 24, s. 1 (3).

Guarantee Fund declaration

83. (1) Subject to section 89 (hearing and appeal), the Superintendent shall by order declare, in the circumstances mentioned in subsection (2), that the Guarantee Fund applies to a pension plan. 1997, c. 28, s. 204 (1).

Conditions precedent

- (2) The Superintendent shall make the declaration if,
- (a) the pension plan is registered under this Act or is registered in a designated jurisdiction to provide for the reciprocal application of this Act;
 - (b) the pension plan provides defined benefits that are not exempt from the application of the Guarantee Fund by this Act or the regulations;
 - (c) the pension plan is wound up in whole or in part; and

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (c) is amended by striking out “in whole or in part”. See: 2010, c. 9, ss. 72 (1), 80 (2).

- (d) the Superintendent is of the opinion, upon reasonable and probable grounds, that the funding requirements of this Act and the regulations cannot be satisfied. R.S.O. 1990, c. P.8, s. 83 (2); 1997, c. 28, s. 204 (2); 2010, c. 1, Sched. 23, s. 9; 2010, c. 9, s. 72 (2).

Guaranteed benefits

84. (1) If the Superintendent by order declares that the Guarantee Fund applies to a pension plan, the following are guaranteed by the Guarantee Fund, subject to the limitations and qualifications as are set out in this Act or are prescribed:

- 1. Any pension in respect of employment in Ontario.
- 2. Any deferred pension in respect of employment in Ontario to which a former member is entitled, if the former member’s employment or membership was terminated before the 1st day of January, 1988 and the former member was at least forty-five years of age and had at least ten years of continuous employment with the employer, or was a member of the pension plan for a continuous period of at least ten years, at the date of termination of employment.
- 3. A percentage of any defined pension benefits in respect of employment in Ontario to which a member or former member is entitled under section 36 or 37 (deferred pension), or both, if his or her employment or membership was terminated on or after the 1st day of January, 1988, equal to 20 per cent if the combination of his or her age plus years of employment or membership in the pension plan equals fifty, plus an additional $\frac{2}{3}$ of 1 per cent for each additional one-twelfth credit of age and employment or membership to a maximum of 100 per cent.
- 4. All additional voluntary contributions, and the interest thereon, made by members, former members or retired members while employed in Ontario.
- 5. The minimum value of all required contributions made to the pension plan by a member, former member or retired member in respect of employment in Ontario plus interest.
- 6. That part of a pension or deferred pension guaranteed under this subsection to which a former spouse of a member, former member or retired member is entitled under an order under the *Family Law Act*, a family arbitration award or a domestic contract.
- 7. Any pension to which a survivor of a former member or retired member is entitled under subsection 48 (1) (death before commencement of payment). R.S.O. 1990, c. P.8, s. 84 (1); 1997, c. 28, s. 205; 1999, c. 6, s. 53 (20); 2005, c. 5, s. 56 (26); 2010, c. 9, s. 73 (1-5).

Bridging benefits

(2) For the purpose of this section, if a member, former member or retired member has at least ten years of continuous employment with the employer, a deferred pension or a pension benefit includes bridging benefits. R.S.O. 1990, c. P.8, s. 84 (2); 2010, c. 9, s. 73 (6).

Part year

(3) In determining the combination of age and membership or employment for subsection (1), one-twelfth credit shall be given for each full month of age and for each full month of continuous employment or membership as of the date of termination of employment. R.S.O. 1990, c. P.8, s. 84 (3).

Application

(3.1) This section applies if the effective date of the wind up of the pension plan is on or after April 1, 1987. 2010, c. 9, s. 73 (7).

(4) REPEALED: 2010, c. 9, s. 73 (8).

Payments not guaranteed

85. The following are not guaranteed by the Guarantee Fund:

1. The payment of a pension or pension benefit under a pension plan that has been established or maintained for less than five years at the date of the wind up, if the date of the wind up is on or after the date on which the *Securing Pension Benefits Now and for the Future Act, 2010* received Royal Assent.
- 1.1 The payment of a pension or pension benefit under a pension plan that has been established or maintained for less than three years at the date of the wind up, if the date of the wind up is before the date on which the *Securing Pension Benefits Now and for the Future Act, 2010* received Royal Assent.
2. Any increase to a pension or pension benefit or increase to the value of a pension or pension benefit that became effective within five years before the date of the wind up, if the date of the wind up is on or after the date on which the *Securing Pension Benefits Now and for the Future Act, 2010* received Royal Assent.
- 2.1 Any increase to a pension or pension benefit or increase to the value of a pension or pension benefit that became effective within three years before the date of the wind up, if the date of the wind up is before the date on which the *Securing Pension Benefits Now and for the Future Act, 2010* received Royal Assent.
3. The amount of any pension or pension benefit, including any bridging supplement, in excess of \$1,000 per month or such greater amount as is prescribed by the regulations.
4. Pension benefits provided under a multi-employer pension plan.
- 4.1 Pension benefits provided under a designated multi-jurisdictional pension plan in respect of employment outside Ontario or in respect of included employment as defined in subsection 2 (1) of the *Pension Benefits Standards Act, 1985* (Canada).
5. Pension benefits provided under a pension plan that provides defined benefits, if the obligation of the employer to contribute to the pension fund is limited to a fixed amount set out in a collective agreement.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 85 is amended by adding the following paragraph:

5.1 Pension benefits that are target benefits.

See: 2010, c. 24, ss. 38 (2), 49 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 85 is amended by adding the following paragraph:

5.2 Optional benefits.

See: 2010, c. 24, ss. 38 (3), 49 (4).

6. Pension benefits provided by prescribed pension plans or prescribed classes of pension plans. R.S.O. 1990, c. P.8, s. 85; 2010, c. 1, Sched. 23, s. 10; 2010, c. 24, s. 38 (1).

Lien for payment out of Guarantee Fund

86. (1) Where money is paid out of the Guarantee Fund as a result of the wind up, in whole or in part, of a pension plan, the Superintendent has a lien and charge on the assets of the employer or employers who provided the pension plan. R.S.O. 1990, c. P.8, s. 86 (1); 1997, c. 28, s. 206.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out “in whole or in part”. See: 2010, c. 9, ss. 74, 80 (2).

Amount of lien

(2) The lien and charge is in an amount equal to the amount of the payment out of the Guarantee Fund plus interest thereon calculated at the rate and in the manner prescribed by the regulations. R.S.O. 1990, c. P.8, s. 86 (2).

Real property

(3) The lien and charge does not affect assets that are real property until a notice of the lien and charge that includes a description of the real property is registered in the proper land registry office, and the Superintendent may so register notice of the lien and charge. R.S.O. 1990, c. P.8, s. 86 (3); 1997, c. 28, s. 206.

Subrogation

(4) The Superintendent is subrogated to the rights of the administrator of a pension plan in respect of which the Superintendent authorizes payment from the Guarantee Fund in satisfaction of a pension, deferred pension, pension benefit or contribution guaranteed under section 84 (guaranteed benefits). R.S.O. 1990, c. P.8, s. 86 (4); 1997, c. 28, s. 206.

ORDERS

Order by Superintendent

87. (1) The Superintendent, in the circumstances mentioned in subsection (2) and subject to section 89 (hearing and appeal), by a written order may require an administrator or any other person to take or to refrain from taking any action in respect of a pension plan or a pension fund. R.S.O. 1990, c. P.8, s. 87 (1).

Condition precedent to order

(2) The Superintendent may make an order under this section if the Superintendent is of the opinion, upon reasonable and probable grounds,

- (a) that the pension plan or pension fund is not being administered in accordance with this Act, the regulations or the pension plan;
- (b) that the pension plan does not comply with this Act and the regulations; or
- (c) that the administrator of the pension plan, the employer or the other person is contravening a requirement of this Act or the regulations. R.S.O. 1990, c. P.8, s. 87 (2).

Time

(3) In an order under this section, the Superintendent may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order. R.S.O. 1990, c. P.8, s. 87 (3).

Reasons for order

(4) An order under this section is not effective unless the reasons for the order are set out in the order. R.S.O. 1990, c. P.8, s. 87 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 87 is repealed and the following substituted:

SUPERINTENDENT'S ORDERS

Superintendent's orders

Order re administration in contravention of Act

87. (1) Subject to section 89, the Superintendent may make an order requiring an administrator or any other person to take or refrain from taking any action in respect of a pension plan or a pension fund if the Superintendent is of the opinion, upon reasonable and probable grounds,

- (a) that the pension plan or pension fund is not being administered in accordance with this Act, the regulations or the pension plan;
- (b) that the pension plan does not comply with this Act and the regulations; or
- (c) that the administrator of the pension plan, the employer or the other person is contravening a requirement of this Act or the regulations. 2010, c. 9, s. 75.

Same

(2) An order under subsection (1) may specify one or more deadlines or periods for complying with the order. 2010, c. 9, s. 75.

Same

(3) An order under subsection (1) is not effective unless the reasons for the order are set out in it. 2010, c. 9, s. 75.

Order re preparation of report

(4) Subject to section 89, the Superintendent may make an order requiring an administrator to take an action specified in subsection (5) if the Superintendent is of the opinion,

- (a) that the assumptions or methods used in the preparation of a report required under this Act or the regulations in respect of a pension plan are inappropriate for a pension plan;

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (a) is repealed and the following substituted:

- (a) that the assumptions or methods used in the preparation of a report required under this Act or the regulations in respect of a pension plan are not consistent with accepted actuarial practice;

See: 2010, c. 24, ss. 39 (1), 49 (4).

- (b) that the assumptions or methods used in the preparation of a report required under this Act or the regulations in respect of a pension plan are not consistent with accepted actuarial practice; or

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) is repealed and the following substituted:

- (b) that the assumptions or methods used in the preparation of a report required under this Act or the regulations in respect of a pension plan are inappropriate in the circumstances for the pension plan, whether or not those assumptions or methods are otherwise consistent with accepted actuarial practice; or

See: 2010, c. 24, ss. 39 (1), 49 (4).

- (c) that a report submitted in respect of a pension plan does not meet the requirements and qualifications of this Act, the regulations or the pension plan. 2010, c. 9, s. 75.

Same

(5) An order under subsection (4) may include, but is not limited to, requiring the preparation of a new report and specifying the assumptions or methods or both to be used in the preparation of the new report. 2010, c. 9, s. 75.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 87 is amended by adding the following subsection:

Same

(5.1) An order under subsection (4) may specify one or more deadlines or periods for complying with the order. 2010, c. 24, s. 39 (2).

See: 2010, c. 24, ss. 39 (2), 49 (4).

Special order re preparation of report

(6) In such circumstances as may be prescribed, the Superintendent may make an order requiring an administrator, an employer or any other person to prepare and file a new report or another prescribed type of report in respect of a pension plan if the Superintendent is of the opinion that there are reasonable and probable grounds to believe,

- (a) that there is a substantial risk to the security of the benefits payable under the pension plan to members, former members, retired members or other persons entitled to payments under the pension plan; or
- (b) that there has been a significant change in the circumstances of the pension plan. 2010, c. 9, s. 75.

Same

(7) An order under subsection (6) may,

- (a) specify the assumptions or methods or both to be used in the preparation of the report;
- (b) require an employer or other person to give the administrator any information necessary to prepare the report;
- (c) require the administrator, employer or other person to pay all or part of the cost of preparing the report; and
- (d) specify one or more deadlines or periods for complying with the order. 2010, c. 9, s. 75.

Same

(8) The order takes effect immediately upon its making. 2010, c. 9, s. 75.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (8) is repealed. See: 2010, c. 24, ss. 39 (3), 49 (4).

Notice of special order

(9) The Superintendent shall serve a copy of the order under subsection (6), together with written reasons, upon the administrator, the employer and every other person who is required to comply with it. 2010, c. 9, s. 75.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 87 is amended by adding the following subsection:

Effective date of order

- (10) The order under subsection (6) takes effect on the later of,
 - (a) the latest date on which a person is served under subsection (9) with a copy of the order; and
 - (b) the date specified in the order. 2010, c. 24, s. 39 (4).

See: 2010, c. 24, ss. 39 (4), 49 (4).

See: 2010, c. 9, ss. 75, 80 (2).

Order by Superintendent

88. (1) The Superintendent, in the circumstances mentioned in subsection (2) and subject to section 89 (hearing and appeal), by order may require an administrator to take the action specified in subsection (3). R.S.O. 1990, c. P.8, s. 88 (1); 1997, c. 28, s. 207 (1).

Grounds for order

- (2) The Superintendent may make an order under this section where the Superintendent is of the opinion,
- (a) that the assumptions or methods used in the preparation of a report required under this Act or the regulations in respect of a pension plan are inappropriate for a pension plan;
 - (b) that the assumptions or methods used in the preparation of a report required under this Act or the regulations in respect of a pension plan are not consistent with accepted actuarial practice; or
 - (c) that a report submitted in respect of a pension plan does not meet the requirements and qualifications of this Act, the regulations or the pension plan. R.S.O. 1990, c. P.8, s. 88 (2); 1997, c. 28, s. 207 (2); 1999, c. 15, s. 15.

Contents of order

(3) An order under this section may include, but is not limited to, requiring the preparation of a new report and specifying the assumptions or methods or both that shall be used in the preparation of the new report. R.S.O. 1990, c. P.8, s. 88 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 88 is repealed and the following substituted:

Appeal or judicial review of special orders

88. (1) A person who is required to comply with an order made under subsection 87 (6) may appeal the order to the Tribunal by filing a notice of appeal with the Tribunal, and serving it on the Superintendent, within 15 days after the person receives the order. 2010, c. 9, s. 75.

Effect of appeal

(2) The appeal does not stay the order but the Tribunal may grant a stay until it disposes of the appeal. 2010, c. 9, s. 75.

Parties

(3) The parties to the appeal are the appellant, the Superintendent and such other persons as the Tribunal may specify. 2010, c. 9, s. 75.

Power of the Tribunal

(4) The Tribunal may, by order, confirm, vary or revoke the order or substitute another order. 2010, c. 9, s. 75.

Effect of judicial review

(5) An application for judicial review of an order made under subsection 87 (6) or under subsection (4), and any appeal from an order of the court on the application for judicial review, does not stay the order made under subsection 87 (6) or under subsection (4), as the case may be. 2010, c. 9, s. 75.

Same

(6) Despite subsection (5), a judge of the court to which the application is made or a subsequent appeal is taken may grant a stay until the matter is finally determined. 2010, c. 9, s. 75.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 88 is repealed and the following substituted:

Tribunal hearing re special orders

88. (1) A person who is required to comply with an order made under subsection 87 (6) is entitled to a hearing by the Tribunal about the order if the person delivers a written request to the Tribunal within 30 days after a copy of the order is served on the person. 2010, c. 24, s. 40.

Effect of request

(2) The request for a hearing by the Tribunal does not stay the order, but the Tribunal may grant a stay until it disposes of the request. 2010, c. 24, s. 40.

Hearing

(3) Upon receiving the request made in accordance with subsection (1), the Tribunal shall appoint a time for and hold the hearing. 2010, c. 24, s. 40.

Parties

(4) The parties to the hearing are the person who requests the hearing, the Superintendent and such other persons as the Tribunal specifies. 2010, c. 24, s. 40.

Power of Tribunal

(5) At or after the hearing, the Tribunal by order may confirm, vary or revoke the order or substitute another order. 2010, c. 24, s. 40.

See: 2010, c. 24, ss. 40, 49 (4).

See: 2010, c. 9, ss. 75, 80 (2).

NOTICES OF, AND APPEALS FROM, INTENDED DECISIONS AND ORDERS

Notices and hearings

Notice of intention re registration

89. (1) If the Superintendent intends to refuse to register a pension plan, an amendment to a pension plan or part of an amendment to a pension plan or to revoke such a registration, the Superintendent shall serve notice of the intended decision, together with written reasons for it, on the applicant or administrator of the plan. 2010, c. 24, s. 42 (1).

Notice of intention re various orders

(2) If the Superintendent intends to make or refuse to make any of the following orders, the Superintendent shall serve notice of the intended decision, together with written reasons for it, on the administrator of the pension plan and on any other person to whom the intended order is to be directed:

1. An order under subsection 42 (9) or 43 (5) (repayment of money).

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 1 of subsection 89 (2) of the Act is repealed and the following substituted: (See: 2015, c. 20, Sched. 34, s. 8)

1. An order under subsection 39.1 (12), 42 (9) or 43 (5) (repayment of money).

- 1.1 An order under subsection 68 (6) (effective date of a wind up).
2. An order under subsection 79.2 (15) (return of transferred assets).
3. An order under section 83 (application of the Guarantee Fund).
4. An order under section 87 (administration of pension plan).

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 4 is repealed and the following substituted:

4. An order under subsection 87 (1) (administration of pension plan).

See: 2010, c. 9, ss. 77 (3), 80 (2).

5. An order under section 88 (preparation of a report). 2010, c. 9, s. 77 (1, 2); 2010, c. 24, s. 42 (2, 3).

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 5 is repealed and the following substituted:

5. An order under subsection 87 (4) (preparation of a report).

See: 2010, c. 9, ss. 77 (3), 80 (2).

Notice of intention re membership

(3) If the Superintendent intends to make or refuse to make an order requiring an administrator to accept an employee as a member of a class of employees for whom a pension plan is established or maintained, the Superintendent shall serve notice of the intended decision, together with written reasons for it, on the administrator of the pension plan and the Superintendent shall serve, or require the administrator to serve, a copy of the notice and written reasons on the employee. 2010, c. 24, s. 42 (4).

Notice re reimbursement of overpayment, etc.

(3.0.1) If the Superintendent intends to consent or refuse to consent under subsection 62.1 (5) to a payment from the pension fund to the employer, the Superintendent shall serve notice of the intended decision, together with written reasons for it, on the applicant and the Superintendent may require the applicant to transmit a copy of the notice and written reasons to

such other persons or classes of persons or both as the Superintendent specifies in the notice to the applicant. 2010, c. 24, s. 42 (5).

Notice re payment of surplus

(3.1) If an application is filed in accordance with subsection 78 (2) for the payment of surplus to the employer and the Superintendent intends to consent or refuse to consent under subsection 78 (1), the Superintendent shall serve notice of the intended decision, together with written reasons for it, on the applicant and on any person who made written representations to the Superintendent in accordance with subsection 78 (3). 2010, c. 24, s. 42 (6).

(3.2) REPEALED: 2010, c. 24, s. 42 (7).

Notice re terms and conditions of approval or consent

(4) If the Superintendent intends to refuse to give an approval or consent or intends to attach terms and conditions to an approval or consent under this Act or the regulations, other than a consent referred to in subsection (3.0.1) or (3.1), the Superintendent shall serve notice of the intended decision, together with written reasons for it, on the applicant for the approval or consent. 2010, c. 24, s. 42 (8).

Notice re wind up order

(5) If the Superintendent intends to make an order requiring the wind up of a pension plan or declaring a pension plan wound up, the Superintendent shall serve notice of the intended decision, together with written reasons for it, on the administrator and the employer, and the Superintendent may require the administrator to transmit a copy of the notice and written reasons to such other persons or classes of persons or both as the Superintendent specifies in the notice to the administrator. 2010, c. 24, s. 42 (9).

Notice requiring hearing

(6) A notice under subsection (1), (2), (3), (3.0.1), (3.1), (4) or (5) shall state that the person on whom the notice is served is entitled to a hearing by the Tribunal if the person delivers to the Tribunal, within thirty days after service of the notice under that subsection, notice in writing requiring a hearing, and the person may so require such a hearing. R.S.O. 1990, c. P.8, s. 89 (6); 1997, c. 28, s. 208 (6); 2010, c. 24, s. 42 (10).

Power of Superintendent

(7) Where the person on whom the notice is served does not require a hearing in accordance with subsection (6), the Superintendent may make the intended decision indicated in the notice. R.S.O. 1990, c. P.8, s. 89 (7); 2010, c. 24, s. 42 (11).

Hearing

(8) Where the person requires a hearing by the Tribunal in accordance with subsection (6), the Tribunal shall appoint a time for and hold the hearing. R.S.O. 1990, c. P.8, s. 89 (8); 1997, c. 28, s. 208 (7).

Power of Tribunal

(9) At or after the hearing, the Tribunal by order may direct the Superintendent to make or refrain from making the intended decision indicated in the notice and to take such action as the Tribunal considers the Superintendent ought to take in accordance with this Act and the regulations, and for such purposes, the Tribunal may substitute its opinion for that of the Superintendent. R.S.O. 1990, c. P.8, s. 89 (9); 1997, c. 28, s. 208 (7); 2010, c. 24, s. 42 (12).

(10) REPEALED: 1997, c. 28, s. 208 (8).

Parties

(11) The Superintendent, the person who requires a hearing and such other persons as the Tribunal specifies are parties to the proceeding before the Tribunal under this section. R.S.O. 1990, c. P.8, s. 89 (11); 1997, c. 28, s. 208 (9).

(12), (13) REPEALED: 1997, c. 28, s. 208 (10).

Release of documentary evidence

(14) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to the person within a reasonable time after the matter in issue has been finally determined. R.S.O. 1990, c. P.8, s. 89 (14).

90. REPEALED: 1997, c. 28, s. 209.

Appeal to court

91. (1) A party to a proceeding before the Tribunal under section 89 may appeal to the Divisional Court from the decision or order of the Tribunal. 1997, c. 28, s. 210 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out “section 89” and substituting “section 88 or 89”. See: 2010, c. 9, ss. 78, 80 (2).

Certified copy of record

(2) Upon the request of a party desiring to appeal to the Divisional Court and upon payment of the fee established by the Minister, the Tribunal shall furnish the party with a certified copy of the record of the proceeding, including the documents received in evidence and the decision or order appealed from. R.S.O. 1990, c. P.8, s. 91 (2); 1997, c. 28, s. 210 (2).

92. REPEALED: 1997, c. 28, s. 211.

FINANCIAL SERVICES COMMISSION OF ONTARIO

93. REPEALED: 2010, c. 1, Sched. 23, s. 11.

94. REPEALED: 1997, c. 28, s. 213 (1).

Reciprocal agreements

95. (1) The Commission may, subject to the approval of the Lieutenant Governor in Council,

- (a) enter into agreements with the authorized representatives of another province or the Government of Canada to provide for the reciprocal application and enforcement of pension benefits legislation, the reciprocal registration, audit and inspection of pension plans and for the establishment of a Canadian association of pension supervisory authorities;
- (b) authorize a Canadian association of pension supervisory authorities to carry out such duties on behalf of the Commission as the Commission may require; and
- (c) delegate to a pension supervisory authority or the government of a designated jurisdiction such functions and powers under this Act as the Commission may determine and the Commission may accept similar delegations of functions and powers from a pension supervisory authority or the government of a designated jurisdiction. R.S.O. 1990, c. P.8, s. 95 (1); 2010, c. 1, Sched. 23, s. 12 (1, 2).

Same

(2) Without limiting the generality of subsection (1), an agreement may provide for,

- (a) the delegation of any powers and duties of the Superintendent under this Act and the regulations to a pension supervisory authority or the government of a designated jurisdiction;
- (b) the delegation to the Superintendent of any powers and duties of a pension supervisory authority or of the government of a designated jurisdiction under pension benefits legislation. 1999, c. 15, s. 17; 2010, c. 1, Sched. 23, s. 12 (3-5).

Delegation to the Superintendent

(3) The Superintendent may accept a delegation described in clause (2) (b). 1999, c. 15, s. 17.

96. REPEALED: 1997, c. 28, s. 213 (1).

Research

97. (1) It is a function of the Superintendent to conduct surveys and research programs and to compile statistical information related to pensions and pension plans. R.S.O. 1990, c. P.8, s. 97 (1); 1997, c. 28, s. 214.

Provision of information

(2) The Superintendent may request an employer or an administrator or a member of a pension plan to provide information necessary to compile the statistical information and such persons shall comply with the request within a reasonable period of time. R.S.O. 1990, c. P.8, s. 97 (2); 1997, c. 28, s. 214.

Confidentiality

(3) The Superintendent shall use the information only for the purpose of compiling the statistical information. R.S.O. 1990, c. P.8, s. 97 (3); 1997, c. 28, s. 214.

Order to provide information to the Superintendent

98. (1) The Superintendent may, by order, require an employer, an administrator or any other person to give such information as the order specifies to the Superintendent or a person designated by the Superintendent for the purpose of enabling the Superintendent or designate to ascertain whether this Act and the regulations are being complied with. 2010, c. 24, s. 43.

Contents

(2) Without limiting the generality of subsection (1), the order may require the administrator to secure an appraisal of any or all of the assets of the pension fund by one or more independent valuers and provide the appraisal to the Superintendent or designate or it may authorize the Superintendent to obtain an appraisal at the administrator's expense. 2010, c. 24, s. 43.

Same

(3) The order may specify the form in which information is to be provided and the time within which it is to be provided to the Superintendent or designate. 2010, c. 24, s. 43.

Same

(4) The order has no effect unless the reasons for the order are set out in it. 2010, c. 24, s. 43.

Enforcement

(5) An order under this section, excluding the reasons for the order, may be filed in the Superior Court of Justice and upon being filed it is enforceable as an order of that court. 2010, c. 24, s. 43.

Security

99. Every person entrusted by the Superintendent with the custody or control of money in the course of employment shall give security in the manner and form provided by the *Public Officers Act*. R.S.O. 1990, c. P.8, s. 99; 1997, c. 28, s. 216.

AGREEMENTS WITH DESIGNATED JURISDICTIONS

Agreements with designated jurisdictions

100. (1) With the approval of the Lieutenant Governor in Council, the Minister may enter into one or more agreements on behalf of the Crown with a representative of a designated jurisdiction concerning the pension benefits legislation that governs designated multi-jurisdictional pension plans in Ontario and in the designated jurisdiction. 2010, c. 1, Sched. 23, s. 13.

Contents

(2) An agreement may provide for the application of this Act and the regulations to designated multi-jurisdictional pension plans, the application of the pension benefits legislation of a designated jurisdiction to those plans, the application of the agreement itself to those plans and the supervision and regulation of those plans. 2010, c. 1, Sched. 23, s. 13.

Same, changes in legal requirements

(3) Without limiting the generality of subsection (2), an agreement may provide for any of the following matters in relation to a designated multi-jurisdictional pension plan:

1. It may establish a mechanism for determining whether the Superintendent, or a person who has supervisory or regulatory powers under the pension benefits legislation of another designated jurisdiction, has the principal regulatory jurisdiction for the pension plan.
2. It may provide that this Act and the regulations, or any portion thereof, does not apply with respect to the pension plan in specified circumstances.
3. It may establish additional requirements that apply with respect to the pension plan in specified circumstances.
4. It may provide that a requirement of this Act or a regulation is deemed to be satisfied in respect of the pension plan if a corresponding requirement of the principal regulatory jurisdiction is satisfied or in such other circumstances as may be specified. 2010, c. 1, Sched. 23, s. 13.

Same

(4) For greater certainty, an agreement may provide for the following matters:

Final location

1. If, under a designated multi-jurisdictional pension plan, a member or former member has service in Ontario and in a designated jurisdiction, the agreement may establish requirements for determining the amount of the pension benefits, deferred pension, pension or ancillary benefits or any other amount payable under the pension plan in relation to the member or former member that differ from the requirements that would otherwise apply in the absence of the agreement. The requirements established by the agreement may result in an increase or a decrease in the amount to which the person would otherwise be entitled.

Additional contributions

2. It may require an employer, or a person or entity required to make contributions to the pension plan on the employer's behalf, to make contributions in addition to those required under this Act and the regulations and may specify the times and manner in which the contributions are to be made.

Allocation of assets

3. It may provide for the allocation of the assets of the pension plan between jurisdictions at the times and in the manner specified. 2010, c. 1, Sched. 23, s. 13.

Same, administrative matters

- (5) Without limiting the generality of subsection (2), an agreement may provide for the following matters:
 1. Matters respecting the administration and enforcement of this Act and the regulations and of the pension benefits legislation of the designated jurisdiction.
 2. The reciprocal application and enforcement of pension benefits legislation and the reciprocal registration, audit and inspection of the designated multi-jurisdictional pension plans.
 3. The delegation of any powers or duties of the Superintendent under this Act and the regulations to a person who has supervisory or regulatory powers under the pension benefits legislation of the designated jurisdiction.
 4. The delegation to the Superintendent of any powers or duties of a person who has supervisory or regulatory powers under the pension benefits legislation of the designated jurisdiction.
 5. The reciprocal exchange of information between the Superintendent and a person who has supervisory or regulatory powers under the pension benefits legislation of the designated jurisdiction if the information is necessary for the purposes of,
 - i. complying with, implementing or enforcing the agreement, or
 - ii. the administration and enforcement of this Act and the regulations and the pension benefits legislation of the designated jurisdiction. 2010, c. 1, Sched. 23, s. 13.

Effective date

- (6) An agreement or an amendment to an agreement with a designated jurisdiction does not come into effect in Ontario until a date that is specified by regulation. 2010, c. 1, Sched. 23, s. 13.

Same

- (7) An agreement with a designated jurisdiction ceases to have effect in Ontario on a date that is specified by regulation. 2010, c. 1, Sched. 23, s. 13.

Publication of agreements

- (8) The Minister shall publish each agreement and any amendments to the agreement in *The Ontario Gazette*. 2010, c. 1, Sched. 23, s. 13.

Status of agreement

101. (1) An agreement under section 100 is enforceable with respect to a designated multi-jurisdictional pension plan as if the agreement formed part of this Act and, in case of a conflict between the agreement and this Act or the regulations, the agreement prevails. 2010, c. 1, Sched. 23, s. 13.

Exception

- (2) Sections 84 and 85 prevail over an agreement under section 100. 2010, c. 1, Sched. 23, s. 13.

Restriction

- (3) An agreement under section 100 is not enforceable until it is published in *The Ontario Gazette*. 2010, c. 1, Sched. 23, s. 13.

Status of agreement

- (4) An agreement under section 100 is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2010, c. 1, Sched. 23, s. 13.

EXEMPTIONS AND SPECIAL ARRANGEMENTS

Arrangements re windup of Nortel pension plans

102. (1) This section applies with respect to the following pension plans:
 1. The pension plan known as the Nortel Networks Limited Managerial and Non-Negotiated Pension Plan, registered under this Act as number 0342048.

2. The pension plan known as the Nortel Networks Negotiated Pension Plan, registered under this Act as number 0587766. 2011, c. 9, Sched. 35, s. 10.

Transfer re pension

(2) A person who is receiving a pension from a Nortel pension plan as of the date of the wind up of the plan is entitled, despite subsection 73 (2), to require the administrator to transfer an amount equal to the commuted value of the person's pension into a life income fund that satisfies the prescribed requirements. 2012, c. 8, Sched. 44, s. 8.

Restriction

(2.1) However, the person's entitlement to the transfer is subject to such conditions and restrictions as may be prescribed. 2012, c. 8, Sched. 44, s. 8.

Direction

(3) The person may exercise his or her entitlement by delivering a direction to the administrator within the prescribed period, and the direction must be in a form approved by the Superintendent and must contain the prescribed information. 2011, c. 9, Sched. 35, s. 10.

Compliance

(4) The administrator shall comply with the direction within the prescribed period of time after it is delivered. 2011, c. 9, Sched. 35, s. 10.

Discharge of administrator

(5) The administrator is discharged on making the payment in accordance with the direction of the person if the payment complies with this Act and the regulations. 2011, c. 9, Sched. 35, s. 10.

Life income fund

(6) In this section,
"life income fund" has the meaning assigned in the regulations. 2011, c. 9, Sched. 35, s. 10.

GENERAL

Pension agency

103. The Lieutenant Governor in Council may establish or designate an agency for the purposes, among others, of receiving, holding and disbursing pension benefits under this Act. R.S.O. 1990, c. P.8, s. 103.

Transitional

104. Every pension plan that was registered and that continued to be qualified for registration under the *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980, immediately before the 1st day of January, 1988 is deemed to be registered. R.S.O. 1990, c. P.8, s. 104.

Extension of time

Procedural time limits

105. (1) Upon application by an affected person, the Superintendent may extend the following time limits, before or after they have expired, if the Superintendent is satisfied that there are reasonable grounds for doing so:

1. A procedural time limit related to the powers and duties of the Superintendent under this Act or the regulations. 2010, c. 24, s. 44.

Filing deadlines

(2) Upon application by an affected person, the Superintendent may extend the following time limits subject to the limits indicated, before or after they have expired, if the Superintendent is satisfied that there are reasonable grounds for doing so:

1. A time limit related to the filing of such documents as may be prescribed that, under this Act or the regulations, must be filed. The time limit may be extended for a maximum of 60 days and, if the Superintendent is satisfied that extraordinary grounds exist and that no person will be unduly prejudiced, for further periods. 2010, c. 24, s. 44.

Conditions

(3) When extending a time limit under this section, the Superintendent may impose such conditions as he or she considers appropriate in the circumstances. 2010, c. 24, s. 44.

Examinations, investigations and inquiries

Interpretation, persons

106. (1) The persons referred to in subsections (3) to (5) and (8) to (10) are the following:

1. The Superintendent.
2. A person designated by the Superintendent, and the designate does not have to be a person who is employed in the Commission. R.S.O. 1990, c. P.8, s. 106 (1); 1997, c. 28, s. 219; 2010, c. 24, s. 45.

Interpretation, purposes

(2) The purposes mentioned in subsections (3) to (5) and (10) are the following:

1. The administration of this Act and the regulations.
2. The administration of the Guarantee Fund.
3. The enforcement of any section of this Act or the regulations.
4. The exercise of a power or the carrying out of a duty under this Act or the regulations.
5. The carrying out of an order made under this Act. R.S.O. 1990, c. P.8, s. 106 (2).

Entry

(3) For a purpose mentioned in subsection (2), a person mentioned in subsection (1) may enter and have access to, through and over any business premises, where the person has reasonable grounds to believe books, papers, documents or things are kept that relate to a pension plan or pension fund. R.S.O. 1990, c. P.8, s. 106 (3).

Examinations

(4) A person mentioned in subsection (1) may make examinations, investigations and inquiries and may require the production of any book, paper, document or thing related to a pension plan or pension fund. R.S.O. 1990, c. P.8, s. 106 (4).

Copies or extracts

(5) A person mentioned in subsection (1) may make, take and remove or require the making, taking and removal of copies or extracts related to an examination, investigation or inquiry for a purpose mentioned in subsection (2). R.S.O. 1990, c. P.8, s. 106 (5).

Reasonable times

(6) The authority under subsections (3) to (5) shall be exercised only at reasonable times. R.S.O. 1990, c. P.8, s. 106 (6).

Private residence

(7) Subsection (3) is not authority to enter a private residence without the consent of the occupier. R.S.O. 1990, c. P.8, s. 106 (7).

Removal of books, etc., for copying

(8) A person mentioned in subsection (1) who is making an examination, investigation or inquiry may, upon giving a receipt therefor, remove any books, papers, documents or things relating to the subject-matter of the examination, investigation or inquiry for the purpose of making copies of the books, papers, documents or things, but the copying shall be carried out with reasonable dispatch and the books, papers, documents or things shall be returned forthwith after the copying is completed. R.S.O. 1990, c. P.8, s. 106 (8).

Copies

(9) A copy of any written or recorded material found in an examination, investigation or inquiry and purporting to be certified by a person mentioned in subsection (1) is admissible in evidence in any action, proceeding or prosecution for all purposes for which the original would have been admissible. R.S.O. 1990, c. P.8, s. 106 (9).

Application for warrant

- (10) If an occupier of a premises,
 - (a) denies entry or access to, through or over the premises to a person mentioned in subsection (1);
 - (b) instructs a person mentioned in subsection (1) to leave the premises;
 - (c) obstructs a person mentioned in subsection (1) who is acting for a purpose mentioned in subsection (2);
 - (d) refuses to comply with a request for the production of any thing the production of which is requested for the purpose of an examination, investigation or inquiry or for a purpose mentioned in subsection (2),

a person mentioned in subsection (1) may apply to a justice of the peace for an inspection order under section 108. R.S.O. 1990, c. P.8, s. 106 (10); 2016, c. 5, Sched. 22, s. 3 (1).

Identification

(11) A person exercising a power under this section shall provide identification at the time of entry. R.S.O. 1990, c. P.8, s. 106 (11).

Opinion, report, etc.

(12) The Superintendent may require a person exercising a power under this section to prepare an opinion, report or professional attestation about the results of any examination, investigation or inquiry made by the person under this section. 1999, c. 15, s. 18; 2016, c. 5, Sched. 22, s. 3 (2).

Cost of examination, etc.

(13) The Superintendent may order any person to pay all or part of the cost of an examination, investigation or inquiry under this section and to pay all or part of the cost of any opinion, report or professional attestation prepared following such an examination, investigation or inquiry (whether or not the opinion, report or attestation was required by the Superintendent), if the Superintendent considers it to be reasonable and fair in the circumstances to do so. 1999, c. 15, s. 18.

Same

(14) Without limiting the generality of subsection (13), an administrator or employer may be required to make a payment under that subsection. 1999, c. 15, s. 18.

Payment for reports

106.1 The Superintendent may order an administrator, an employer or any other person to pay all or part of the cost of preparing any report required by this Act or the regulations, if the Superintendent considers it to be reasonable and fair in the circumstances to do so. 1999, c. 15, s. 19.

Obstruction

107. (1) No person shall hinder or obstruct a person mentioned in subsection 106 (1) who is lawfully carrying out a duty under this Act.

Private residence

(2) A refusal of consent to enter a private residence is not and shall not be deemed to be hindering or obstructing within the meaning of subsection (1). R.S.O. 1990, c. P.8, s. 107.

Order by justice of the peace

108. (1) Where a justice of the peace is satisfied on evidence upon oath or affirmation,

(a) that there is reasonable and probable ground for believing that it is necessary,

(i) to enter and have access to, through and over any premises,

(ii) to make examinations, investigations or inquiries, and

(iii) to make, take and remove photographs, samples, copies or extracts related to an examination, investigation or inquiry,

or to do any of such things, for a purpose mentioned in subsection 106 (2); and

(b) that a person mentioned in subsection 106 (1),

(i) has been denied entry to the premises,

(ii) has reasonable grounds to believe that entry to the premises will be denied,

(iii) has been instructed to leave the premises,

(iv) has been obstructed, or

(v) has been refused production of any thing related to an examination, investigation or inquiry,

by the occupier of the premises,

the justice of the peace may issue an inspection order authorizing a person mentioned in subsection 106 (1) to act as mentioned in clause (a) in respect of the premises specified in the inspection order, by force if necessary, together with such police officer or officers as the person calls upon for assistance.

Execution of order

(2) An inspection order issued under this section shall be executed between 6 a.m. and 9 p.m. standard time unless the justice of the peace otherwise authorizes in the order.

Expiry of order

(3) An inspection order issued under this section shall state the date on which it expires, which shall be a date not later than fifteen days after the inspection order is issued.

Application without notice

(4) A justice of the peace may receive and consider an application for an inspection order under this section without notice to and in the absence of the owner or the occupier of the premises. R.S.O. 1990, c. P.8, s. 108.

Offence

109. (1) Every person who contravenes this Act or the regulations is guilty of an offence.

Idem

(2) Every person who contravenes an order made under this Act is guilty of an offence. R.S.O. 1990, c. P.8, s. 109.

Penalty

110. (1) Every person who is guilty of an offence under this Act is liable on conviction to a fine of not more than \$100,000 for the first conviction and not more than \$200,000 for each subsequent conviction. 1997, c. 28, s. 220 (1).

Persons re corporation

(2) Every director, officer, official or agent of a corporation and every person acting in a similar capacity or performing similar functions in an unincorporated association is guilty of an offence if the person,

- (a) causes, authorizes, permits, acquiesces or participates in the commission of an offence referred to in section 109 by the corporation or unincorporated association; or
- (b) fails to take all reasonable care in the circumstances to prevent the corporation or unincorporated association from committing an offence referred to in section 109. 1997, c. 28, s. 220 (1).

Penalty

(3) A person who is guilty of an offence described in subsection (2) is liable on a first conviction to a fine of not more than \$100,000, and on each subsequent conviction to a fine of not more than \$200,000, whether or not the corporation or unincorporated association has been prosecuted for or convicted of an offence arising from the same facts or circumstances. 1997, c. 28, s. 220 (1).

Order for payment

(4) Where a person is convicted of an offence related to the failure to submit or make payment to a pension fund or to an insurance company, the court that convicts the person may, in addition to any fine imposed, assess the amount not submitted or not paid and order the person to pay the amount to the pension fund or to the insurance company. R.S.O. 1990, c. P.8, s. 110 (4).

Enforcement

(5) An order for payment under subsection (4), exclusive of the reasons therefor, may be filed in the Superior Court of Justice and is thereupon enforceable as an order of that court. R.S.O. 1990, c. P.8, s. 110 (5); 2006, c. 19, Sched. C, s. 1 (1).

Time limit

(6) No prosecution for an offence under this Act shall be commenced after five years after the date when the offence occurred or is alleged to have occurred. 1997, c. 28, s. 220 (2).

Power to restrain

111. Where a provision of this Act or the regulations or an order, approval or consent of the Superintendent under this Act is contravened, in addition to any other remedy and to any penalty imposed by law, the contravention may be restrained by action at the instance of the administrator of the pension plan affected by the contravention. 1997, c. 28, s. 221.

Service

112. (1) Any notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by regular mail addressed to the person to whom it is to be given, served or delivered at the person's last known address. R.S.O. 1990, c. P.8, s. 112 (1); 2004, c. 31, Sched. 31, s. 6.

Deemed service

(2) A notice, order or other document sent by regular mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the fifth day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, the person did not receive the notice, order or other document, or did not receive it until a later date, through absence, accident, illness or other cause beyond the person's control. R.S.O. 1990, c. P.8, s. 112 (2); 2004, c. 31, Sched. 31, s. 6; 2011, c. 9, Sched. 35, s. 11.

General notice

(3) Where the Superintendent is of the opinion that because the persons who are to be given any notice or document under this Act or the regulations are so numerous or for any other reason it is not reasonable to give the notice or document to all or any of the persons individually, the Superintendent may authorize the giving of the notice or document or reasonable notice of the contents of the notice or document to the persons by public advertisement or otherwise as the Superintendent may direct and the date on which the notice or document or the reasonable notice of the contents is first published or otherwise given as directed shall be deemed to be the date on which the notice or document is given. R.S.O. 1990, c. P.8, s. 112 (3).

Time for actions by administrator

113. An administrator of a pension plan who is required to take an action under this Act or the regulations shall take the action within the prescribed period of time. R.S.O. 1990, c. P.8, s. 113.

Fees

113.1 The Minister may require the payment of fees in relation to any matter under this Act and may approve the amount of those fees. 1997, c. 28, s. 223.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 113.1 of the Act is repealed and the following substituted: (See: 2015, c. 20, Sched. 34, s. 9)

Fees

113.1 The Minister may make regulations governing fees under this Act, including,

- (a) requiring the payment of fees in relation to any matter under this Act, including any services provided by or through the Ministry of Finance or the Commission;
- (b) prescribing the amount of fees or the manner of determining fees;
- (c) prescribing the manner in which and the period within which fees must be paid. 2015, c. 20, Sched. 34, s. 9.

Forms

113.2 (1) The Superintendent may approve forms for any purpose of this Act and require their use. 1997, c. 28, s. 223.

Content

(2) Any person required to use forms approved by the Superintendent shall provide the information specified in them. 2002, c. 18, Sched. H, s. 5 (2).

Conflict

114. In the event of a conflict between this Act and any other Act, except the *Financial Services Commission of Ontario Act*, 1997, this Act prevails unless the other Act states that it is to prevail over this Act. R.S.O. 1990, c. P.8, s. 114; 1997, c. 28, s. 222.

Regulations

115. (1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing any matter that, under this Act, is permitted or required to be prescribed or to be otherwise done by regulation or in accordance with the regulations;
- (b) prescribing the times for filing or the last dates for filing of documents that are required to be filed under this Act;
- (c) prescribing reports that shall be submitted to the Superintendent, the contents and the method of preparation of the reports and the persons or classes of persons by whom the reports must be prepared;
- (d) prescribing pension benefits that are not guaranteed by the Guarantee Fund;
- (e) governing the payment of amounts by employers to the Guarantee Fund under subsection 82 (3.2), including rules,
 - (i) relating to assessments of amounts required to be paid,

- (ii) determining due dates for required payments,
- (iii) imposing interest or penalties on late payment or non-payment of amounts required to be paid and describing the method for determining the rate of interest or the amount of a penalty,
- (iv) determining the amount of any overpayment made by an employer and the circumstances in which the overpayment is to be refunded or applied in whole or in part against the amount of a future assessment;
- (f) prescribing procedures that shall govern the appointments of members of pension committees;
- (g) prescribing procedures that shall govern the establishment of advisory committees and the appointments of members of advisory committees;
- (h) prescribing requirements and restrictions that apply with respect to actuarial methods and assumptions that may be used in the preparation of reports required under this Act or the regulations;
- (i) prescribing the methods of calculating the values of assets and liabilities of pension funds;
- (j) prescribing criteria that must be complied with before any surplus may be paid out of a pension fund;
- (k) prescribing the rate or the method of determining the rate at which an employer shall pay money due from the employer under this Act on the winding up of a pension plan, and prescribing the manner of payment and to whom the payments shall be made;
- (l) regulating or prohibiting the investment of money from pension funds and prescribing investments or classes of investments in which such money may be invested;
- (m) prescribing requirements for retirement savings contracts and life annuity contracts between members, former members and retired members of pension plans and trustees to whom administrators may make payment when required in accordance with this Act, requiring such trustees to file specimens of such contracts before such payments may be made, and authorizing the Superintendent to refuse to file a specimen contract that does not meet the requirements;
- (n) prescribing the rate of interest and the method of calculating interest payable under this Act or the regulations, if such rate or method is not specified in the requirement for payment of the interest;
- (o) REPEALED: 1997, c. 28, s. 224 (2).
- (p) prescribing the time within which any document specified in the regulations that this Act requires to be given, transmitted, filed or served shall be given, transmitted, filed or served;
- (q) prescribing requirements that shall be complied with in the administration of a pension plan;
- (r) prescribing records that shall be kept by the administrator of a pension plan and the period of time for which such records shall be retained by the administrator;
- (s) requiring the audit of pension plans or classes of pension plans and pension funds and classes of pension funds and prescribing the persons or classes of persons who may perform the audits and the manner of performing the audits;
- (t) prescribing the manner of determining the portion of a pension benefit, pension, deferred pension or ancillary benefit that is attributable to employment before the 1st day of January, 1988 or that is attributable to employment on or after the 1st day of January, 1988;
- (u) prohibiting or regulating the reduction of bridging benefits or the variation of pension benefits by reference to benefits payable under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act* (Canada);
- (v) governing the wind up of pension plans or classes of pension plans and prescribing priorities or the method of determining priorities on wind up, including priorities in allocation of assets;
- (w) governing the receiving, holding and disbursing of pension benefits by any agency established or designated under this Act;
- (x) exempting pension plans, pension funds, employees, administrators or other persons from the application of this Act or the regulations or from any section of this Act or the regulations;
- (y) governing the fees that may be imposed by an administrator under section 67.2;
- (z) prescribing, for the purposes of the definition of “designated jurisdiction” in subsection 1 (1), any jurisdiction in Canada, including Canada itself, as a jurisdiction in which there is in force legislation substantially similar to this Act;

- (z.1) prescribing the date on which an agreement under section 100 comes into effect with respect to a designated jurisdiction, and the date on which such an agreement ceases to have effect with respect to the designated jurisdiction;
- (z.2) providing for any matter that the Lieutenant Governor in Council considers necessary or advisable for the implementation of an agreement under section 100. R.S.O. 1990, c. P.8, s. 115 (1); 1997, c. 28, s. 224; 2007, c. 7, Sched. 31, s. 3 (1); 2009, c. 11, s. 50; 2009, c. 18, Sched. 24, s. 2 (1); 2010, c. 1, Sched. 23, s. 14 (1, 2); 2010, c. 9, s. 79 (1); 2010, c. 24, s. 46 (1).

Scope of regulations

(2) A regulation may be general or particular in its application and may be limited as to time or place or both. R.S.O. 1990, c. P.8, s. 115 (2).

Adoption of codes in regulations

(3) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, formula, standard or procedure, and may require compliance with a code, formula, standard or procedure so adopted. R.S.O. 1990, c. P.8, s. 115 (3).

Terms, conditions, qualifications, requirements

(4) Any provision of a regulation may be subject to such terms, conditions, qualifications or requirements as are specified in the regulation. R.S.O. 1990, c. P.8, s. 115 (4).

Classes of multi-employer pension plans

(5) Without limiting the generality of subsection (2), a regulation may establish one or more classes of multi-employer pension plans. 2007, c. 7, Sched. 31, s. 3 (2).

Public sector pension plans

(5.1) Different requirements may be prescribed for public sector pension plans than are prescribed for other classes of pension plans. 2010, c. 24, s. 46 (2).

Authority to make retroactive regulations re funding defined benefit plans

(6) A regulation relating to the funding of a pension plan that provides defined benefits, including any regulation prescribing anything referred to in section 55 as being prescribed and any regulation prescribing matters referred to in clause 115 (1) (c) or (i), may come into force on a day earlier than the day the regulation is filed and apply to a period that commences on or after December 31, 2009. 2009, c. 18, Sched. 24, s. 2 (2); 2010, c. 1, Sched. 23, s. 14 (3); 2010, c. 9, s. 79 (2).

(7) REPEALED: 2013, c. 2, Sched. 11, s. 1 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section:

Review of Act, regulations

116. The Minister shall initiate a review of this Act and the regulations, or portions of this Act and the regulations, every five years beginning within five years after this section comes into force. 2010, c. 24, s. 47.

See: 2010, c. 24, ss. 47, 49 (4).

Français

[Back to top](#)

F - OTPP JSPP Agreement final March 2013 (Term Sheet).pdf

CONFIDENTIAL

This Term Sheet (the "Agreement") sets out the key terms of the agreement between the Plan Sponsors, which is effective during the "Freeze Period" (as defined below). The Government will provide a letter to the Plan Sponsors which will explain: the background of the 2012 Ontario Budget measures about jointly sponsored pension plans; the Government's plan to introduce legislation to carry out those measures, including pooling of broader public sector pension fund assets; the fact that discussions lead to this Agreement instead; and will confirm the Government Commitments which are based on those discussions and this Agreement.

A. General Principles

1. The Freeze Period runs from December 31, 2012 to December 30, 2017.
2. During the Freeze Period there will be no employer contribution increases except as provided for below. An employer contribution increase is defined as any increase in the employer contribution rate beyond the highest contribution rate provided for in the last valuation filed by the Plan prior to the Freeze Period. Employer contribution increases already scheduled to occur during the Freeze Period as a result of valuations filed with an effective valuation date before December 31, 2012 will occur.
3. During the Freeze Period, except as may be required by the Pension Benefits Act or as a result of a judicial or quasi-judicial decision that is binding upon the Sponsors or the Plan, there will be no benefit improvements unless the Plan's going concern funded status, based on the most recently filed valuation report, on a non-smoothed basis, as of the date that the benefit improvement amendments come into effect meets or exceeds 105%, and the benefit improvement will not bring the going concern funded status below 105% as of the effective date of the amendment.
4. During the Freeze Period, except as may be required by the Pension Benefits Act or as a result of a judicial or quasi-judicial decision that is binding upon the Sponsors or the Plan, there will be no restoration of benefits reduced as a result of application of these principles unless the Plan's going concern funded status, based on the most recently filed valuation report, on a non-smoothed basis, as of the date that the benefit restoration amendments come into effect meets or exceeds 105% and the restoration will not bring the going concern funded status below 105% as of the effective date of the amendment.
5. Ad hoc/conditional indexation is not considered to be a benefit improvement or restoration and Plan amendments to provide or restore ad hoc or conditional cost of living increases to pensioners can be made provided the Plan's going concern funded status on the date that the cost of living increase is agreed upon (based on the most recently prepared valuation report with a valuation date that is no more than twelve months earlier and that uses the same valuation methodology and assumptions that would apply to a filed valuation) exceeds 100% and the cost of living increase will not

bring the going concern funded status below 100% as of the effective date of the amendment.

B. Valuations and Consequential Actions During the Freeze Period

6. Should any draft valuation prepared for filing during the Freeze Period disclose a funding circumstance in which employer contribution increases would normally be implemented (i.e., a funding shortfall) the funding circumstance must be addressed within the following Parameters. Any valuation filed during the Freeze Period will conform to the General Principles above and the Parameters as follows:

a. During the Freeze Period there will be no employer contribution increases except as provided for below. A contribution increase is defined as any increase in the contribution rate beyond the highest contribution rate provided for in the last valuation filed by the Plan prior to the Freeze Period.

b. Any future benefit reductions determined to be required in order to meet the General Principles and these Parameters during the Freeze Period will not exceed twenty percent (20%) of the aggregate value of future benefits determined based on the Plan provisions in effect on December 31, 2011 ("the Benefit Reduction Limit"), which aggregate value the Sponsors agree is \$42.590 billion. Benefit reductions implemented pursuant to the valuation as at January 1, 2012 shall be taken into account for purposes of achieving the 20% Benefit Reduction Limit. For clarity, twenty percent (20%) is measured on an cumulative basis in the Freeze Period.

c. In respect of the benefit reductions provided for under the January 1, 2012 valuation, the Sponsors agree that the reduction in the aggregate value of future benefits is \$4.094 billion (9.6%). This reduction in the aggregate value of future benefits was calculated to include:

(i) the reduction in the funding shortfall from the impact of the decrease in the present value of future benefits and contributions stemming from the increase in the discount rate which resulted from the Plan amendment to remove and replace the remaining 50% guaranteed indexing with full conditional inflation protection ("CIP") for post-2013 service;

(ii) the reduction in present value of benefits from invoking an additional 10% of CIP (inflation protection from 60% to 50%) for post-2009 service effective January 1, 2014 along with the associated increase in the present value of the "share the pain payments" (matching contributions made by the Government/employers) plus the reduction in present value of benefits from invoking a further 5% of CIP (inflation protection from 50% to 45%) for post-2013 service effective January 1, 2015.

Appendix A attached hereto provides further details regarding this benefit reduction calculation.

d. Any future benefit reductions under a post-January 1, 2012 valuation, if necessary, will be implemented with an effective date that is no later than the earlier of:

- i. two years following the valuation date of the filed actuarial valuation, or
- ii. December 30, 2017.

e. In no case will future benefit reductions implemented as a result of the General Principles and/or Parameters affect or reduce pension benefits or ancillary benefits accrued prior to the implementation date of the benefit reduction(s). Ancillary benefits will be considered to have accrued, if, as of the implementation date of the benefit reduction, the person will have met all of the eligibility requirements to exercise the right to receive the ancillary benefits.

f. Sponsors' agreement on future benefit reductions would be effected by a Plan amendment to be prepared and filed within 60 days of agreement or outcome of the dispute resolution process.

g. Once the Benefit Reduction Limit has been reached (i.e., if the second or subsequent valuation(s) filed during the Freeze Period reduce benefits by \$4.424 billion (10.4%)), the Sponsors will return to their usual process and make use of their usual tools (e.g., employer and member contribution rate increases and/or benefit reductions beyond the benefit reduction limit) to determine the steps necessary to avoid:

- i. any remaining shortfall identified in the draft valuation; or
- ii. a future new funding shortfall identified in a subsequent draft valuation during the Freeze Period.

After 2013, any valuation filed during the Freeze Period must be filed on or before September 30 of the year of filing.

C. Dispute Resolution

7. Any dispute with respect to the interpretation or application of this Agreement may be referred by either Sponsor to final and binding arbitration. Either of the parties may notify the other in writing of its desire to submit a difference or dispute to arbitration and the notice shall contain the names of the first party's appointment to an Arbitration Board. The recipient of the notice shall within five (5) days inform the other party of the name of its appointee to the Arbitration Board. The two (2) appointees so selected shall, within five (5) days of the appointment of the second of them, appoint a third person who shall be the Chairperson. If the recipient of a notice fails to appoint an appointee, or the two appointees fail to agree upon a Chairperson within the time limit, either party may request that the appointment shall be made by the Chief Justice for Ontario.

8. In the event that a dispute arises with respect to the interpretation or application of paragraph 6 in particular, all steps to appoint an Arbitration Board as set out in paragraph 7 will be taken on or before 60 days before September 30. The decision of the Arbitration Board shall be issued at least 20 days before September 30.

9. In the event that a dispute arises with respect to the interpretation or application of paragraph 6, in particular, including whether the Benefit Reduction Limit has been reached, the Arbitration Board's mandate will be restricted to determining the means by which the obligations in this Agreement will be carried out and will be subject to the same restrictions applicable to the Sponsors regarding the available options and for greater certainty will exclude an increase in employer contributions during the Freeze Period. The Sponsors, utilizing their usual processes may increase employer contributions once the Benefit Reduction Limit is reached.

D. End of the Freeze Period

10. At the end of the Freeze Period, this Agreement expires and any obligations to conform to this Agreement, and any measures taken in accordance with it, end with the exception of the provisions in paragraph 11.

11. After the end of the Freeze Period, if the Plan's going concern funded status (based on the most recently filed valuation report with a valuation date after December 30, 2017) exceeds 100%, the union/federation sponsors have "first call" on 100% of the surplus disclosed under a valuation report with a valuation date after December 30, 2017, up to a cumulative total of the value of either: the benefit reductions that are made during the Freeze Period; or the Benefit Reduction Limit, whichever is lower. The "first call" on surplus (to take the form of "surplus credits") would be subject to the following conditions:

(a) Surplus credits would only take into account the value of benefit reductions made during the Freeze Period, including the value of benefit reductions made in the January 1, 2012 valuation, but excluding: (i) the value of benefit reductions for which matching contributions are made by the Government/employer ("share the pain payments"), and (ii) the value of benefit reductions relating to the removal and replacement of the remaining 50% guaranteed indexing with full CIP for post-2013 service and the resulting change to the discount rate (as described in paragraph 6(c)(i) above).

(b) Subject to (c) below, the surplus credits could be used as the union/federation sponsors wish (i.e., credits would not be required to be used to restore the same benefits that were reduced during the Freeze Period).

(c) The union/federation sponsors are permitted to spend the surplus credits so long as the going concern funded status of the Plan does not fall below 100% after the surplus credits are spent.

(d) This is a one-time arrangement intended to compensate Plan members for absorbing 100% (rather than 50%) of funding shortfalls arising in the government initiated Freeze Period and is without prejudice or precedent for any future situation.

(e) If inflation protection is invoked below 50% during the Freeze Period, subject to paragraph 11(a), surplus credits will include an amount equal to the actual foregone pension payments during and after the Freeze Period that arise from the reduction in indexing invoked during the Freeze Period until such time as that inflation protection is restored at 50% or more during or after the Freeze Period.

Appendix B attached hereto provides further details regarding the surplus credit calculation.

E. Other Matters

12. The Sponsors will ensure that the cooperation of the Administrator is secured in relation to all aspects of this Agreement, including but not limited to the preparation of the draft valuation, the filed valuation, and applying for any necessary extension of the timelines for filing actuarial valuations and/or Plan amendments as may be necessary to give effect to this Agreement.

13. In order for the terms of this agreement to be effective, the Ontario Government will, subject to Cabinet approval, on or before May 1, 2013, amend Regulation 909 under the Pension Benefits Act to allow for a single four-year valuation cycle for a valuation filing that would otherwise be required to be made during the Freeze Period subject to the following conditions:

- a. at least one valuation is filed during the Freeze Period;
- b. there are no more than four years between the valuation dates of filed valuations; and
- c. any benefit reductions arising from valuations filed during the Freeze Period are implemented in accordance with the General Principles and Parameters herein.

Failing amendment of the said Regulation, this Agreement is of no force or effect.

14. The terms of this Agreement supersede all other agreements (written and oral) between the Sponsors, including the Partners' Agreement. The Sponsors shall amend the Plan, the Partners Agreement or any other documents as necessary to give effect to this Agreement.

15. This Agreement may be executed in one or more counterparts and delivered by facsimile or other means of electronic transmission, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement.

Liz Sandals - Minister of Education

Date:

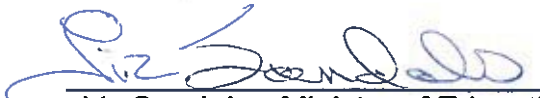


Terry Hamilton - President,
Ontario Teachers' Federation



Date:

15. This Agreement may be executed in one or more counterparts and delivered by facsimile or other means of electronic transmission, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement.


Liz Sandals - Minister of Education


Date: Mar 14/13

Terry Hamilton – President,
Ontario Teachers' Federation

Date:

Appendix A to Term Sheet Between Government and OTF

As of January 1, 2012 (all amounts in millions)

Calculation of Benefit Reduction Limit

Present Value of Future Benefits Based on Plan Provisions as of December 31, 2011 But Including Legislated Vesting Change	\$ 48,899
Less: Reduction in Present Value of Future Benefits to Reflect Indexation for Post-2009 Service at 60% of CPI	<u>6,309</u>
Equals: Present Value of Future Benefits For Purposes of Calculating Benefit Reduction Limit	\$ 42,590

Benefit Reduction Limit = 20% x \$42,590 = \$8,518

Calculation of Portion of Benefit Reduction Limit Utilized By Changes to Plan Incorporated into January 1, 2012 Actuarial Valuation

Increase in Reduction of Present Value of Future Benefits From Change in Indexation From 60% to 50% of CPI for Post-2009 Service	\$1,367
Plus	
Increase in Government Matching Contributions From Change in Indexation From 60% to 50% of CPI for Post-2009 Service	1,367
Plus	
Reduction in Present Value of Future Benefits Resulting From Change in Discount Rate Associated With Plan Changes (15.0 basis points)	1,390
Plus	
Reduction in Present Value of Future Contributions Resulting From Change in Discount Rate Associated With Plan Changes (15.0 basis points)	(497)
Plus	
Increase in Reduction of Present Value of Future Benefits From Change in Indexation From 50% to 45% of CPI for Post-2013 Service	<u>467</u>
Equals	
Portion of Benefit Reduction Limit Utilized	
\$ Amount	\$ 4,094
% Amount from 20%	9.6%

Remaining Benefit Reduction Limit for Plan Changes in Freeze Period

Benefit Reduction Limit	\$ 8,518
Less: Portion of Benefit Reduction Limit Utilized By Changes to Plan Incorporated into January 1, 2012 Actuarial Valuation	<u>4,094</u>
Equals: Remaining Benefit Reduction Limit For Plan Changes in Freeze Period	\$ 4,424
% Amount from 20%	10.4%

Appendix B to Term Sheet Between Government and OTF

The following are examples only. For purposes of paragraph 11(e) of the Term Sheet, the actual foregone indexing below 50% will be determined by the Plan Administrator based on the actual pension payments affected.

Subject to the above paragraph, the following example shows how the foregone pension payments in respect of which surplus credits are to be awarded (paragraph 11(e)) would be calculated in connection with invoking CIP below 50%. The example is based on:

- Inflation rate of 2.00% per year
- Retirements as of July 1st of each year
- New pensioner payments each year under the additional 50% CIP provisions for post-2013 service of \$3 million times number of years of service from January 1, 2014 to mid-year retirement date
- 10-year period with no mortality reflected
- Indexation at 45% of CPI for the entire period

Calendar Year	Pension Payments With 50% of CPI (000's)	Pension Payments With 45% of CPI (000's)	Foregone Pension Payments (000's)
2014	\$ 1,500	\$ 1,500	\$ 0
2015	\$ 7,515	\$ 7,514	1
2016	\$ 19,592	\$ 19,582	10
2017	\$ 37,786	\$ 37,759	27
2018	\$ 62,164	\$ 62,099	65
2019	\$ 92,786	\$ 92,658	128
2020	\$ 129,714	\$ 129,492	222
2021	\$ 173,011	\$ 172,658	353
2022	\$ 222,741	\$ 222,212	529
2023	\$ 278,968	\$ 278,212	756
			\$ 2,091

The following example modifies the above example to show the impact of moving from 45% of CPI to 0% of CPI (for post-2013 service) effective January 1, 2017:

Calendar Year	Pension Payments With 50% of CPI (000's)	Pension Payments With 45% of CPI / 0% of CPI (000's)	Foregone Pension Payments (000's)
2014	\$ 1,500	\$ 1,500	\$ 0
2015	\$ 7,515	\$ 7,514	1
2016	\$ 19,592	\$ 19,582	10
2017	\$ 37,786	\$ 37,582	204
2018	\$ 62,164	\$ 61,582	582
2019	\$ 92,786	\$ 91,582	1,204
2020	\$ 129,714	\$ 127,582	2,132
2021	\$ 173,011	\$ 169,582	3,429
2022	\$ 222,741	\$ 217,582	5,159
2023	\$ 278,968	\$ 271,582	<u>7,386</u>
			\$ 20,107

G - OTPP Memo of understanding September 18, 2008 with letters.pdf

**MEMO OF UNDERSTANDING
ONTARIO TEACHERS' PENSION PLAN
SEPTEMBER 18, 2008**

Interest Rate Assumption Adjustment

- A. Interest rate assumption will be adjusted to allow the filing of the January 1, 2008 funding valuation (approximately RRB+1.5%) subject to the provisions set out below.
- B. The Partners shall notify the Board, in writing, that the Funding Management Policy will not expire prior to the date the January 1, 2008 funding valuation is filed.
- C. The Restoration Basis within the Funding Management Policy will be revised and documented as RRB+1.4%.
- D. Establish a review process as per Attachment 1. Partners' Agreement needs to be revised to allow the payment of expenses as outlined in Attachment 1.

Contribution Rate Adjustment

- E. Contribution rate maximum to remain at 15.0% as previously agreed
 - 1. Maximum applies to contribution rate on salaries above the CPP limit.
- F. Basic contribution rate increased to 8.3/9.9% from 7.3/8.9%
 - 1. Special contributions adjusted accordingly to maintain same overall level.
 - 2. To be documented in Schedule 1 to the Teachers' Pension Act (Plan Text) before January 1, 2008 funding valuation is filed.
- G. The total contribution rate established with the January 1, 2005 filed funding valuation will remain unchanged.

Conditional inflation protection for future service after January 1, 2010

- H. To be documented in the appropriate Plan document before January 1, 2008 funding valuation is filed
 - 1. Benefits earned for service on or after January 1, 2010 will be subject to conditional indexing.
 - 2. Post-2009 benefit accruals will be subject to 50% conditional indexing (ie. 50% guaranteed indexing).
 - 3. Post-2009 benefit accruals will attract indexation adjustments between 50% to 100% of the CPI increase, as determined in future based on the Plan's financial position.
 - 4. Once a conditional indexation adjustment is granted, continued payment of that adjustment is a permanent obligation of the Plan and the adjustment shall be eligible for conditional indexation adjustments on a go-forward basis.

**MEMO OF UNDERSTANDING
ONTARIO TEACHERS' PENSION PLAN
SEPTEMBER 18, 2008**

- I. The goal of the Partners is to provide indexation adjustments at 100% of CPI on all service accruals when possible, subject to the funded status of the Plan and the Board will manage the Plan's investments appropriate to pursuing this goal.

- J. Decisions regarding the level of adjustment (within the 50% to 100% range) will be made periodically by the Partners based on the Plan's emerging financial position, as part the valuation filing process. This decision is in effect until the date of the next filed funding valuation.
 - 1. It is understood that, if Plan assets in tandem with scheduled future contributions are sufficient to both sustain 100% adjustments for the future and to provide catch-up in the "pension run rate" (in the event prior adjustment were less than 100%) then these adjustments will both be provided in full.
 - 2. It is further understood that previously foregone inflation adjustments may be restored by the Partners where the resulting adjustments are expected to be sustainable (in light of the Plan's financial position and scheduled future contributions).
 - 3. The above will be documented in the Funding Management Policy by March 31, 2009.

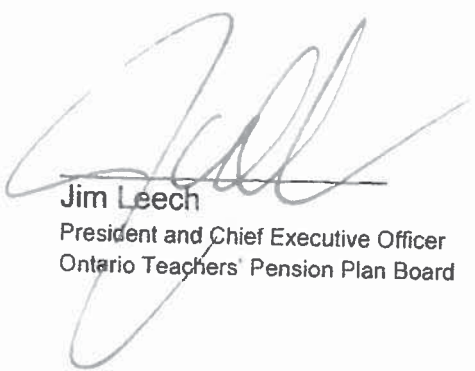
- K. Finalize design of conditional indexation feature by March 31, 2009
 - 1. Appoint a tri-party working group (OTF, Ontario Government and OTPP) to design and advise the parties.
 - 2. Allows opportunity to consider other Canadian pension plans/risk sharing methods employed and to tailor the design to the parties' needs.
 - 3. It is understood that costs reasonably incurred and agreed to by all three parties, for operating the working group will be paid from Plan funds. Partners' Agreement needs to be revised to allow the payment of these expenses.

**MEMO OF UNDERSTANDING
ONTARIO TEACHERS' PENSION PLAN
SEPTEMBER 18, 2008**

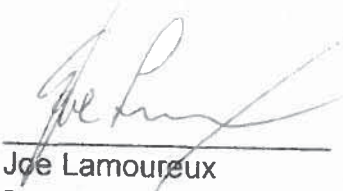
- L. Partners reserve the right (by their mutual agreement) for the finalized design to reflect a conditional indexation formula different from that outlined in H above, provided it results in a comparable reduction in net liability and risk profile using the same assumptions as the filed January 1, 2008 funding valuation.
- M. Any foregone inflation increases to pensioners are to be matched by contributions made by Ontario government/participating employers. Since this commitment conflicts with the current provisions of The Teachers' Pension Act, the government will seek the approval of the Legislature to amend the Act in that regard. The Partners agree that these contributions shall be documented in Schedule 1 to the Teachers' Pension Act (Plan Text) as soon as possible.

Other

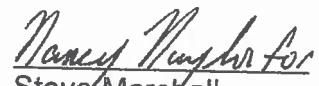
- N. Establishment of a Consultative Committee as per Attachment 2. Partners' Agreement needs to be revised to allow the payment of expenses as outlined in Attachment 2.



Jim Leech
President and Chief Executive Officer
Ontario Teachers' Pension Plan Board



Joe Lamoureux
President
Ontario Teachers' Federation



Nancy Hughes for
Steve Marshall
Deputy Minister of Education
Ministry of Education
Government of Ontario



Maureen Davis
Past President
Ontario Teachers' Federation

ATTACHMENT # 1
ONTARIO TEACHERS' PENSION PLAN
REVIEW PROCESS
TERMS OF REFERENCE
SEPTEMBER 18, 2008

General

The Ontario Teachers' Pension Plan Board ("the Plan Administrator") and the Ontario Teachers' Federation and the Government of Ontario ("the Partners") hereby establish a process by which the discount rate used by the Plan Actuary in preparing a funding valuation report for the Plan Administrator to be filed as required by the Pension Benefits Act regulations may be reviewed by an independent party. The purpose of the review is to allow the Plan Administrator and the Partners to address the matter of the valuation discount rate in the context of the Plan characteristics and to receive a report of the Hearing Officer noted below.

Caveat

Nothing in this process is intended to alter the roles and mandates of the parties as set out in the Partners' Agreement or otherwise, or under the requirements of the governing legislation.

This Review Process will not proceed if the conditions of the Memorandum of Agreement dated September 18, 2008 (MOU) have not been met and/or the Funding Management Policy, amended as contemplated under the MOU, is no longer in effect, unless agreed in writing by the Plan Administrator.

Triggering Event

If the real discount rate proposed by the Board to be used in the funding valuation report prepared on the Restoration Basis (as defined in the Funding Management Policy) to be filed by the Plan Administrator is less than 3.575 percent, the Partners, acting together, have the right to invoke the following process by giving notice in writing to the Plan Administrator by March 31 of the filing year. The notice shall be deemed received on the next business day.

Process

The Partners and the Plan Administrator shall mutually agree on the terms of engagement of the Hearing Officer including the terms of reference, procedures for addressing the matters which give rise to the process and timelines for the process by May 31, 2009.

Once the process is invoked, the Partners and the Plan Administrator shall meet within two weeks, or such other period as they may mutually agree after the giving of notice, to agree on an individual to act as a Hearing Officer to hear the matter or matters provided above which gave rise to the process.

ATTACHMENT # 1
ONTARIO TEACHERS' PENSION PLAN
REVIEW PROCESS
TERMS OF REFERENCE
SEPTEMBER 18, 2008

Once a Hearing Officer has been agreed upon, he/she will determine, with the agreement of the Partners and the Plan Administrator, a time frame and schedule for completion of the process.

The Hearing Officer shall issue his/her report (including a concise Executive Summary) on the matters under review to the Partners and the Plan Administrator simultaneously by June 30 of the filing year to allow sufficient time for the Partners and the Plan Administrator to consider his/her report.

The Hearing Officer will keep confidential all information received during this process, including the engagement, and will not make any public comment on the report or any findings related to the process. Prior to the filing of the valuation report under the Pension Benefits Act, the Plan Administrator and the Partners will keep the report confidential, unless a written consent is executed by all three parties.

The report shall not be binding on the Partners nor the Plan Administrator.

After receiving the Hearing Officer report, the Plan Administrator will provide the Partners with reasons, in writing, for the discount rate chosen for the funding valuation report by August 15 of the filing year

Subsequent to the filing of the valuation report under the Pension Benefits Act, either Partner or Plan Administrator may disclose to the Plan members the Executive Summary, together with the written response provided by the Plan Administrator,...

Cost

The cost of the Hearing Officer will be covered by the Plan, subject to the approval of the Partners and the Plan Administrator.

General

The Partners' Consultative Committee is established by the Ontario Teachers' Pension Plan Partners to assist the Partners in maintaining an on-going awareness of the funded status of the Plan and in understanding the factors that may contribute to variations in the status over time.

Membership

The Committee shall be composed of a maximum of ten (10) members appointed from time to time by the Partners' Committee. Each sponsoring Partner is entitled to appoint five (5) members although either Partner may decide to appoint a smaller number of members.

Each Partner shall designate one of its appointees to act as co-chair.

Mandate

On behalf of the Partners' Committee, the Partners' Consultative Committee will maintain an awareness of the funded status of the Plan as well as the trends and issues that may affect the funded status of the Plan.

In fulfilling its mandate, the Committee will carry out the functions set out below.

1. The Committee will meet with the Plan Administrator and, if requested, the Plan Actuary on a quarterly basis to review the funded status of the Plan and to discuss the factors that underlay this position;
2. With the approval of the Partners' Committee, the Consultative Committee may request the Plan Administrator to undertake further research into any matter that bears on the funded status of the Plan. Where the Plan Administrator agrees that research using either external and internal resources is appropriate and cost effective, the cost of such research will be covered by the Plan; and
3. The Co-chairs will report quarterly to the Partners' Committee on the Consultative Committee's activities and findings.

Meetings and other procedures

Meetings will be scheduled by mutual agreement of the respective co-chairs and the Plan Administrator. The Committee has the power to determine its own procedures.



Ministry of Education
Mowat Block
Queen's Park
Toronto, ON M7A 1L2

Ministère de l'Éducation
Édifice Mowat
Queen's Park
Toronto ON M7A 1L2

Ontario Teachers' Federation
Suite 200
1300 Yonge Street
Toronto, ON M4T 1X3

Federation des enseignantes
et des enseignants de l'Ontario
Suite 200, 1300 rue Yonge
Toronto ON M4T 1X3

April 14, 2014

Mr. Ron Mock
President and CEO
Ontario Teachers' Pension Plan
5650 Yonge Street
Toronto, ON M2M 4H5

Dear Mr. Mock:

Re: Filing of the January 2014 Plan Valuation

The preliminary valuation of the Ontario Teachers' Pension Plan ("the Plan") as at January 1, 2014 indicates that the Plan has a going concern surplus of \$5.074 billion. Although this valuation is not required to be filed with the Financial Services Commission of Ontario, the Partners have decided that it would be to our mutual advantage to do so.

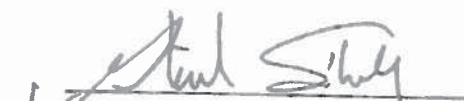
On account of the surplus and in keeping with the commitment made to Plan members when conditional inflation protection was introduced, we propose that for post-2009 service, inflation protection should be raised to 60 percent starting with the January 1, 2015 adjustment. Further, we propose to restore pensions to the level that would have been payable if full inflation protection had been provided since retirement, also effective January 1, 2015. It is our understanding that both of these measures can be taken within the framework of the available surplus funds.

We request that you instruct the Plan Actuary to prepare a revised valuation based on the Plan amendments outlined above so that this valuation may be filed with the regulator in accordance with the relevant regulations.

We are most grateful to you and your staff for your assistance in filing this valuation.

Yours sincerely,


Julie Pauletig
President
Ontario Teachers' Federation


George Zegarac
Deputy Minister
Ministry of Education



Ministry of Education
Mowat Block
Queen's Park
Toronto, ON M7A 1L2

Ministère de l'Éducation
Édifice Mowat
Queen's Park
Toronto ON M7A 1L2

Ontario Teachers' Federation
Suite 200
1300 Yonge Street
Toronto, ON M4T 1X3

Federation des enseignantes
et des enseignants de l'Ontario
Suite 200, 1300 rue Yonge
Toronto ON M4T 1X3

March 18, 2015

Mr. Ron Mock
President and CEO
Ontario Teachers' Pension Plan
5650 Yonge Street
Toronto, ON M2M 4H5

Dear Mr. Mock:

Re: Filing of the January 2015 Plan Valuation

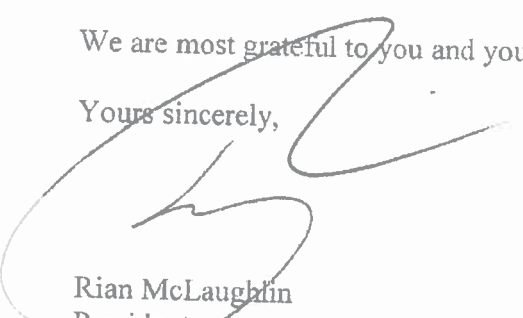
The preliminary valuation of the Ontario Teachers' Pension Plan ("the Plan") as at January 1, 2015 indicates that the Plan has a going concern surplus in excess of \$6 Billion. Although this valuation is not required to be filed with the Financial Services Commission of Ontario, the Partners have decided that it would be to our mutual advantage to do so.

On account of the surplus and in keeping with the commitment made to Plan members when conditional inflation protection was introduced, we propose that for post-2009 service, inflation protection should be raised to 70 percent starting with the January 1, 2016 adjustment. Further, we propose to restore pensions to the level that would have been payable if full inflation protection had been provided since retirement, also effective January 1, 2016. It is our understanding that both of these measures can be taken within the framework of the available surplus funds.

We request that you instruct the Plan Actuary to prepare a revised valuation based on the Plan amendments outlined above so that this valuation may be filed with the regulator in accordance with the relevant regulations.

We are most grateful to you and your staff for your assistance in filing this valuation.

Yours sincerely,


Rian McLaughlin
President
Ontario Teachers' Federation


George Zegarac
Deputy Minister
Ministry of Education



Ministry of Education
Mowat Block
Queen's Park
Toronto, ON M7A 1L2

Ministère de l'Éducation
Édifice Mowat
Queen's Park
Toronto ON M7A 1L2

Ontario Teachers' Federation
Suite 200
1300 Yonge Street
Toronto, ON M4T 1X3

Federation des enseignantes
et des enseignants de l'Ontario
Suite 200, 1300 rue Yonge
Toronto ON M4T 1X3

August 8, 2016

Ron Mock
President and CEO
Ontario Teachers' Pension Plan
5650 Yonge Street
Toronto, ON M2M 4H5

Dear Ron Mock:

Re: Filing of the January 2016 Plan Valuation

The preliminary valuation of the Ontario Teachers' Pension Plan ("the Plan") as at January 1, 2016 indicates that the Plan has a going concern surplus of approximately \$13 Billion. Although this valuation is not required to be filed with the Financial Services Commission of Ontario, the Partners have decided that it would be to our mutual advantage to do so.

On account of the surplus and in keeping with the commitment made to Plan members when conditional inflation protection was introduced, we propose that for post-2009 service, inflation protection should be raised to 90 percent starting with the January 1, 2017 adjustment. Further, we propose to restore pensions to the level that would have been payable if full inflation protection had been provided since retirement, also effective January 1, 2017. It is our understanding that both of these measures can be taken within the framework of the available surplus funds.

We request that you instruct the Plan Actuary to prepare a revised valuation based on the Plan amendments outlined above so that this valuation may be filed with the regulator in accordance with the relevant regulations.

We are most grateful to you and your staff for your assistance in filing this valuation.

Yours sincerely,

Francine LeBlanc-Lebel
President
Ontario Teachers' Federation

Nancy Matthews
Deputy Minister
Ministry of Education

FLL/NM/am

