



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

PUBLIC SECTOR PENSION PLAN ACT

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to December 25, 2021. It is intended for information and reference purposes only.

This document is ***not*** the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office
Tel: (902) 368-4292
Email: legislation@gov.pe.ca



PUBLIC SECTOR PENSION PLAN ACT

Table of Contents

Section	Page
INTERPRETATION	7
1. Definitions.....	7
APPLICATION	14
2. Application.....	14
SPOUSES	15
2.1 Voidable or void marriage not in good faith	15
2.2 More than one claimant.....	15
RECIPROCAL TRANSFER AGREEMENTS	15
3. Reciprocal transfer agreements	15
ADMINISTRATION	17
4. Civil Service Superannuation Commission.....	17
4.1 Annual report	18
4.2 Absence or incapacity of commissioner.....	18
4.3 Quorum of the Commission	18
4.4 Duty of commissioner	19
4.5 Remuneration	19
4.6 Indemnification of commissioners	19
4.7 Staff, etc.	20
4.8 Application of Act.....	20
CIVIL SERVICE SUPERANNUATION FUND	20
Continuation, Payments, Trust and Investments	20
5. Prince Edward Island Public Sector Pension Plan	20
ANNUAL REPORT	21
6. Annual Report	21
ACTUARY AND ACTUARIAL VALUATION REPORT	21
6.1 Actuary, appointment.....	21
6.2 Going concern valuation for 2014.....	22
CONTRIBUTIONS	23
7. Required base contributions, amount	23
SUPPLEMENTARY CONTRIBUTIONS	24
7.01 Where funded benefits ratio is less than 110%	24

GENERAL	25
7.02 Member's contributions.....	25
TRANSITIONAL GOVERNMENT FUNDING	26
7.03 Transitional funding commitment of government	26
GOVERNMENT GUARANTEE	26
7.04 Government guarantee shortfall amount	26
MISSED CONTRIBUTIONS	27
7.1 Written notice	27
7.2 Pensionable service	27
INDEXING OF SALARIES AND YEAR'S MAXIMUM PENSIONABLE EARNINGS	28
7.3 Definitions	28
COMPUTATION OF PENSIONS	29
Amount of Pension Payable on Retirement	29
8. Number of years of CPP service.....	29
INDEXING OF PENSIONS AND DEFERRED PENSIONS	31
8.01 Definition, prorated pension indexing percentage	31
8.02 Deferred pension - increase to pensionable salary	32
PENSION ELIGIBILITY	34
8.1 Application of sections relating to eligibility for pension	34
9. Eligibility with service on or after January 1, 2019.....	34
REFUNDS OF MEMBER'S CONTRIBUTIONS	35
10. Vested options on termination	35
11. Abolition.....	35
12. Refund of member's contributions	35
REQUISITIONS FOR PAYMENTS OUT OF THE PLAN	36
12.1 Payment of benefits and administration expenses by requisition	36
DEATH OF MEMBER OR VESTED FORMER MEMBER	36
13. Death of member, vested former member	36
13.1 Death of pensioner.....	37
13.2 Entitlement of personal representative	38
13.3 Cessation of payments	38
13.4 Ineligibility	39
14. Payments to be made monthly	39
15. Assignment etc. of rights	39
RE-EMPLOYMENT	40
16. Pension ceases on <i>re-employment</i>	40
INTERRUPTION OF SERVICE	40
17. Service in time of war.....	40
17.1 Work Force Adjustment Program.....	41
17.2 Provincial laboratory employee	41
17.3 Exception.....	41
DIVISION OF PENSION BENEFITS	42
18. Request for information <i>re</i> division of pension benefits	42
19. Determination of questions of application.....	43



20.	Interested party.....	43
21.	Interested party objects	43
22.	Minister approves division.....	44
23.	Transfer of not more than 50%	44
23.1	Death of spouse, former spouse prior to receiving separate pension	46
24.	Payments in excess of entitlement	46
25.	<i>Idem</i>	47
26.	No assignment.....	47
27.	Minister may not prejudice, where court order	47
27.01	No pensionable service after December 31, 2018.....	47
27.02	Calculation, unreduced yearly separate pension	48
GENERAL		50
27.1	Immunity from Legal Action	50
27.2	Repayment	51
27.3	Requirement to provide information	51
27.4	Records	52
28.	Regulations	52



PUBLIC SECTOR PENSION PLAN ACT

CHAPTER P-32.11

INTERPRETATION

1. Definitions

(1) In this Act,

- (a) **“actuarial valuation report”** means a written actuarial valuation report for accounting purposes prepared, and submitted to the Minister, by the Actuary in accordance with section 6.1;
- (b) **“Actuary”** means the person or firm appointed as the Actuary under section 6.1;
- (b.1) **“approved leave”** means any of the following types of leave that has been approved:
 - (i) maternity leave,
 - (ii) parental leave,
 - (iii) adoption leave,
 - (iv) leave taken with respect to participation in a deferred salary plan, or
 - (v) leave associated with a reduction in a member’s hours of work;
- (c) **“assets of the Plan”** means the assets of the Plan, as determined in accordance with Canadian generally accepted accounting principles for the public sector, including:
 - (i) the cash balances, in the accounts of the Plan,
 - (ii) the investments held in trust by the Minister on behalf of the Plan, and
 - (iii) any other assets, including accrued or receivable income;
- (d) **“average weighted indexed pensionable salary”** means, in respect of a member, the amount determined by the formula

$$\frac{A}{B}$$

where

A is the total of the weighted indexed pensionable salaries of the member for the calendar years for which the member is credited with pensionable service, and

B is the member’s number of years of pensionable service;

- (e) **“average weighted indexed year’s maximum pensionable earnings amount”** means, in respect of a member, the amount determined by the formula

$$\frac{A}{B}$$

where

A is the total of the weighted indexed year's maximum pensionable earnings amount of the member for the calendar years for which the member is credited with pensionable service, and

B is the member's number of years of pensionable service;

- (f) **"base contribution"** means
 - (i) in respect of a member, the contribution that the member is required, each calendar year, to make to the Plan under subsection 7(1), and
 - (ii) in respect of an employer, the contribution that the employer is required to make to the Plan, each calendar year, under subsection 7(2);
- (f.1) **"chairperson"** means the chairperson of the Commission appointed under subsection 4(4);
- (f.2) **"Commission"** means the Prince Edward Island Public Sector Pension Commission continued under subsection 4(1);
- (f.3) **"commissioner"** means a member of the Commission appointed under subsection 4(3);
- (g) **"court order"** means an order of a court of competent jurisdiction in Canada;
- (h) **"Crown Corporation"** means a Crown Corporation as defined in the *Financial Administration Act* R.S.P.E.I. 1988, Cap. F-9;
- (h.1) **"date of separation"** means the date that the member, vested former member or pensioner and his or her spouse or former spouse as of that date commenced living separate and apart;
- (i) **"dependent child"**, in relation to an individual entitled to or receiving a pension under this Act at the time of the individual's death, means
 - (i) a child of the individual who is under 18 years of age at the time of the individual's death,
 - (ii) a child of the individual who is 18 years of age or older and was dependent on the individual for maintenance and support by reason of mental or physical disability, or
 - (iii) a child of the individual who has not attained the age of 25 years, if the child is attending on a full-time basis at an institution of learning designated under subsection 14(2) of the *Student Financial Assistance Act* R.S.P.E.I. 1988, Cap. S-8.2;
- (j) **"domestic contract"** means a domestic contract as defined in Part IV of the *Family Law Act* R.S.P.E.I. 1988, Cap. F-2.1;
- (k) **"effective date"** means, in respect of an actuarial valuation report, April 1 of the year in which the actuarial valuation report is prepared;
- (l) **"employer's contributions"** means
 - (i) the base contribution, and
 - (ii) the supplementary contribution, if any,that an employer is required to make each calendar year to the Plan under this Act and the regulations;
- (m) **"fiscal year"** means the period beginning April 1 in one year and ending March 31 in the next year;
- (n) repealed by 2020,c.60,s.2(1);



- (o) **“funded benefits ratio”** means, in respect of the Plan, the ratio of the total value of assets of the Plan to the total value of liabilities of the Plan, as calculated by the Actuary as of the effective date of an actuarial valuation report and as expressed by the Actuary as a percentage in that actuarial valuation report, by the Actuary in accordance with this Act;
- (p) **“government guarantee shortfall amount”** means the amount determined by the Actuary under subsection 7.04(1);
- (q) **“indexed pensionable salary”** means, in respect of a calendar year, the member’s pensionable salary for that calendar year, together with any accumulated salary indexing increases made by January 1 of that calendar year, as indexed under subsection 7.3(2);
- (r) **“indexed year’s maximum pensionable earnings amount”** means, in respect of a calendar year, the member’s year’s maximum pensionable earnings amount for that calendar year, together with any accumulated indexing increases for the year’s maximum pensionable earnings amount made by January 1 of that calendar year, as indexed under subsection 7.3(5);
- (s) **“liabilities of the Plan”** means, subject to subsections 6.1(7) and (8), the liabilities of the Plan as set out in an actuarial valuation report;
- (t) **“Long-Term Disability Insurance Plan”** means any Long-Term Disability Insurance Plan that a participating employer provides for its employees;
- (u) **“member”** includes
 - (i) a person who was a contributor to the Plan immediately preceding the date on which this section comes into force,
 - (ii) a permanent, probationary or provisional employee as defined in the *Civil Service Act* R.S.P.E.I. 1988, Cap. C-8,
 - (iii) an executive division employee holding a position referred to in clauses 8(1)(a), (c), (d) and (h) of the *Civil Service Act*,
 - (iv) an employee or a former employee of a participating employer who is receiving disability payments under a Long-Term Disability Insurance Plan,
 - (v) a contract employee whose contract of employment provides for participation in the Plan,
 - (vi) an employee who is receiving temporary wage loss benefits under the *Workers Compensation Act* R.S.P.E.I. 1988, Cap. W-7.1, in respect of a total loss of earning capacity, and
 - (vii) any other person who
 - (A) is an employee of a participating employer,
 - (B) is not subject to the *Civil Service Act*, and
 - (C) is included as a member by the regulations;
- (v) **“member’s contributions”** means
 - (i) the base contribution, and
 - (ii) the supplementary contribution, if any,that a member is required to make to the Plan each calendar year under this Act and the regulations;
- (v.1) **“minimum guaranteed pension amount”** means an amount that is 1.5 times the total value of the contributions made by a member, vested former member or pensioner;
- (w) **“Minister”** means the Minister of Finance;

- (x) “**pension benefits**” means any pension, allowance, annuity, return of contributions or other benefits or amount payable under the Act;
- (x.1) “**pension entitlement at death prior to retirement**” means an annual unreduced pension that would have been payable to an individual if he or she had retired immediately prior to his or her death, calculated in accordance with section 8;
- (y) “**pension indexation asset amount**” means, in respect of the effective date of an actuarial valuation report,
 - (i) where an actuarial valuation report with an effective date of April 1, 2016, or April 1 of any subsequent year, indicates that the funded benefits ratio of the Plan, as of the effective date of the report is greater than 110%, the greater of
 - (A) 0, and
 - (B) the amount determined by the formula

$$A - B$$

where

A is the salary indexation asset amount as of the effective date of the report, and

B is the total cost of indexing the pensionable salaries of all members for the calendar year immediately following the effective date of the report, and

- (ii) where an actuarial valuation report with an effective date of April 1, 2016, or April 1 of any subsequent year, indicates that the funded benefits ratio of the Plan, as of the effective date of the report, is less than or equal to 110%, 0;
- (z) “**pension indexing percentage**” means, in respect of any year after 2013,
 - (i) for each of 2014, 2015 and 2016, one and one half per cent, and
 - (ii) for any year after 2016, the greater of
 - (A) 0, and
 - (B) the percentage determined by the following formula

$$\frac{A - B}{B}$$

where

A is the average Consumer Price (all items) Index for Canada as published by Statistics Canada under the authority of the *Statistics Act* (Canada) for the twelve-month period ending January 31 of the immediately preceding year; and

B is the average Consumer Price (all items) Index for Canada as published by Statistics Canada under the authority of the *Statistics Act* (Canada) for the twelve-month period immediately preceding the twelve-month period described in “A”;

- (aa) “**pensionable salary**” means
 - (i) in respect of a calendar year prior to 2014 for which a member is credited with pensionable service, the average of the three years of highest salary paid to the member before 2014, and
 - (ii) in respect of a calendar year after 2013 for which a member is credited with pensionable service, the member’s salary for that calendar year;



- (bb) “**pensionable service**” means service by a member for which the member’s contributions have been made as required under this Act;
- (cc) “**pensioner**” means a former member who is receiving periodic pension payments from the Plan in accordance with this Act and the regulations;
- (cc.1) “**personal representative**” means the executor, original or by representation, or administrator for the time being of a deceased person, appointed by letters under the seal of the Supreme Court;
- (cc.11) “**Plan**” means the Prince Edward Island Public Sector Pension Plan;
- (cc.2) “**registered pension plan**” means a registered pension plan as defined in the *Income Tax Act* (Canada);
- (dd) “**regulations**” means regulations made under this Act;
- (ee) “**salary**” means core compensation paid to a member for labour or services, and, where applicable, includes such amounts of compensation as are prescribed amounts for the purposes of subsection 147.1(1) of the *Income Tax Act* (Canada) related to disability and eligible periods of reduced pay and temporary absence, but does not include
 - (i) expense allowances, premiums, bonuses or payments of a similar nature,
 - (ii) overtime payments,
 - (iii) awards or settlements paid by an employer to an employee or former employee with respect to wages or benefits for which the employee or former employee does not have corresponding service as a member;
- (ff) “**salary indexation asset amount**” means, in respect of the effective date of an actuarial valuation report,
 - (i) if the funded benefits ratio as of that date is greater than 110%, the amount determined by the formula

$$(20\% \times 10\% \times A) + (50\% \times [B - (110\% \times A)])$$
 where
 A is the total value of the liabilities of the Plan, and
 B is the total value of the assets of the Plan,
 - (ii) if the funded benefits ratio as of that date is greater than 100% but less than or equal to 110%, the amount determined by the formula

$$20\% \times (B - A)$$
 where
 A is the total value of the liabilities of the Plan, and
 B is the total value of the assets of the Plan,
 - (iii) if the funded benefits ratio as of that date is less than or equal to 100%, 0;
- (gg) “**salary indexing percentage**” means, in respect of any calendar year after 2013,
 - (i) for each of 2014, 2015 and 2016, one and one half per cent, and
 - (ii) for any calendar year after 2016, the greater of
 - (A) 0, and
 - (B) the percentage determined by the following formula

$$\frac{A - B}{B}$$

where

A is the average of the wage measure for each month of the twelve-month period ending January 31 of the immediately preceding calendar year, and

B is the average of the wage measure for each month of the twelve-month period immediately preceding the twelve-month period described in “A”;

- (gg.1) “**separate pension**” means the share of the pension benefits of a member, vested former member or pensioner to which the spouse or former spouse of the member, vested former member or pensioner is entitled in accordance with this Act;
- (hh) “**service**” means any service rendered by a member for which contributions have been made as required by this Act, and includes
- (i) time spent in the Sovereign’s forces or in an auxiliary service during World War I, World War II or the Korean War, unless that time has been included in the calculation of service in relation to any other pension or superannuation benefit,
 - (ii) any period during which a member is in receipt of disability payments, and
 - (iii) any period during which a member is in receipt of temporary wage loss benefits under the *Workers Compensation Act* in respect of a total loss of earning capacity arising from an injury, and the employment relationship has not been terminated, to the greater of
 - (A) two years, and
 - (B) the period during which the member is eligible for a leave of absence under a collective agreement in respect of the injury;
- (ii) “**spouse**” means an individual who, in respect of a member, vested former member or pensioner,
- (i) is married to the member, vested former member or pensioner,
 - (ii) has entered into a marriage with the member, vested former member or pensioner that is voidable or void,
 - (iii) where the member, vested former member or pensioner is not married to anyone, is cohabiting with the member, vested former member or pensioner in a conjugal relationship and has done so continuously for a period of at least three years, or
 - (iv) where the member, vested former member or pensioner is not married to anyone, is cohabiting with the member, vested former member or pensioner in a conjugal relationship and together they are recognized as the parents of a child in accordance with Part 4 of the *Children’s Law Act* R.S.P.E.I. 1988, Cap. C-6.1;
- (jj) “**supplementary contribution**” means the contribution, if any, that a member or employer is required, in respect of a calendar year, to make to the Plan under section 7.01;
- (kk) “**total cost of pension indexing**” means, in respect of a year following the effective date of an actuarial valuation report, the amount determined by the formula

$$A \times B$$

where



A is the pension indexing percentage for that year, and

B is the total value of the liabilities of the Plan in respect of all pensioners, vested former members and spouses or former spouses entitled to a separate pension under this Act as of the effective date of the actuarial valuation report;

- (ll) **“total cost of salary indexing for all members”** means, in respect of a calendar year following the effective date of the actuarial valuation report, the amount determined by the formula

$$A \times B$$

where

A is the salary indexing percentage for that calendar year, and

B is the total value of the liabilities of the Plan in respect of all members as of the effective date of the actuarial valuation report;

- (mm) **“vested former member”** means a former employee who is not a pensioner and who is not receiving disability payments under a Long-Term Disability Insurance Plan but who is entitled to a deferred or immediate pension from the Plan in accordance with this Act;
- (mm.1) **“vice-chairperson”** means the vice-chairperson of the Commission appointed under subsection 4(4);
- (nn) **“wage measure”** means, in respect of a month, the average weekly wages and salaries of the Industrial Aggregate in Canada for the month, as published by Statistics Canada under the authority of the *Statistics Act* (Canada);
- (oo) **“weighted indexed pensionable salary”** means, in respect of a calendar year, the amount determined by the formula

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

where

A is the total number of hours worked by a member during that calendar year for which the required contributions were made under this Act,

B is the total number of normal full-time hours for the member’s position for that calendar year, and

C is the indexed pensionable salary of the member for that calendar year;

- (pp) **“weighted indexed year’s maximum pensionable earnings amount”** means, in respect of a calendar year, the amount determined by the formula

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

where

A is the total number of hours worked by a member during that calendar year for which the required contributions were made under this Act,

B is the total number of normal full-time hours for the member’s position for that calendar year, and

C is the indexed year’s maximum pensionable earnings amount of the member for that calendar year;

- (qq) **“year’s maximum pensionable earnings amount”** means
- (i) in respect of a calendar year prior to 2014 for which a member is credited with pensionable service, the average amount of the year’s maximum

- pensionable earnings of the member under the Canada Pension Plan for the three-year period used in subclause 1(1)(aa)(i), and
- (ii) in respect of a calendar year after 2013 for which a member is credited with pensionable service, the amount of the year's maximum pensionable earnings of the member under the Canada Pension Plan for that calendar year.

Annualization of pensionable salaries

- (2) Where in respect of a calendar year a member works less than the normal full-time hours for the member's position, the member's pensionable salary for that calendar year shall be the salary the member would have received if the member had worked the normal full-time hours for the member's position during that period.

Proration of pensionable salary and year's maximum pensionable earnings for partial year prior to retirement

- (3) Where the last day of employment for which a member has credited service is a date other than January 1 of a calendar year, the salary indexing percentage, and the year's maximum pensionable earnings percentage in respect of the calendar year, shall be prorated so as to be proportionate to the part of the calendar year from January 1 to the last day of that year for which the member is credited with service. *1998,c.84,s.1; 1999,c.21,s.1; 2001,c.30,s.1; 2004,c.28,s.1; 2007,c.25,s.1; 2008,c.37,s.1; 2008,c.8,s.3(2); 2009,c.3,s.1; 2010,c.31,s.3; 2012,c.17,s.2; 2013,c.6,s.2; 2014,c.3,s.1; 2015,c.28,s.3; 2016,c.36,s.1; 2017,c.3,s.1; 2020,c.60,s.2; 2020,c.59,s.100.*

APPLICATION

2. Application

- (1) This Act applies to
- (a) participating employers, as prescribed by the regulations, who make or have made contributions to the Plan;
- (b) every person who is a member;
- (c) every person who
- (i) is a pensioner or a vested former member, or
- (ii) made contributions to the Plan; and
- (d) a spouse or former spouse of a person referred to in clause (b) or (c) to whom a separate pension is payable in accordance with this Act.

Judges of the Provincial Court

- (2) This Act, as it read immediately before January 1, 2014, continues to apply on and after that date to
- (a) a member who was appointed, on or after April 1, 1997, as a judge of the Provincial Court;
- (b) the employer of a member described in clause (a) in respect of the employer's obligations under this Act in respect of that member;
- (c) a pensioner who was, before his or her retirement, a member described in clause (a); and
- (d) a spouse or former spouse of a person referred to in clause (a) or (c) to whom a separate pension is payable in accordance with this Act. *1981,c.5,s.2; 1987,c.10,s.2; 1992,c.11,s.1; 1993,c.30,s.61; 1995,c.7,s.1; 1996,c.8,s.2; 1997,c.22,s.30; 1999,c.21,s.2; 2000,c.4,s.5; 2001,c.30,s.2; 2004,c.28,s.2; 2013,c.6,s.4; 2014,c.3,s.2; 2020,c.60,s.3.*



SPOUSES

2.1 Voidable or void marriage not in good faith

A spouse or a surviving spouse is not entitled to a division of pension benefits or to pension benefits as a spouse or a surviving spouse, if

- (a) the marriage is voidable or void; and
- (b) the person did not enter into the marriage in good faith. *2008, c.8, s.3(3).*

2.2 More than one claimant

- (3) Where there is more than one person claiming that he or she is entitled to a division of pension benefits or to pension benefits as a spouse or a surviving spouse of a member, vested former member or pensioner, the Minister may

- (a) defer any decision on the application for pension benefits until the Minister is able to ascertain which person is entitled to make the claim for pension benefits as a spouse or surviving spouse; or
- (b) where pension benefits are being paid to a spouse or a surviving spouse, cease to make payments to the recipient until the Minister is able to ascertain which person is entitled to make the claim for pension benefits as a spouse or surviving spouse.

Entitlement

- (4) For greater clarity, the Minister shall not recognize more than one spouse or surviving spouse of a member, vested former member or pensioner for the purposes of dividing pension benefits or providing pension benefits under this Act. *2016, c.36, s.2; 2020, c.60, s.3.*

RECIPROCAL TRANSFER AGREEMENTS

3. Reciprocal transfer agreements

- (1) Subject to subsection (4), the Minister may enter into reciprocal transfer agreements with a registered pension plan sponsored by

- (a) the Government of Prince Edward Island;
- (b) a municipal authority, college or university in Canada;
- (c) a provincial or territorial government in Canada;
- (d) the Government of Canada;
- (e) any commission, board, corporation or body that, in the opinion of the Minister, has similar objects to those of the Commission,

for the transfer between the registered pension plan and the Plan of superannuation funds and years of service.

Transfer of lump-sum amount

- (2) Subject to subsection (4), where a member or person to whom this Act applies is or has been a member of a registered pension plan and there is no reciprocal transfer agreement, the Minister may

- (a) permit the direct transfer of a lump-sum amount in respect of the member or person from the registered pension plan into the Plan; or

- (b) permit the direct transfer of a lump-sum amount in respect of the member or person from the Plan into the registered pension plan.

Methodology

- (3) The methodology and assumptions used to determine the lump-sum amount required for transfers under subsection (2) shall be determined by the Actuary.

Limitation

- (4) Subsections (1) and (2) do not apply with respect to registered pension plans that are registered pension plans that include a money purchase provision, as defined in the *Income Tax Act* (Canada).

Transfer of years of service

- (5) Subject to subsection (8), any member or person to whom this Act applies who has been a contributor to
 - (a) a registered pension plan in respect of which a reciprocal transfer agreement is made under subsection (1); or
 - (b) a registered pension plan in respect of which the Minister has permitted the transfer of a lump sum amount under clause (2)(a),may transfer his or her years of service from the registered pension plan on the transfer of the amount of superannuation funds to the Plan in accordance with the terms of the reciprocal transfer agreement or the amount required by the Minister, as the case may be.

Supplemental payment to Plan

- (5.1) The Minister may permit a member who transfers service under subsection (5) to make a supplemental payment to the Plan in addition to the superannuation funds transferred to the Plan, within a time period specified by the Minister.

Effect of transfer

- (6) Upon the transfer referred to in subsection (5) and, if applicable, the supplemental payment referred to in subsection (5.1), the member or person shall be deemed to have service for the recognized period of service, as determined by the Minister, and to be eligible accordingly to the benefits provided under this Act.

Determination of service

- (7) The service used in section 8 to determine the amount of pension to which a member or person is entitled under this Act shall include all or part of the service referred to in subsection (6), subject to the condition that the amount of additional service credited under this subsection shall in no case exceed the amount of service credited to the member or person under the registered pension plan from which service is transferred.

Condition respecting transfer

- (8) A member or person to whom this Act applies may not transfer his or her years of service between a registered pension plan and the Plan unless he or she
 - (a) has ceased to be a member of the registered pension plan or the Plan, as the case may be, from which years of service are to be transferred;
 - (b) is not entitled to further payments from the registered pension plan or the Plan, as the case may be, from which years of service are to be transferred; and
 - (c) is not in the process of a division of superannuation funds or pension benefits of the member or person in the registered pension plan or the Plan, as the case may be.



Income Tax Act (Canada) applies

- (9) Any reciprocal transfer agreement, the transfer of a lump-sum amount and the crediting of additional service under this section shall be subject to any restrictions or limitations imposed under the *Income Tax Act (Canada)*.

Surplus funds

- (10) Where a former member transfers a lump-sum amount from the Plan into a registered pension plan under this section in respect of the transfer of service, any surplus funds remaining as a result of the transfer shall be distributed in accordance with the regulations.

Condition on subsequent refund

- (11) Where a transfer of a lump-sum amount is effected from a registered pension plan to the Plan and a term or condition of the transfer is that the amount remain in a locked-in retirement vehicle, the member or person may not subsequently receive a refund of all contributions made by the member or person pursuant to section 10 or subsection 23(3). *1981,c.5,s.3; 1993,c.28,s.2; 1996,c.8,s.3; 2000,c.4,s.5; 2001,c.30,s.3; 2004,c.28,s.3; 2005,c.39,s.8; 2009,c.3,s.2; 2016,c.36,s.3; 2017,c.3,s.2; 2020,c.60,s.3.*

ADMINISTRATION

4. Civil Service Superannuation Commission

- (1) The Civil Service Superannuation Commission is continued under the name “Prince Edward Island Public Sector Pension Commission”.

Act administered by Commission

- (2) This Act shall be administered by the Commission.

Composition of Commission

- (3) The Commission shall consist of fourteen commissioners appointed as follows:
- (a) seven persons appointed by the Minister;
 - (b) two persons who are members, appointed by the Prince Edward Island Union of Public Sector Employees;
 - (c) two persons appointed by Locals 805, 1051, 1778 and 1779 of the Canadian Union of Public Employees;
 - (d) one person who is a member, appointed by the Prince Edward Island Nurses’ Union;
 - (e) one person who is a member, appointed by the Prince Edward Island International Union of Operating Engineers; and
 - (f) one person who is a pensioner, appointed by the Minister.

Chairperson and vice-chairperson

- (4) The Minister shall appoint the chairperson and vice-chairperson of the Commission from the commissioners appointed under clause (3)(a).

Vice-chairperson

- (5) The vice-chairperson shall perform the duties and functions of the chairperson where the office of the chairperson is vacant or in the absence of the chairperson or where the chairperson is unable to act.

Term

- (6) The term of appointment of a commissioner is three years.

Re-appointment

- (7) A commissioner may be re-appointed.

Vacancy

- (8) Where a commissioner's position becomes vacant during his or her term of appointment, another person shall be appointed as commissioner in his or her stead for the unexpired balance of the term in accordance with section 4.2.

Meetings of the Commission

- (9) The chairperson shall call a meeting of the Commission
- (a) at least twice annually and at such other times as he or she considers necessary; and
 - (b) within 30 days of a request for a meeting made in writing to the chairperson by at least six commissioners. *1981,c.5,s.4; 1998,c.84,s.2; 2000,c.4,s.5; 2009,c.3,s.3; 2014,c.3,s.3; 2020,c.60,s.4; 2021,c.41,s.16.*

4.1 Annual report

- (1) The Commission shall, each year, prepare and transmit to the Minister a report on the operations of the Plan for the Plan's immediately preceding fiscal year, which shall include such information as is required by the Minister.

Audit

- (1.1) The accounts of the Plan shall be audited by the Auditor General or a qualified auditor appointed by the Commission, and the audited statements shall be included in the Commission's annual report.

Transmission to Lieutenant Governor in Council

- (2) The Minister shall, each year, transmit the report referred to in subsection (1) to the Lieutenant Governor in Council. *2014,c.3,s.3; 2020,c.60,s.3,5.*

4.2 Absence or incapacity of commissioner

- (1) In the case of the death, illness or absence from Prince Edward Island of a commissioner or his or her inability to act as a result of any cause, and subject to subsection (2), another person may be appointed to act for the unexpired balance of the term in his or her stead, and the person appointed has all the powers and shall perform all the duties of a commissioner.

Conditions of appointment

- (2) An appointment to replace a commissioner under this section shall be made in the same manner and subject to the same conditions as an appointment under subsection 4(3).

Defect in appointment, removal or qualification

- (3) No act of the Commission done and carried out in good faith is invalid or ineffective by reason only that it is subsequently discovered or determined that there exists some defect in the appointment, removal or qualification of any commissioner. *2014,c.3,s.3.*

4.3 Quorum of the Commission

- (1) A quorum of the Commission is six commissioners, constituted as follows:



- (a) the chairperson or the vice-chairperson, when he or she is acting under subsection 4(5);
- (b) two other commissioners appointed under clause 4(3)(a);
- (c) three of the commissioners appointed under clauses 4(3)(b) to (f).

Quorum not present

- (2) Where a quorum is not present at the time specified for a meeting of the Commission, the commissioners present shall adjourn the meeting and not transact any other business.

Quorum lost

- (3) Where, during a meeting, a quorum is lost, the commissioners remaining at the meeting shall adjourn the meeting and not transact any further business.

Effect of vacancy

- (4) A meeting is validly constituted if a quorum is present, notwithstanding that a commissioner position is vacant.

Subsequent meeting

- (5) Where a meeting does not proceed because a quorum is not present or because a quorum is lost during a meeting, the chairperson may set the date and location of another meeting to occur within thirty days of the meeting that did not proceed, and, notwithstanding anything else in this section, the subsequent meeting may proceed regardless of whether a quorum is present. *2014,c.3,s.3.*

4.4 Duty of commissioner

- (1) Each commissioner, in carrying out the business of the Commission, shall use the care and diligence that a person of ordinary prudence would exercise in dealing with the property of another person, and shall apply all relevant knowledge and skill that the individual possesses or, by reason of profession, business or calling, ought to possess.

Confidentiality

- (2) Each commissioner shall treat the information received as a result of his or her position on the Commission as confidential. *2014,c.3,s.3.*

4.5 Remuneration

- (1) Subject to subsection (2), a commissioner shall serve without remuneration.

Reasonable expenses

- (2) The following amounts are a charge upon and shall be paid out of the assets of the Plan:
 - (a) all costs and reasonable expenses incurred and payable in respect of the conduct of the business and affairs of the Commission;
 - (b) the reasonable travel and other expenses necessarily incurred by a commissioner in carrying out the business of the Commission. *2014,c.3,s.3; 2020,c.60,s.3,6.*

4.6 Indemnification of commissioners

- (1) Subject to subsection (2), no commissioner shall, in the absence of any dishonesty or wilful misconduct on his or her part, be liable for the acts, neglects, or defaults or otherwise for any liabilities of the Commission or the Plan.

Idem

- (2) Every commissioner shall be indemnified out of the assets of the Plan with respect to all liabilities, costs, losses and expenses, including any amount paid to settle an action or judgment, that the commissioner may incur or become liable to pay in the discharge of his or her duties as commissioner by reason of any contract entered into, or act, neglect or default, or in respect of any civil, criminal or administrative claim, action or proceeding.

Exception

- (3) Nothing in this section shall exempt any commissioner from any liability, costs, losses and expenses arising out of his or her dishonesty or wilful misconduct. 2014,c.3,s.3; 2020,c.60,s.3,6.

4.7 Staff, etc.

The Minister shall provide all staff and other resources necessary to administer the Act and the Plan, the costs of which shall be paid out of the assets of the Plan. 2014,c.3,s.3; 2020,c.60,s.3,6

4.8 Application of Act

- (1) Where a question arises as to the application, interpretation or administration of this Act, it shall be determined by the Commission.

Notice to Minister

- (2) The chairperson of the Commission shall notify the Minister of all determinations made by the Commission pursuant to subsection (1).

Review by Minister

- (3) The Minister may review any determination of the Commission made under subsection (1).

Minister's powers

- (4) After a review under subsection (3), the Minister may
- (a) confirm the determination of the Commission; or
 - (b) substitute his or her determination for the determination of the Commission.

Notice to Commission

- (5) The Minister shall notify the Commission of any substitution of a determination made under clause (4)(b). 2014,c.3,s.3.

CIVIL SERVICE SUPERANNUATION FUND

Continuation, Payments, Trust and Investments

5. Prince Edward Island Public Sector Pension Plan

- (1) The Civil Service Superannuation Fund is continued under the name "Prince Edward Island Public Sector Pension Plan".

Authorized payments out of the Plan

- (1.1) All contributions made under this Act shall be paid into the Plan and the following may be paid out of the assets of the Plan:
- (a) all pension benefits authorized by this Act;



- (b) all expenses incurred in the administration of this Act.

Actuarial valuation

- (2) Repealed by 2013,c.6,s.9.

Payments guaranteed by Operating Plan

- (3) Repealed by 2013,c.6,s.9.

Investment of Plan

- (4) The assets of the Plan shall be held in trust by the Minister and shall be invested by the Minister in accordance with the investment policy approved by the Lieutenant Governor in Council.

Promissory notes

- (5) No promissory note issued by the Government to the Plan may be cancelled or recalled by the Government before the maturity of the promissory note unless the Government contributes to the Plan an asset equal to or greater than the value of the promissory note on the date the promissory note is cancelled or recalled. 1981,c.5,s.5; 1987,c.10,s.3; 1995,c.7,s.2; 1996,c.8,s.4; 1997,c.20,s.3; 2009,c.3,s.4; 2013,c.6,s.9; 2020,c.60,s.3,7.

ANNUAL REPORT

6. Annual Report

Repealed by 2014,c.3,s.4. 1981,c.5,s.6; 2013,c.6,s.11; 2014,c.3,s.4.

ACTUARY AND ACTUARIAL VALUATION REPORT

6.1 Actuary, appointment

- (1) The Minister shall appoint
- (a) a person who is a Fellow of the Canadian Institute of Actuaries; or
 - (b) a firm of which a person referred to in clause (a) is a member, as the Actuary.

Actuarial valuation report for 2014

- (2) Repealed by 2017,c.3,s.3(1).

Annual actuarial valuation report

- (3) The Actuary shall, on or before December 31, of every year following 2014,
- (a) prepare an actuarial valuation report for that year respecting the financial status of the Plan with an effective date of April 1 of that year; and
 - (b) submit the actuarial valuation report to the Minister.

Principles governing preparation of report

- (4) The Actuary shall, when preparing an actuarial valuation report under this section, follow Canadian generally accepted accounting principles for the public sector.

Contents of actuarial valuation report

- (5) The Actuary shall include in an actuarial valuation report the following information as of the effective date of the report:
- (a) the total value of the assets of the Plan, as expressed in Canadian currency;
 - (b) the total value of the liabilities of the Plan, as determined by the Actuary and as expressed in Canadian currency;
 - (c) the funded benefits ratio of the Plan;
 - (d) the salary indexation asset amount of the Plan;
 - (e) the salary indexing percentage in respect of the immediately following year;
 - (f) the total cost of salary indexing for all members in respect of the immediately following year;
 - (g) the pension indexation asset amount of the Plan;
 - (h) the pension indexing percentage in respect of the immediately following year;
 - (i) the total cost of pension indexing in respect of the immediately following year;
 - (j) the government guarantee shortfall amount, if the Actuary is required to determine such an amount under subsection 7.04(1);
 - (k) such other information as the Minister may require.

Transitional valuation requirements for 2014

- (6) Repealed by 2017,c.3,s.3(3).

Transitional liabilities

- (7) Repealed by 2017,c.3,s.3(3).

Liabilities not to include future indexing

- (8) The Actuary, when determining the total value of the liabilities of the Plan for an actuarial valuation report with an effective date of April 1, 2017, or an effective date of April 1 of any subsequent year, shall not include
- (a) the total cost of salary indexing for all members under section 7.3 in respect of any year after the effective date of the report; and
 - (b) the total cost of pension indexing under sections 8.01 and 8.02 in respect of any year after the effective date of the report. *2013,c.6,s.12; 2014,c.3,s.5; 2017,c.3,s.3; 2020,c.60,s.3,8.*

6.2 Going concern valuation for 2014

- (1) Repealed by 2017,c.3,s.4(1).

Going concern valuation

- (2) The Actuary shall, on or before December 31, of every year following 2014,
- (a) conduct a going concern valuation of the financial status of the Plan, as of April 1, of every year following 2014 that is determined on a funding basis in accordance with any applicable standards of the Canadian Institute of Actuaries; and
 - (b) submit the results of that valuation, in writing, to the Minister.

Exclusions from valuation

- (3) The Actuary shall not include, when conducting a going-concern valuation of the funding status of the Plan,



- (a) the total cost of salary indexing for all members under section 7.3 in respect of any year after the effective date of the report; and
- (b) the total cost of pension indexing under sections 8.01 and 8.02 in respect of any year after the effective date of the report. *2013,c.6,s.12; 2017,c.3,s.4; 2020,c.60,s.3.*

CONTRIBUTIONS

Base Contributions

7. Required base contributions, amount

- (1) For the purposes of this section, for service credited to a member on or after January 1, 2013, and subject to subsections (3) and (4) and subsection 7.02(8) and the maximum contribution limits imposed under the *Income Tax Act* (Canada), the member shall make a base contribution to the Plan, in accordance with subsection 7.02(4) each calendar year in an amount equal to
 - (a) eight and nine one-hundredths per cent of that part of the member's salary for that calendar year up to the amount of the "Year's Maximum Pensionable Earnings", as defined in the *Canada Pension Plan Act*; and
 - (b) nine and three-quarters per cent of that part of the member's salary for that calendar year that exceeds the amount of the "Year's Maximum Pensionable Earnings", as defined in the *Canada Pension Plan Act*.

Member deemed to be employed

- (1.1) For the purposes of this section and section 7.01, a member shall be deemed to be employed by an employer if the member is a former employee of the employer who is receiving disability payments under a Long-Term Disability Insurance Plan, and who was employed by the employer on the date the former employee's disability arose.

Employer's base contribution

- (2) Subject to subsections (3) and (4) and subsection 7.02(7), the employer shall, in respect of each member employed by the employer, make a base contribution to the Plan each calendar year equal to the amount of the base contribution of the member under subsection (1) and pay it to the Minister, who shall cause the same to be paid into the Plan.

Reduction of base contributions, where funded benefits ratio equals or exceeds 135%

- (3) Where an actuarial valuation report with an effective date commencing April 1, 2016, or April 1 of any subsequent year, indicates that the funded benefits ratio of the Plan as of the effective date of the report is equal to or greater than 135%, the amount of the base contribution that a member, and that the employer of the member, is required to make to the Plan under subsections (1) and (2), respectively, is reduced in an amount equal to,
 - (a) in the case of a member, 1% of the member's salary; and
 - (b) in the case of the employer of the member, 2% of the member's salary,for
 - (c) the calendar year immediately following the effective date of the actuarial valuation report; and
 - (d) each calendar year following the calendar year referred to in clause (c) until, and not including, the calendar year immediately following the effective date of a subsequent

actuarial valuation report that indicates that the funded benefits ratio of the Plan is equal to or less than 130%.

Additional reduction of base contribution, where funded benefits ratio equals or exceeds 145%

- (4) Where an actuarial valuation report with an effective date of April 1, 2016, or April 1 of any subsequent year, indicates that the funded benefits ratio of the Plan as of the effective date of the report is equal to or greater than 145%, the amount of the base contribution that the employer of a member is required to make to the Plan in respect of the member under subsection (2) is reduced, in addition to the reduction provided under subsection (3), by a further amount equal to 2% of the member's salary for
- (a) the calendar year immediately following the effective date of the actuarial valuation report; and
 - (b) each calendar year following the calendar year referred to in clause (a) until, and not including, the calendar year immediately following the effective date of a subsequent actuarial valuation report that indicates that the funded benefits ratio of the Plan is equal to or less than 140%. *1981, c.5, s.7; 1983, c.5, s.1; 1985, c.8, s.1; 1987, c.10, s.4; 1992, c.11, s.2; 1993, c.28, s.3; 1996, c.8, s.5; 1997, c.8, s.2; 1997, c.60, s.1; 1998, c.84, s.3; 2000, c.4, s.1; 2001, c.30, s.4; 2004, c.28, s.4; 2007, c.25, s.2; 2008, c.37, s.2; 2009, c.3, s.5; 2012(2nd), c.3, s.1; 2013, c.6, s.13; 2017, c.3, s.5; 2020, c.60, s.3.*

SUPPLEMENTARY CONTRIBUTIONS

7.01 Where funded benefits ratio is less than 110%

- (1) Where an actuarial valuation report with an effective date of April 1, 2016, or April 1 of any subsequent year, indicates that the funded benefits ratio of the Plan, as of the effective date of the report, is less than 110%,
- (a) each member shall make a supplementary contribution to the Plan in an amount equal to 1% of the member's salary; and
 - (b) the employer shall, in respect of each member employed by the employer, make a supplementary contribution to the Plan in an amount equal to 2% of the member's salary,
- for
- (c) the calendar year immediately following the effective date of the report; and
 - (d) each subsequent calendar year until, and not including, the calendar year immediately following the effective date of a subsequent actuarial valuation report that indicates that the funded benefits ratio of the Plan is equal to or greater than 115%.

Where funded benefits ratio is less than 100%

- (2) Where an actuarial valuation report with an effective date of April 1, 2016, or April 1 of any subsequent year, indicates that the funded benefits ratio of the Plan, as of the effective date of the report, is less than 100%,
- (a) each member shall make or continue to make the supplementary contribution to the Plan required under clause (1)(a); and
 - (b) the employer shall, in respect of each member employed by the employer, make or continue to make
 - (i) the supplementary contribution to the Plan required under clause (1)(b), and



- (ii) a further supplementary contribution to the Plan in an amount equal to 2% of the member's salary,
- for
- (c) the calendar year immediately following the effective date of the report; and
 - (d) each subsequent calendar year until, and not including, the calendar year immediately following the effective date of a subsequent actuarial valuation report that indicates that the funded benefits ratio of the Plan is equal to or greater than 105%. 2013,c.6,s.13; 2020,c.60,s.3.

GENERAL

7.02 Member's contributions

- (1) A member shall make the member's contributions to the Plan as, when and in the amounts required by this Act.

Contribution calculation where salary deferred or hours reduced

- (2) Subject to subsection (3) and the requirements of sections 8507 and 8508 of the Income Tax Regulations made under the *Income Tax Act* (Canada), a member who
 - (a) is participating in the deferred salary plan pursuant to the collective agreement; or
 - (b) otherwise elects to reduce his hours of work,shall continue to make his or her member's contributions calculated on the reduced salary the member is actually receiving or, at the member's option, on the salary he or she would have received if he or she had continued to work at the normal full-time hours for his or her position.

Maximum reduction

- (3) Subsection (2) does not apply to a member whose hours of work are reduced to less than half of the normal full-time hours for the member's position.

Deduction and payment of member's contributions

- (4) The employer of a member shall, in each pay period of the member, deduct from the member's salary the proportionate amount of the member's contributions and pay the same to the Minister, who shall cause the same to be paid into the Plan.

Contributions by insurer for member receiving disability payments under the Plan

- (5) A member who is receiving disability payments under a Long-Term Disability Insurance Plan shall be deemed for all purposes under this Act to continue in pensionable service during the period the member is receiving such payments if the insurer under the Long-Term Disability Insurance Plan remits to the Minister, on behalf of the member and for the benefit of the Plan, the amount of the member's contributions for that period.

Termination of right to contribute and commencement of pension at seventy-one

- (6) In no event shall a member continue to contribute to the Plan after December 30 of the year in which the member attains the age of 71 years, and any pension to which a member is entitled under this Act shall commence to be paid not later than December 31 of the calendar year in which the member attains the age of seventy-one years.

Ineligible contribution

- (7) Notwithstanding anything to the contrary in this Act, if an employer's contribution would not be an eligible contribution under section 147.2(2) of the *Income Tax Act* (Canada), no such contribution shall be made by the employer.

Reduction, etc., of member's and employer's contribution

- (8) When, in accordance with subsection (7), contributions to the Plan must temporarily be reduced or must temporarily cease to be made, both the member's and employer's contributions shall be temporarily reduced in the same proportion or temporarily ceased, as the case may be.

Member's contribution paid by employer for period of wage loss benefits

- (9) Where, pursuant to subclause 1(1)(hh)(iii), the service of a member includes a period of temporary wage loss benefits under the *Workers Compensation Act*, the employer shall pay the member's contributions. 2013,c.6,s.13; 2014,c.3,s.6; 2017,c.3,s.6; 2020,c.60,s.3,9.

TRANSITIONAL GOVERNMENT FUNDING

7.03 Transitional funding commitment of government

- (1) Repealed by 2017,c.3,s.7.

Interest

- (2) Repealed by 2017,c.3,s.7. 2013,c.6,s.13; 2014,c.3,s.7; 2017,c.3,s.7.

GOVERNMENT GUARANTEE

7.04 Government guarantee shortfall amount

- (1) Where the Actuary, when preparing an actuarial valuation report with an effective date of April 1, 2016, or April 1 of any subsequent year, has determined that
- (a) the funded benefits ratio of the Plan is less than 100% as of the effective date of the report; and
 - (b) the contributions required under the Act are not projected to be sufficient to achieve a funded benefits ratio equal to or greater than 100%, on the fifth anniversary of the effective date of the actuarial valuation report,

the Actuary shall determine the amount that, if it were paid into the Plan on the effective date of the actuarial valuation report, is sufficient, in the Actuary's opinion, to achieve a funded benefits ratio of the Plan equal to 100% on the fifth anniversary of the effective date of the actuarial valuation report, which amount shall be known as the government guarantee shortfall amount.

Payment required in respect of government guarantee shortfall amount

- (2) The Government shall, within six months after the submission to the Minister of an actuarial valuation report that includes a government guarantee shortfall amount, pay to the Plan an amount equal to one-fifth of that government guarantee shortfall amount.



Interest on government guarantee shortfall amount

- (3) A payment by the Government under subsection (2) shall include interest for the period commencing the effective date of the report and ending on the date the payment is made. *2013,c.6,s.13; 2020,c.60,s.3.*

MISSED CONTRIBUTIONS**7.1 Written notice**

- (1) “**Written notice**” for the purposes of this section means written notice by the Minister to an employer and member respecting the missed contributions of a member.

Missed deductions

- (2) Where an employer has not made all or part of the deductions required by section 7 or 7.01 during a period in which the member was required to make contributions to the Plan, the employer shall make payment to the Plan of
- (a) the base contributions required to be made with respect to each member under section 7;
 - (b) any supplementary contributions required to be made with respect to each member under section 7.01; and
 - (c) interest.

Member’s back contributions

- (3) A member shall make contributions in respect of the member’s service for the period during which no contributions were made, where the contributions were required pursuant to section 7, 7.01 or 7.02.

Accrued interest on late contributions

- (4) Repealed by 2017,c.3,s.8(3).

Interest

- (5) Interest on contributions payable under this section shall be calculated at the actuarial discount rate that is in effect on January 1 of each year.

Waiver of interest

- (6) Notwithstanding subsection (4), the Minister may waive all or part of the interest payable by any person under this section. *2001,c.30,s.5; 2004,c.28,s.5; 2017,c.3,s.8; 2020,c.60,s.3.*

7.2 Pensionable service

The period of service which is pensionable service for contributions made under section 7.1 is

- (a) where both the employer and the member make the contributions referred to in section 7.1, the period of service in respect of which contributions are made; or
- (b) where only the employer makes the contribution referred to in section 7.1, one-half of the period of service in respect of which contributions are made. *2001,c.30,s.5; 2004,c.28,s.6.*

INDEXING OF SALARIES AND YEAR'S MAXIMUM PENSIONABLE EARNINGS

7.3 Definitions

- (1) In this section,
- (a) “**member**” does not include a former member;
 - (b) “**prorated salary indexing percentage**” means, in respect of a calendar year, the percentage determined by the formula

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

where

A is the salary indexing percentage for the calendar year,

B is the salary indexation asset amount as of the effective date of an actuarial valuation report of the immediately preceding calendar year, and

C is the total cost of salary indexing for all members for the calendar year.

Indexed pensionable salary increase

- (2) Subject to subsection (3), where a member is credited with pensionable service in respect of a calendar year, the member's pensionable salary for that calendar year, together with any accumulated salary indexing increases made under this section by January 1 of that calendar year, shall be increased by the salary indexing percentage as of January 1 of the following calendar year.

Application of prorated salary indexing percentage

- (3) Where under subsection (2), the total cost of salary indexing for all members for a calendar year commencing January 1, 2017, or any subsequent calendar year, exceeds the salary indexation asset amount on the effective date of an actuarial valuation report immediately preceding the calendar year, the member's pensionable salary for that calendar year, together with any accumulated salary indexing increases made under this section by January 1 of that calendar year, shall be indexed under subsection (2) for that calendar year using the prorated salary indexing percentage instead of the salary indexing percentage.

Recovery of missed indexing

- (4) Where
- (a) the funded benefits ratio in an actuarial valuation report with an effective date of April 1, 2018, or April 1 of any subsequent year is greater than 115%; and
 - (b) the salary indexing for a member was determined under this section in a prior calendar year using the prorated salary indexing percentage for that calendar year, in accordance with subsection (3),

the member's pensionable salary, together with the accumulated salary indexing increases made under this section by January 1 of the calendar year immediately following the effective date of the report, shall be increased, in the year immediately following the effective date of the report, in such amount or by such percentage, as is required by the regulations.

Indexed year's maximum pensionable earnings amount increase

- (5) Subject to subsection (6), where a member is credited with pensionable service in respect of a calendar year, the member's year's maximum pensionable earnings amount for that calendar year, together with any accumulated indexing increases for the year's maximum pensionable earnings amount made under this section by January 1 of that calendar year, shall be increased by the salary indexing percentage as of January 1 of the following calendar year.



Application of prorated salary indexing percentage

- (6) Where under subsection (2), the total cost of salary indexing for all members for a calendar year commencing January 1, 2017, or any subsequent calendar year, exceeds the salary indexation asset amount as of the effective date of an actuarial valuation report immediately preceding the calendar year, the member's year's maximum pensionable earnings amount, together with any accumulated indexing increases for the year's maximum pensionable earnings amount shall be indexed under subsection (5) for that calendar year using the prorated salary indexing percentage instead of the salary indexing percentage.

Recovery of missed indexing

- (7) Where
- (a) the funded benefits ratio in an actuarial valuation report with an effective date of April 1, 2018, or April 1 of any subsequent year, is greater than 115%; and
 - (b) the indexing for the year's maximum pensionable earnings amount for a member was determined under this section in a prior calendar year using the prorated salary indexing percentage for the calendar year, in accordance with subsection (6),
- the member's year's maximum pensionable earnings amount, together with the accumulated indexing increases for the year's maximum pensionable earnings amount made under this section by January 1 of the calendar year immediately following the effective date of the report, shall be increased, in the year immediately following the effective date of the report, in such amount or by such percentage, as is required by the regulations. 2013,c.6,s.15; 2020,c.60,s.10.

COMPUTATION OF PENSIONS***Amount of Pension Payable on Retirement*****8. Number of years of CPP service**

- (1) A reference in this section to the number of years of CPP service of a member or vested former member is a reference to the number of years determined by the formula

$$A - B$$

where

- A is the number of years or part years of pensionable service of the member or vested former member, and
- B is sum of the number of years or part years referred to in A
 - (a) that occurred prior to January 1, 1966,
 - (b) that the member or vested former member purchased under the regulations made under the *Canada Pension Plan Agreement and Loans Act* before 1988,
 - (c) that the member or vested former member was in receipt of disability benefits under a Long Term Disability Insurance Plan,
 - (d) that the member or vested former member was in receipt of temporary wage loss benefits under the *Workers Compensation Act* R.S.P.E.I. 1988, Cap. W-7.1 in respect of a total loss of earning capacity, and

- (e) that the member or vested former member was in receipt of CPP retirement pension under the Canada Pension Plan.

Subsections (1.1), (1.2) repealed by 2013,c.6,s.17.

Idem

- (1.3) For the purposes of this section, for service credited after January 1, 2010, a reference in this section to the number of years of CPP service of a member or vested former member shall be equal to the number of years or part years of pensionable service of the member or vested former member.

Lifetime yearly pension computation

- (2) The amount of yearly pension payable to any member who retires or is retired and who is eligible to receive a yearly pension pursuant to subsection 9(1) or (1.1) is equal to the amount determined by the formula

$$(2\% \times A \times B) - C$$

where

- A is the member's number of years of pensionable service,
B is the member's average weighted indexed pensionable salary, and
C is the amount of the yearly pension benefits determined under subsection (2.1).

Bridge pension amount

- (2.1) In addition to the amount of yearly pension payable to a member under subsection (2), a member who retires or is retired prior to the age of 65 years, and who is eligible to receive a yearly pension pursuant to clause 9(1)(b) or (1)(c) or subsection 9(1.1) is entitled to receive, until he or she attains the age of 65 years, a temporary yearly pension amount equal to the amount determined by the formula

$$(0.7\% \times A \times B)$$

where

- A is the number of years of CPP service of the member, and
B is the lesser of
(a) the member's average weighted indexed pensionable salary, and
(b) the member's average weighted indexed year's maximum pensionable earnings amount.

Years of service

- (3) In computing the number of years of pensionable service for the purpose of this section
- (a) if the actual period of pensionable service includes a fraction of a year, the fraction shall be computed on a prorated basis by reference to the number of working days in that year; and
- (b) during any period in which a member is employed part-time, the period of pensionable service shall be computed by multiplying the number of years in the period by the ratio of the salary upon which the member's contributions were based in the period to the salary the member would have been paid if he had worked the normal full-time hours for his position during that period.



Annual increase

- (4) Repealed by 2013,c.6,s.17.

Application to deferred pension

- (5) Repealed by 2013,c.6,s.17.

Maximum bridging benefit

- (6) The portion of the pension in respect of pensionable service after 1991 which is payable to a member or former member under subsection (2.1) in any year under this Act prior to attaining the age of sixty-five and which is considered under paragraph 8503(2)(b) of the Income Tax Regulations made under the *Income Tax Act* (Canada) to be a bridging benefit shall in no case exceed the maximum bridging benefit allowed under the said paragraph of the Income Tax Regulations made under the *Income Tax Act* (Canada) with respect to service after 1991.

Maximum pension

- (7) The total pension in respect of pensionable service after 1991 which is payable to a member or former member in any year under the Act shall in no case exceed the maximum allowed under section 8504 of the Income Tax Regulations made under the *Income Tax Act* (Canada) with respect to service after 1991.

Conditions applicable to service before 1990

- (8) Notwithstanding anything to the contrary in this Act or the regulations, a lifetime pension, if any, in respect of the pensionable service prior to 1990 of any member or person entitled to a pension under this Act, shall be subject to the limits and conditions under paragraphs 8504(6) and 8504(7) of the Income Tax Regulations made under the *Income Tax Act* (Canada), if that pensionable service was not already recognized as service under this Act prior to June 8, 1990.

Adjustment of pension benefits

- (9) Where there has been a division of pension benefits pursuant to this Act, the amount of pension benefits payable pursuant to subsection (2) or (2.1) shall be adjusted as prescribed by regulation. 1981,c.5,s.8; 1983,c.1,s.6; 1983,c.5,s.2; 1986,c.5,s.2; 1987,c.10,s.5; 1992,c.11,s.3; 1993,c.28,s.4; 1996,c.8,s.6; 1997,c.8,s.3; 1998,c.84,s.4; 2000,c.2,s.1; 2001,c.30,s.6; 2004,c.28,s.7; 2007,c.25,s.3; 2009,c.3,s.6; 2013,c.6,s.17; 2014,c.3,s.8; 2017,c.3,s.9.

INDEXING OF PENSIONS AND DEFERRED PENSIONS

8.01 Definition, prorated pension indexing percentage

- (1) In this section and section 8.02, “prorated pension indexing percentage” means, in respect of a year, the percentage determined by the formula

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

where

A is the pension indexing percentage for the year,

B is the pension indexation asset amount as of the effective date of an actuarial valuation report of the immediately preceding year, and

C is the total cost of pension indexing for the year.

Pension indexing

- (2) Subject to subsection (3), where a pensioner is in receipt of a pension as of December 31 of a year, the pensioner's pension for that year, together with any accumulated pension indexing increases made under this section in respect of the years after retirement, shall be increased by the pension indexing percentage as of the immediately following January 1 of each year.

Exception

- (2.1) Notwithstanding subsection (2), the pension indexing percentage in respect of 2017 shall be prorated so as to be proportionate to the part of the year from April 1, 2016, to December 31, 2016.

Application of prorated pension indexing percentage

- (3) Where under subsection (2), the total cost of pension indexing for a year, exceeds the pension indexation asset amount as of the effective date of an actuarial valuation report of the immediately preceding year, the pension of a pensioner shall be indexed under subsection (2) for that year using the prorated pension indexing percentage instead of the pension indexing percentage.

Recovery of mixed indexing

- (4) The pension of a pensioner, together with any accumulated pension indexing increases made under this section, shall be increased as of January 1 of the year immediately following the effective date of an actuarial valuation report in such amount or by such percentage as is required by the regulations, where
- (a) the funded benefits ratio in the actuarial valuation report is greater than 118%; and
 - (b) the pension indexing percentage for the pensioner was determined under this section in a prior year using the prorated pension indexing percentage for that year, in accordance with subsection (3).

Proration for partial year of retirement

- (5) Where the last day of employment for a member is a date other than the date referred to in subsection (2) of a year, the pension indexing percentage in respect of the year shall be prorated so as to be proportionate to the part of the year from the last day of employment to the date of the immediately following pension indexing percentage increase.

Application to deferred pension

- (6) Repealed by 2017,c.3,s.10. 2013,c.6,s.18; 2014,c.3,s.9; 2016,c.36,s.4; 2017,c.3,s.10.

8.02 Deferred pension - increase to pensionable salary

- (1) Subject to subsection (2), where a vested former member has elected to receive a pension deferred under section 10 as of December 31 of a year, the vested former member's pensionable salary for that year, together with
- (a) any accumulated salary indexing increases made under this Act in respect of the vested former member's prior years of service; and
 - (b) any accumulated pension indexing increases made under this Act in respect of the years after the election has been made,
- shall be increased by the pension indexing percentage as of the immediately following January 1.



Application of prorated pension indexing percentage

- (2) Where the total cost of pension indexing for a year under subsection (1) exceeds the pension indexation asset amount as of the effective date of an actuarial valuation report of the immediately preceding year, the vested former member's pensionable salary for that year, together with
- (a) any accumulated salary indexing increases made under this Act in respect of the vested former member's prior years of service; and
 - (b) any accumulated pension indexing increases made under this Act in respect of the years after the vested former member elected to receive a pension deferred under section 10,
- shall be indexed under subsection (1) for that year using the prorated pension indexing percentage.

Recovery of missed indexing

- (3) The pensionable salary of a vested former member, together with any accumulated pension indexing increases made under this Act, shall be indexed as of January 1 of the year immediately following the effective date of an actuarial valuation report in such amount or by such percentage as is required by the regulations, where
- (a) the funded benefits ratio in the actuarial valuation report is greater than 118%; and
 - (b) the pension indexing percentage for the vested former member was determined under this section in a prior year using the prorated pension indexing percentage for that year, in accordance with subsection (2).

Deferred pension increase to maximum pensionable earnings

- (4) Subject to subsection (5), where a vested former member has elected to receive a pension deferred under section 10 as of December 31 of a year, the maximum pensionable earnings amount of a vested former member for that year, together with
- (a) any accumulated salary indexing increases made under this Act in respect of the vested former member's prior years of service; and
 - (b) any accumulated pension indexing increases made under this Act in respect of the years after the vested former member elected to receive a pension deferred under section 10,
- shall be increased by the pension indexing percentage as of the immediately following January 1.

Application of prorated pension indexing percentage

- (5) Where the total cost of pension indexing for a year exceeds the pension indexation asset amount as of the effective date of an actuarial valuation report of the immediately preceding year, the maximum pensionable earnings amount of a vested former member for a year, together with any accumulated pension indexing increases under this Act, shall be indexed under subsection (4) for that year using the prorated pension indexing percentage.

Recovery of missed indexing

- (6) The maximum pensionable earnings amount of a vested former member for a year, together with any accumulated pension indexing increases made under this Act, shall be increased as of January 1 of the year immediately following the effective date of an actuarial valuation report in the amount or by the percentage as is required by the regulations, where
- (a) the funded benefits ratio in the actuarial valuation report is greater than 118%; and

- (b) the pension indexing percentage for the vested former member was determined under this section in a prior year using the prorated pension indexing percentage for that year, in accordance with subsection (5).

Proration

- (7) Where the vested former member has made an election under section 10 on a date other than December 31 of a year, the pension indexing percentage in respect of the year shall be prorated so as to be proportionate to the part of the year from the date of the election to the date of the immediately following pension indexing increase. *2017, c.3, s.11.*

PENSION ELIGIBILITY

8.1 Application of sections relating to eligibility for pension

Sections 9, 10 and 11 have effect subject to any restrictions on retirement age and reduction of pension imposed under the *Income Tax Act* (Canada). *1993, c.28, s.5.*

9. Eligibility with service on or after January 1, 2019

- (1) A member with service on or after January 1, 2019, is, with respect to that service, eligible upon written application to receive an unreduced yearly pension, payable monthly, if the member
 - (a) has attained the age of 62 years and has at least two years of service; or
 - (b) has attained the age of 55 years and has at least 32 years of service.

Eligibility with service prior to January 1, 2019

- (2) A member with service prior to January 1, 2019, is, with respect to that service, eligible upon written application to receive an unreduced yearly pension, payable monthly, if the member
 - (a) has attained the age of 60 years and has at least two years of service; or
 - (b) has attained the age of 55 years and has at least 30 years of service.

Age of retirement

- (3) The normal age of retirement for a member or former vested member under this Act is 65 years.

Eligibility for reduced yearly pension

- (4) A member is eligible, upon written application, to receive a reduced yearly pension, payable monthly, if the member has at least two years of service and has attained the age of 55 years.

Reduced yearly pension

- (5) Where a member is eligible to receive a reduced yearly pension pursuant to subsection (4), the amount of reduced yearly pension shall be calculated
 - (a) first in accordance with section 8; and
 - (b) then reduced by an amount equal to the amount determined by the formula

$$(1/4\% \times A \times B) + (1/4\% \times C \times D)$$

where

- A is the amount of pension in respect of pensionable service prior to 2019;
- B is the lesser of



- (i) the number of months between the date of actual retirement and the date the member would attain the age of sixty, or
 - (ii) the number of months between the date of actual retirement and the date the member would have at least 30 years of service;
- C is the amount of pension in respect of pensionable service after 2018; and
- D is the lesser of
- (i) the number of months between the date of actual retirement and the date the member would attain the age of 62, or
 - (ii) the number of months between the date of actual retirement and the date the member would have at least 32 years of service. *2000,c.2,s.2; 2001,c.30,s.7; 2004,c.28,s.8; 2007,c.25,s.4; 2013,c.6,s.20; 2014,c.3,s.10; 2019,c.27,s.3(2).*

REFUNDS OF MEMBER'S CONTRIBUTIONS

10. Vested options on termination

Where a member has at least two years of service and ceases to be employed by a participating employer, the member shall elect

- (a) pursuant to section 12, to receive a refund of all member's contributions made by him or her under this Act, if the person is not, at the time of the election, receiving a pension under this Act; or
- (b) to receive a pension, the commencement of which is deferred until a date to be determined by the member that is on or after the date the member is first eligible to receive it under section 9. *1981,c.5,s.10; 1993,c.28,s.7; 1996,c.8,s.10; 2004,c.28,s.9; 2013,c.6,s.21; 2014,c.3,s.11; 2017,c.3,s.13.*

11. Abolition

- (1) Repealed by *1993,c.28,s.8.*

Suspension of pension

- (2) and (3) Repealed by *1996,c.8,s.7.*

12. Refund of member's contributions

- (1) Where a person referred to in section 10 elects to receive a refund of the member's contributions pursuant to clause (a) of that section, the member's contributions shall be refunded to him or her.

Refund to member's personal representative

- (1.1) If a member's employment is terminated or the member dies before completing two years of service, the member's contributions shall be refunded
 - (a) to the member, on termination; or
 - (b) to the member's personal representative, on the death of the member.

Interest

- (2) In the event of a return of deductions pursuant to this Act, the Minister shall pay in addition to the refund, interest thereon calculated at an annual interest rate, determined January 1 of each year, equal to the Bank of Canada 5-year Guaranteed Investment Certificate Rate

published on or immediately before October 31, compounded annually. 1981,c.5,s.12; 1982,c.3,s.1; 1983,c.1,s.6; 1986,c.5,s.2; 1996,c.8,s.10; 2000,c.2,s.3; 2007,c.25,s.4; 2013,c.6,s.22; 2014,c.3,s.12; 2017,c.3,s.14; 2020,c.60,s.11.

REQUISITIONS FOR PAYMENTS OUT OF THE PLAN

12.1 Payment of benefits and administration expenses by requisition

The payment of any pension or benefits under this Act, or of any expenses incurred in its administration, shall be made upon a requisition in writing signed by the chairperson or vice-chairperson of the Commission, or by persons designated to act on their behalf, directing payment from the Plan for the amount named in the requisition. 2014,c.3,s.13; 2020,c.60,s.13.

DEATH OF MEMBER OR VESTED FORMER MEMBER

13. Death of member, vested former member

- (1) Where a member or vested former member dies after two years of service and before retirement and the member or vested member is survived by a spouse, sixty per cent of the member's or vested former member's pension entitlement at death prior to retirement shall be paid to his or her surviving spouse for life.

Pension to dependent child

- (2) Subject to subsections (3) and (6), where a member or vested former member dies after two years of service and before retirement and the member or vested former member is survived by dependent children at the time of death, ten per cent of the member's or vested former member's pension entitlement at death prior to retirement shall be paid to each dependent child or the guardian of each dependent child.

Maximum number of dependent children

- (3) The maximum number of dependent children who may receive payment under subsection (2) at one time is four, commencing with the oldest dependent child.

No surviving spouse

- (4) Where a member or vested former member dies after two years of service and before retirement, and the member or vested former member is not survived by a spouse but is survived by a dependent child or dependent children, sixty per cent of the member's or vested former member's pension entitlement at death prior to retirement shall be paid to
 - (a) the dependent child or the guardian of that child, if the member or vested former member is survived by only one dependent child; or
 - (b) the oldest dependent child or the guardian of that child.

Death of surviving spouse

- (5) Where a surviving spouse of a member or vested former member who is receiving payments pursuant to subsection (1) dies and is survived by dependent children of the member or vested former member, the annual pension benefits payable to the surviving spouse on the date of death of the surviving spouse shall be paid to
 - (a) the dependent child or the guardian of that child, if the member or vested former member is survived by only one dependent child; or



- (b) the oldest dependent child or the guardian of that child.

Limitation

- (6) A dependent child for whom payment is being received under subsection (4) or (5) is not eligible to receive payment under subsection (2). *1981,c.5,s.13; 1982,c.3,s.2; 1987,c.10,s.7; 1992,c.11,s.5; 1993,c.28,s.9; 1996,c.8,s.8; 2004,c.28,s.10; 2007,c.25,s.4; 2008,c.8,s.3(4),(5),(6); 2008,c.37,s.3; 2014,c.3,s.14; 2016,c.36,s.5; 2020,c.60,s.14.*

13.1 Death of pensioner

- (1) Subject to subsection (2), where a pensioner dies and is survived by a spouse, sixty per cent of the annual pension being received by the pensioner on the date of the pensioner's death shall continue to be paid to his or her surviving spouse for life.

Limitation

- (2) A payment referred to in subsection (1) that commences on or after January 1, 2020, shall be paid only
- (a) where the pensioner retired prior to January 1, 2020, to the surviving spouse of the pensioner as of January 1, 2020; or
- (b) where the pensioner retired on January 1, 2020, or at a later date, to the surviving spouse of the pensioner as of the date the pensioner retired.

Pension to dependent child

- (3) Subject to subsections (4) and (7), where a pensioner dies and is survived by dependent children at the time of death, ten per cent of the annual pension being received by the pensioner on the date of his or her death shall be paid to each dependent child or the guardian of each dependent child.

Maximum number of dependent children

- (4) The maximum number of dependent children who may receive payment under subsection (3) at one time is four, commencing with the oldest dependent child.

No surviving spouse

- (5) Where a pensioner dies and is not survived by a spouse but is survived by a dependent child or dependent children, sixty per cent of the annual pension being received by the pensioner on the date of his or her death shall be paid to
- (a) the dependent child or the guardian of that child, if the pensioner is survived by only one dependent child; or
- (b) the oldest dependent child or the guardian of that child.

Death of surviving spouse

- (6) Where a surviving spouse of a pensioner who is receiving payments pursuant to subsection (1) dies and is survived by dependent children of the pensioner, the annual pension benefits payable to the surviving spouse on the date of his or her death shall be paid to
- (a) the dependent child or the guardian of that child, if the pensioner is survived by only one dependent child; or
- (b) the oldest dependent child or the guardian of that child.

Limitation

- (7) A dependent child for whom payment is being received under subsection (5) or (6) is not eligible to receive payment under subsection (3). *2016,c.36,s.5.*

13.2 Entitlement of personal representative

- (1) Where a member or vested former member dies after two years of service and before retirement and does not leave a surviving spouse or dependent children, the personal representative of the member or vested former member shall receive a lump-sum amount equal to the minimum guaranteed pension amount plus interest to the date of the member's or vested former member's death.

Idem

- (2) Where a pensioner dies and does not leave a surviving spouse or dependent children, the personal representative of the pensioner shall receive a lump-sum amount equal to the minimum guaranteed pension amount plus interest to the date of the pensioner's retirement less the amount of pension benefits that the pensioner received prior to his or her death.

Payment for limited time

- (3) Where payment is made under section 13 or 13.1 for a limited number of years and ceases because of the death of the surviving spouse of the member, vested former member or pensioner, or in accordance with subsection 13.3(1), the personal representative of the member, vested former member or pensioner shall receive a lump-sum amount calculated in accordance with subsection (4).

Calculation of lump-sum amount

- (4) The amount payable under subsection (3) is
- (a) where payments were made under section 13, the minimum guaranteed pension amount plus interest to the date of the member's or vested former member's death, less any amount paid under section 13; or
 - (b) where payments were made under section 13.1, the minimum guaranteed pension amount plus interest to the date of the pensioner's retirement, less the amount of pension benefits that the pensioner received prior to his or her death and any amount paid under section 13.1.

Limitation on claims

- (5) No person shall make a claim for payment under this section after the date that is the tenth anniversary of
- (a) the date of death of the member, vested former member or pensioner in the circumstances set out in subsection (1) or (2), respectively; or
 - (b) the date that payment ceased under section 13 or 13.1
 - (i) because of the death of the surviving spouse of the member, vested former member or pensioner, or
 - (ii) in accordance with subsection 13.3(1).

Entitlement of Plan

- (6) The Plan is entitled to retain, and use for its own purposes, any money that the Plan is not liable, in accordance with subsection (5), to pay to a personal representative. *2016,c.36,s.5; 2020,c.60,s.3.*

13.3 Cessation of payments

- (1) Payments due to a dependent child of a member, vested former member or pensioner under sections 13 and 13.1 shall cease
- (a) when the child is no longer a dependent child; or



- (b) upon the death of the dependent child.

Income Tax Act (Canada) limits apply

- (2) The aggregate amount of pension benefits payable to a surviving spouse or dependent child of a member, vested former member or pensioner under sections 13 and 13.1 for a particular month shall not exceed the limit on the aggregate amount of such benefits allowed under the *Income Tax Act (Canada)*.

Calculation of entitlement

- (3) For greater certainty, the calculation of payments under section 13 or 13.1 shall include the temporary pension referred to in subsection 8(2.1) until the date on which the member, vested former member or pensioner would have, except for his or her death, attained the age of 65 years. 2016, c.36, s.5.

13.4 Ineligibility

Despite sections 13 and 13.1, a spouse of a member, vested former member or pensioner is not entitled to receive payment pursuant to sections 13 and 13.1 where

- (a) the spouse has received pension benefits as the result of a division of the pension benefits of the member, vested former member or pensioner pursuant to this Act;
- (b) a court of competent jurisdiction in Canada has made an order, in proceedings related to division of property between the member, vested former member or pensioner and his or her spouse, that specifies that the pension benefits of the member, vested former member or pensioner are not to be divided; or
- (c) the member, vested former member or pensioner and his or her spouse have entered into a written domestic contract that provides for the division of property between them, that specifies that the pension benefits of the member, vested former member or pensioner are not to be divided. 2016, c.36, s.5.

14. Payments to be made monthly

The pension or allowance payable to a member or vested former member, or to the surviving spouse, children or dependants of a member or vested former member, shall be paid in monthly instalments and is payable for the whole of the month in which the recipient dies or ceases to be eligible to receive it. 1981, c.5, s.14; 1983, c.5, s.3; 2004, c.28, s.11; 2008, c.8, s.3(6).

15. Assignment etc. of rights

No right of a person under this Act is capable of being assigned, charged, anticipated, given as security or surrendered, and, for the purposes of this section

- (a) assignment does not include assignment pursuant to a decree, order or judgment of a competent tribunal or a written agreement in settlement of rights arising as a consequence of the breakdown of a spousal relationship between an individual and the individual's spouse or former spouse nor does it include assignment by the legal representative of a deceased individual on the distribution of the individual's estate; and
- (b) surrender does not include a reduction in benefits to avoid the revocation of the registration under the *Income Tax Act (Canada)* of the pension plan provided for in this Act. 1993, c.28, s.10; 2008, c.8, s.3(7).

RE-EMPLOYMENT

16. Pension ceases on *re-employment*

- (1) Every person receiving a pension under this Act, upon *re-employment* with a participating employer in a permanent full-time or part-time position, ceases to be entitled to the pension and payment thereof as long as the person continues to be *re-employed*.

Restoration of pension upon termination of *re-employment*

- (2) Where the *re-employment* of a person referred to in subsection (1) ceases, the person is eligible to receive a pension determined by the formula

$$A + B$$

where

A is the amount of the pension paid to the person immediately prior to his or her most recent period of *re-employment*, and

B is the pension calculated in accordance with section 8 in respect of the pensionable service credited to the member during the most recent period of *re-employment*. 1983,c.5,s.4; 1993,c.28,s.11; 2000,c.4,s.2; 2001,c.30,s.8; 2005,c.41,s.18; 2013,c.6,s.25.

INTERRUPTION OF SERVICE

17. Service in time of war

- (1) Interruption of service by reason of any member's enlistment and service in any of Her Majesty's forces or in services auxiliary thereto in time of war shall be disregarded in computing time of pensionable service and in assigning entitlement for it, and the member shall be regarded as being in pensionable service without any contribution required during the whole period of service in the forces or auxiliaries.

Recognition of wartime service

- (1.1) Recognition of any periods of wartime service which occur after 1989 shall be subject to the limits and conditions under section 8507 of the Income Tax Regulations made under the *Income Tax Act* (Canada).

Leave without pay

- (2) Where a member was on approved leave without pay, the member may have that period of leave recognized as service if the member makes payment to the Plan in the amount calculated in accordance with subsection 7.02(2) or as otherwise determined by the Commission.

Restoration of refunded service

- (3) Subject to subsections (3.1) and (3.2), where a member previously terminated employment with a participating employer and received a refund of contributions and interest thereon in respect of his or her years of service, the member may have his or her service restored if the member makes payment to the Plan in the amount determined by the Commission.

Exception

- (3.1) Subsection (3) does not apply where the member elected under section 10 on or after January 1, 2018, to receive a refund.



Restriction

- (3.2) A member is not eligible to have service restored under subsection (3) unless he or she elects in writing to make payment to have the service restored within 24 months of the date the member received the refund.

Manner of repayment of contributions

- (4) A repayment referred to in subsection (3) shall, unless the Minister determines otherwise, be made by a single lump sum payment.

Repayments begun before commencement of subsection (4)

- (4.1) Where a member has, under the former subsection (4), begun but not completed the full repayment of the amount required under the former subsection (3), the member may, on the coming into force of this subsection, have his or her continuity of service restored in accordance with the former subsections (3) and (4).

Reference to former subsection (3) and (4)

- (4.2) A reference in subsection (4.1) to the former subsection (3) or to the former subsection (4) is a reference to those subsections as they read immediately before the date this subsection comes into force.

Limit on repayment

- (5) A repayment referred to in subsection (3) shall not exceed such limit as may be prescribed under the *Income Tax Act* (Canada) and, if the amount of refund received by the member at the time of his previous withdrawal was more than the amount of his own contributions accumulated with interest, any such repayment must be done by transferring an amount directly into the Plan from a registered retirement savings plan owned by the member or from another registered pension plan of which the member was a member.

Limit on initial annual pension

- (6) Repealed by 1996,c.8,s.9; 1981,c.5,s.16; 1993,c.28,s.12; 1996,c.8,s.17; 2000,c.4,s.3; 2001,c.30,s.9; 2004,c.28,s.12; 2014,c.3,s.15; 2017,c.3,s.15; 2020,c.60,s.3.

17.1 Work Force Adjustment Program

Repealed by 2001,c.30,s.10.

17.2 Provincial laboratory employee

Repealed by 2004,c.28,s.13; 1998,c.84,s.5; 1999,c.21,s.3; 2004,c.28,s.13.

17.3 Exception

Notwithstanding section 17, a member is not eligible to have service restored or recognized for a period prior to January 1, 2018, unless that member has elected in writing by December 31, 2019, to have the service restored or recognized. 2017,c.3,s.16.

DIVISION OF PENSION BENEFITS

18. Request for information *re* division of pension benefits

- (1) A person who is a member, a vested former member or a pensioner, or a spouse or former spouse of one of those persons, may, after the date of separation, apply to the Minister in writing for information in respect of a division of the pension benefits earned during the period of the spousal relationship between the person and the spouse or former spouse.

Application for division of pension benefits on marriage breakdown

- (1.1) A person who is a member, a vested former member or a pensioner, or a spouse or former spouse of one of those persons, may, in the circumstances described in subsection (2), apply to the Minister to divide the pension benefits to which the person is entitled under this Act between the person and the spouse or former spouse.

Circumstances in which application made

- (2) An application may be made where
- (a) a court of competent jurisdiction in Canada, in proceedings in relation to a divorce or an annulment of marriage, makes an order that provides for the division of pension benefits under this Act between the person and the spouse or former spouse;
 - (b) the person and the spouse or former spouse have entered into a written witnessed domestic contract that provides for the division of pension benefits between them upon divorce or annulment of marriage or upon separation;
 - (c) one of the spouses commences an application based on subsection 6(2) of the *Family Law Act* respecting improvident depletion that is subsequently granted; or
 - (d) a court of competent jurisdiction, in proceedings under the *Family Law Act*, makes an order that provides for the division of pension benefits under this Act between the person and the spouse or former spouse,

and the effective date of the divorce or annulment of marriage or the separation referred to in clauses (a), (b) and (d), or the date of the application referred to in clause (c), is on or after January 1, 1998.

Determination of pension benefits

- (3) The pension benefits shall be determined as of the valuation date in accordance with this Act and the regulations and shall be divided in accordance with an order of the court, the terms of a domestic contract or an order under the *Family Law Act*.

Division under ss(3), effect

- (4) If the pension benefits under the Plan have been divided in accordance with subsection (3), the spouse or former spouse has no further right under the Plan and the member's, vested former member's, or pensioner's pension benefits shall be determined accordingly.

Reduction may not exceed 50%

- (5) A division of pension benefits under the Plan pursuant to the circumstances in subsection (2) shall not result in a reduction of a member's, vested former member's, or pensioner's pension benefits earned during the period of the spousal relationship by more than fifty per cent.

Cash payment

- (6) If a member would not be entitled to a deferred pension at the date of separation, the portion of the member's contributions with interest to be attributed to the spouse or former spouse shall be paid out in cash in accordance with this Act and the regulations.



Minister not liable

- (7) Where a court order or domestic contract provides for payment by the member, vested former member, or pensioner of a sum equal to and in lieu of the amount owing to the member's, vested former member's or pensioner's spouse or former spouse in relation to pension benefits, the Minister and the Plan are not liable for any payments.

Application

- (8) An application under subsection 18(1.1) shall be made in writing containing the prescribed information, accompanied by a certified true copy of the court order or domestic contract and by such other documents as are prescribed. *1998,c.84,s.6; 2004,c.28,s.14; 2014,c.3,s.16; 2020,c.60,s.3.*

19. Determination of questions of application

Repealed by *2014,c.3,s.17. 1981,c.5,s.18; 2014,c.3,s.17.*

20. Interested party

- (1) In this section and in sections 21 and 23 the term "interested party" means the person who is a member, a vested former member or a pensioner, and the spouse or former spouse of such person, between whom the person's pension benefits under this Act are sought to be divided in an application under subsection 18(1.1).

Notice of receipt of application

- (2) The Minister shall, after receiving an application under subsection 18(1.1), send a notice of the receipt in the prescribed manner to each interested party.

Notice where interested party is not applicant

- (3) In the case of an interested party who is not the applicant, the notice shall include any document or information prescribed by regulation.

Notice received by interested party

- (4) The notice is deemed to be received by an interested party thirty days after the day on which it is sent in the prescribed manner to that party. *1998,c.84,s.7; 2014,c.3,s.18.*

21. Interested party objects

- (1) An interested party who objects to the division of pension benefits on any of the grounds described in subsection (2)
- (a) may submit a notice to the Minister or his or her delegate in writing within thirty days after the day on which notice of the receipt of the application is deemed under subsection 20(4) to be received by that party; and
 - (b) shall include with the notice, documentary evidence to establish the grounds for objection.

Grounds for objection

- (2) The grounds for objection are
- (a) that the court order, or domestic contract has been varied or is of no force or effect;
 - (b) that the terms of the court order or domestic contract have been, or are being satisfied by other means; or

- (c) that proceedings have been commenced in a court of competent jurisdiction in Canada to appeal or review the court order or challenge the terms of the domestic contract. 1998, c.84, s.7.

22. Minister approves division

- (1) Subject to subsections (2) and (3), the Minister shall, as soon as is practicable after the Minister is satisfied that an application meets the requirements of this Act, approve the division of the pension benefits for which the application is made.

Deferral of decision

- (2) If an interested party submits a notice of objection to the Minister in accordance with section 21, the Minister shall defer any decision on the application until such time as the Minister is able to ascertain to the Minister's satisfaction whether the grounds referred to in clauses 21(2)(a) or (b) have been established, or until the final disposition of the proceedings referred to in clause 21(2)(c), as the case may be.

Minister refuses approval, where

- (3) The Minister shall refuse to approve the division of pension benefits under this Act where
 - (a) the application for the division does not meet the requirements of this Act;
 - (b) the application is withdrawn in accordance with the regulations;
 - (c) the Minister is satisfied that grounds for objection under clause 21(2)(a) or (b) have been established and that they provide sufficient reason to refuse the division;
 - (d) as a result of the proceedings described in clause 21(2)(c), the court finds that the court order or domestic contract is of no force or effect in respect of the division of pension benefits; or
 - (e) the period subject to division cannot be determined. 1998, c.84, s.7.

23. Transfer of not more than 50%

- (1) A division of pension benefits shall be effected by transferring in accordance with subsection (3), (3.1) or (3.2) a share of the pension benefits of the member, vested former member or pensioner subject to division, as determined in accordance with this Act and the regulations.

Adjustment

- (2) The pension benefits of the member, vested former member or pensioner shall be adjusted for the period between valuation date and the date the division is effected in accordance with the regulations.

Election by spouse or former spouse

- (3) A spouse or former spouse of a member or a vested former member shall elect, in writing, that the Minister either
 - (a) transfer the share of pension benefits to the spouse or former spouse as a separate pension; or
 - (b) pay to the spouse or former spouse the share of the contributions made by the member or vested former member to the Plan that are attributed to the spouse or former spouse upon division of pension benefits.



Idem

- (3.1) The Minister shall transfer the share of pension benefits to the spouse or former spouse of a pensioner as a separate pension.

Exception

- (3.2) Notwithstanding subsections (3) and (3.1), where a request for information has been made to the Minister under subsection 18(1) prior to April 1, 2015, and an application for division of benefits has been made to the Minister under subsection 18(1.1) prior to January 1, 2019, a non-member spouse or non-member former spouse may direct the Minister to transfer his or her share of the pension benefits subject to division to one of the following:
- (a) a pension plan selected by the spouse or former spouse that is registered under the *Income Tax Act* (Canada), if that pension plan so permits;
 - (b) a retirement savings plan or fund for the spouse or former spouse that is of a prescribed kind;
 - (c) a financial institution authorized to sell immediate or deferred life annuities of a prescribed kind, for the purchase of such an annuity for the spouse or former spouse.

Maximum amount

- (3.3) The share of pension benefits referred to in subsection (3.2) shall not exceed fifty per cent of the pension benefits of the member, vested former member or pensioner, as determined in accordance with the regulations.

Failure to direct Minister

- (4) If the spouse or former spouse fails to direct the Minister in relation to the manner in which his or her entitlement is to be dealt with, that spouse shall be deemed to have directed the Minister to transfer to the spouse or former spouse the share of the pension benefits as a separate pension from the Plan.

Adjustment

- (5) Where the pension benefits of a member, vested former member or pensioner have been divided under this section the pension benefits and accumulated contributions contributed by the member, vested former member or pensioner shall be adjusted in accordance with the regulations.

Both spouses members, one pension divided, where

- (6) Where both spouses or former spouses are either members, vested former members, or pensioners, and the pension benefits of only one spouse or former spouse have been divided pursuant to this Act, the receiving spouse or former spouse is not entitled to a lump sum payment under subsection 23(3.2) and the division shall be effected in accordance with the regulations.

Lump-sum amount

- (6.1) Notwithstanding subsection (6), a receiving spouse or former spouse who terminates and withdraws his or her pension benefits from the Plan after a request for information has been made to the Minister under subsection 18(1) prior to April 1, 2015, and an application for division of benefits has been made to the Minister under subsection 18(1.1) prior to January 1, 2019, shall receive a lump-sum amount in accordance with subsection (3.2), as if he or she were a non-member spouse or non-member former spouse when the application for division of pension benefits was made.

No further division, where

- (7) Where the pension benefits of a member, vested former member or pensioner in respect of a given period of spousal relationship have been divided under this section, no further division of pension benefits may be made under this section in respect of that period.

Payment to estate

- (8) An amount that cannot be transferred in accordance with subsection 23(1) by reason only of the death of the spouse or former spouse shall be paid to the estate of the spouse or former spouse.

Notice of division

- (9) The Minister shall send a notice of the division of the pension benefits to each interested party. *1998, c.84, s.7; 2008, c.8, s.3(8); 2008, c.37, s.4; 2014, c.3, s.19; 2020, c.60, s.3.*

23.1 Death of spouse, former spouse prior to receiving separate pension

- (1) Where a spouse or former spouse who is entitled to a separate pension dies prior to commencing receipt of the separate pension, the estate of the spouse or former spouse is entitled to receive out of the Plan an amount determined by the formula

$$1.5 \times A$$

where

A is the share of the contributions made by the member, vested former member or pensioner to the Plan that are attributed to the spouse or former spouse on division of pension benefits under section 23, plus interest to the date of the death of the spouse or former spouse.

Death of spouse, former spouse while receiving separate pension

- (2) Where a spouse or former spouse who is entitled to a separate pension dies after commencing to receive the separate pension, the estate of the spouse or former spouse is entitled to receive out of the Plan an amount determined by the formula

$$1.5 \times A - B$$

where

A is the share of the contributions made by the member, vested former member or pensioner to the Plan that are attributed to the spouse or former spouse on division of pension benefits under section 23, plus interest to the date the spouse or former spouse commenced receiving the separate pension; and

B is the amount of payments from the Plan that have been received by the spouse or former spouse under section 23 before the date of death of the spouse or former spouse. *2014, c.3, s.20; 2016, c.36, s.6; 2020, c.60, s.3.*

24. Payments in excess of entitlement

If the amount transferred in respect of a spouse or former spouse or paid to the estate of that deceased person under subsection 23(8) exceeds the amount to which that person was entitled to have transferred or the estate was entitled to be paid, the amount in excess constitutes a debt due to the Government of Prince Edward Island by that spouse, former spouse or estate. *1998, c.84, s.7.*



25. *Idem*

Where an adjustment is made under section 23, and an amount is or has been paid to a member, vested former member, or pensioner that exceeds the amount to which that member, vested former member, or pensioner is or would have been entitled under the Plan after the effective date of that adjustment, the amount in excess constitutes a debt due the Government of Prince Edward Island by that member, vested former member, or pensioner and may be recovered at any time by set-off against any pension benefits that are payable to that member, vested former member, or pensioner from the Plan, without prejudice to any other recourse for recovery that may be available to the Government of Prince Edward Island. *1998,c.84,s.7; 2014,c.3,s.21; 2020,c.60,s.3.*

26. No assignment

- (1) Amounts to which a spouse or former spouse is or may become entitled under section 23 are not capable of being assigned, charged, anticipated or given as security, and any transaction that purports to assign, charge, anticipate or give as security any such amount is void.

Exemption from seizure

- (2) Subject to sections 24 and 25 and regulations made pursuant to subsection 28(k), amounts to which a spouse or former spouse is or may become entitled under section 23 are exempt from attachment, seizure and execution, either at law or in equity. *1998,c.84,s.7.*

27. Minister may not prejudice, where court order

- (1) Notwithstanding any other provision of this Act, where a court of competent jurisdiction in Canada so orders, the Minister shall not, for such period as the court may order, take any action on the direction of a member, vested former member or pensioner that may prejudice the ability of the spouse or a former spouse to make an application or obtain a division of pension benefits under this Act.

Prescribed information on amount payable

- (2) The Minister shall provide a person with prescribed information concerning the pension benefits that are or may become payable to or in respect of a member, vested former member, or pensioner under the Plan if the person is
- (a) the member, vested former member or pensioner; or
 - (b) a spouse or former spouse of a person referred to in clause (a).

Notice

- (3) The Minister shall provide notification to a member, vested former member or pensioner of information provided to a spouse or former spouse under subsection (2). *1998,c.84,s.7; 2014,c.3,s.22; 2020,c.60,s.3.*

27.01 No pensionable service after December 31, 2018

- (1) In respect of a division of pension benefits in which the member, vested former member or pensioner has, as of the date of separation, no pensionable service after December 31, 2018, a spouse or former spouse of the member, vested former member or pensioner is eligible, upon written application, to receive an unreduced yearly separate pension, payable monthly, if the member, vested former member or pensioner has attained or would have, if he or she was not deceased, attained:
- (a) the age of sixty years and at the date of separation had at least two years of service; or

- (b) the age of fifty-five years, and at the date of separation had at least thirty years of pensionable service.

Pensionable service after December 31, 2018

- (2) In respect of a division of pension benefits in which the member, vested former member or pensioner has, as of the date of separation, pensionable service after December 31, 2018, the spouse or former spouse of the member, vested former member or pensioner is eligible, upon written application, to receive an unreduced yearly separate pension, payable monthly, if the member, vested former member or pensioner has attained or would have, if he or she was not deceased, attained:
 - (a) the age of sixty-two years and at the date of separation had at least two years of service; or
 - (b) the age of fifty-five years, and at the date of separation had at least thirty-two years of pensionable service.

Reduced yearly separate pension

- (3) A spouse or former spouse of a member, vested former member or pensioner is eligible, upon written application, to receive a reduced yearly separate pension, payable monthly, if the member, vested former member or pensioner has attained or would have, if he or she was not deceased, attained the age of fifty-five years and at the date of separation had at least two years of service. 2014,c.3,s.23.

27.02 Calculation, unreduced yearly separate pension

- (1) The amount of a yearly separate pension payable to a spouse or former spouse of a member, vested former member or pensioner who is eligible to receive an unreduced yearly separate pension under subsections 27.01(1) or (2) is equal to the amount determined by the formula

$$(A \times B \div C \times D)$$

where

A is the member's, vested former member's or pensioner's yearly pension payable calculated in accordance with subsection 8(2) as if the member, vested former member or pensioner had terminated employment on the date of separation,

B is the member's, vested former member's or pensioner's pensionable service during the period of the spousal relationship, which is equal to the sum of

- (i) the number of years and part years that occurred and were credited as pensionable service to the member, vested former member or pensioner during the period of the spousal relationship and are included in "C",
- (ii) in respect of purchased pensionable service, the number of years and part years that occurred prior to the commencement of the spousal relationship which were not included to calculate benefits at the commencement of the spousal relationship but were credited as pensionable service to the member, vested former member or pensioner during the period of the spousal relationship and are included in "C" at the date of separation, and
- (iii) in respect of pensionable service transferred from another pension plan on or before the date of separation under a reciprocal transfer agreement entered into pursuant to section 30, the number of years and part years of pensionable service that were credited to the member, vested former member or pensioner under the other pension plan during the period of the spousal relationship and are included in "C" at the date of separation,



- C is the member's, vested former member's or pensioner's pensionable service up to the date of separation, which is equal to
- (i) the total number of years and part years of pensionable service which would be used to calculate the pension benefits of the member, vested former member or pensioner as if the member, vested former member or pensioner had terminated employment on the date of separation, or
 - (ii) the total number of years and part years of pensionable service used to calculate the pension benefits of the member, vested former member or pensioner upon termination of employment where the member, vested former member or pensioner terminated employment before the date of separation,
- D is the share of the member's, vested former member's or pensioner's pension benefits earned during the spousal relationship that is attributable to the spouse or former spouse, which in no case shall exceed 50 per cent.

Calculation, temporary separate pension

- (2) In addition to the amount of yearly separate pension payable to a spouse or former spouse of a member, vested former member or pensioner under subsection (1), a spouse or former spouse who commences receiving a separate pension under this Act prior to the date at which the member, vested former member or pensioner will attain or would have, if he or she was not deceased, attained the age of sixty-five years, and who is eligible to receive an unreduced yearly separate pension under subsections 27.01(1) or (2), is entitled to receive, until the date at which the member, vested former member or pensioner attains or would have, if he or she was not deceased, attained the age of sixty-five years, a yearly temporary separate pension amount equal to the amount determined by the formula

$$(A \times B \div C \times D)$$

where

- A is the member's, vested former member's or pensioner's yearly temporary pension amount calculated in accordance with subsection 8(2.1) as if the member, vested former member or pensioner had terminated employment on the date of separation,
- B is the member's, vested former member's or pensioner's pensionable service during the period of the spousal relationship described in subsection (1),
- C is the member's, vested former member's or pensioner's pensionable service up to the date of separation described in subsection (1),
- D is the share described in subsection (1).

Calculation, reduced separate pension

- (3) Where a spouse or former spouse of a member, vested former member or pensioner is eligible to receive a reduced yearly separate pension under subsection 27.01(3), the amount of reduced yearly separate pension shall be equal to the difference between
- (a) the amount the spouse or former spouse would receive as an unreduced yearly separate pension under subsections (1) and (2) if the spouse or former spouse were eligible to receive an unreduced yearly separate pension; and
 - (b) the amount determined by the formula

$$(1/4\% \times A \times B) + (1/4\% \times C \times D)$$

where

- A is the amount of pension in clause (a) in respect of the member's, vested former member's or pensioner's pensionable service during the period of the spousal relationship described in subsection (1) that was credited to the member, vested former member or pensioner prior to 2019,
- B is the lesser of
 - (i) the number of months between the date that the spouse or former spouse commences receipt of his or her separate pension and the date the member, vested former member or pensioner will attain or would have, if he or she was not deceased, attained the age of sixty, or
 - (ii) the number of months between the member's, vested former member's or pensioner's pensionable service up to the date of separation described in subsection (1) and thirty years of pensionable service,
- C is the amount of pension in clause (a) in respect of the member's, vested former member's or pensioner's pensionable service during the period of the spousal relationship described in subsection (1) that was credited to the member, vested former member or pensioner after 2018,
- D is the lesser of
 - (i) the number of months between the date that the spouse or former spouse commences receipt of his or her separate pension and the date the member, vested former member or pensioner will attain or would have, if he or she was not deceased, attained the age of sixty-two, or
 - (ii) the number of months between the member's, vested former member's or pensioner's pensionable service up to the date of separation described in subsection (1) and thirty-two years of pensionable service.

Indexing

- (4) Subject to subsection (5), a separate pension shall be indexed in accordance with subsections 8.01(2) to (4), with indexation commencing in respect of the year in which the date of separation occurred.

Prorating

- (5) Where the date of separation is a date other than a date specified in subsection 8.01(2) in respect of a year, the pension indexing percentage in respect of that year shall be prorated so as to be proportionate to the part of the year from the date of separation to the date of the immediately following pension indexing percentage increase. *2014, c.3, s.23.*

GENERAL

27.1 Immunity from Legal Action

- (1) No action, grievance, claim or demand or other proceeding for damages or relief of any kind arises or lies, or may be instituted or maintained, against the Government of Prince Edward Island, the Minister, a delegate of the Minister, the Actuary, or an employee or agent of the Government, or any other person or entity,
 - (a) for any act done in good faith in the
 - (i) performance or intended performance of any duty under this Act or the regulations, or
 - (ii) exercise or intended exercise of any power or function under



this Act or the regulations; or

- (b) for any neglect or default in the performance or exercise in good faith of the powers, functions or duties described in clause (a).

No cause of action arises because of amendment of the Act

- (2) Notwithstanding any other statute, regulation, contract, collective agreement, trust, instrument or representation, including any which create or support a pension plan, pension fund or trust, no action, grievance, claim or demand, or other proceeding, for damages or relief of any kind arises or lies, or may be instituted or maintained, against the Government of Prince Edward Island, the Minister or any employee or agent thereof for any change in this Act or the regulations, including, but not limited to, such changes as affect benefits, contributions and funding.

Liability *re* funding

- (3) The liability of the Government of Prince Edward Island in respect of funding is limited to such funding as is required by this Act and the regulations.

Indemnification of Crown from Plan

- (4) The Government of Prince Edward Island is entitled to full indemnity out of the assets of the Plan for any costs and expenses arising out of any such actions, proceedings, grievances or claims as are brought in contravention of this section. *2013, c.6, s.28; 2020, c.60, s.15.*

27.2 Repayment

- (1) Where any person has received a payment of money from the Plan to which he or she was not entitled and has not paid it back to the Plan, the Commission may notify that person to pay the money to the Plan.

Proceedings to recover money

- (2) Where a person fails to comply with a notice under subsection (1), the Commission may institute proceedings for the recovery of the money together with interest on it at the rate determined by the Minister from the date of the failure to comply.

Evidence of indebtedness

- (3) In any proceedings under subsection (2), a copy of the statement of account prepared and certified as true by the Commission shall be admitted as evidence and is, in the absence of evidence to the contrary, proof that the amount stated in it and any interest charged on the amount is a debt due from the person to the Plan without proof of the official character of the Commission.

Set-off

- (4) Notwithstanding subsections (1) and (2), the Commission may recover the money referred to in subsection (1) at any time by set-off against any pension benefits that are payable to the person from the Plan, without prejudice to any other recourse for recovery that may be available to the Commission. *2016, c.36, s.7; 2020, c.60, s.3.*

27.3 Requirement to provide information

- (1) The Minister may require any person receiving pension benefits under this Act to provide written confirmation to the Minister of the person's address and benefit payment information.

Notice

- (2) The Minister shall provide notice in writing to a person referred to in subsection (1), specifying the date by which the person is required to provide the confirmation to the Minister.

Deemed receipt

- (3) The notice referred to in subsection (2) is deemed to be received by the person to whom it is directed 30 days after the day on which it is sent to the person.

Failure to respond

- (4) Where the person referred to in subsection (1) fails to confirm the address and benefit payment information by the date specified in the notice, the Minister may cease to make payments to the person until the person provides the required information. *2017, c.3, s.17.*

27.4 Records

- (1) The Commission may establish and maintain records containing information, including personal information, gathered in the administration of this Act.

Disclosure of information

- (2) Notwithstanding Parts I and II of the *Freedom of Information and Protection of Privacy Act* R.S.P.E.I. 1988, Cap. F-15.01, the Commission may disclose personal information contained in a record to a third party where
- (a) the information is provided to a person or organization for the purpose of maintaining it in an information management system to be used for the administration of this Act;
 - (b) the disclosure is to the employer, if the information is necessary for the purpose of managing or administering personnel of the employer; or
 - (c) the disclosure is, in the opinion of the Commission, essential for the administration of this Act, including but not limited to disclosure to a person or organization for the purpose of locating a person who is or may be entitled to receive benefits under this Act. *2017, c.3, s.17.*

28. Regulations

The Lieutenant Governor in Council may make regulations as the Lieutenant Governor in Council considers necessary or advisable for carrying out the intent and purposes of this Act, including, without limiting the generality of the foregoing, regulations

- (a) defining the terms under which a person may elect to contribute for years of service prior to the person's participation as a member;
- (a.1) respecting the rules that govern the duties, practices and procedures of the Commission;
- (a.2) defining the terms under which a member may elect to contribute for periods of time during which the member was on an eligible leave of absence pursuant to subsection 17(2);
- (a.3) respecting participating employers to which this Act applies;
- (a.4) respecting the persons who are, for the purposes of clause 1(1)(u)(vii), included as members, including prescribing the positions, or classes or types of positions, that entitle the persons holding such positions to be included as members;



- (a.5) respecting the distribution under subsection 3(9) of surplus funds remaining in the Plan after a former member transfers money from the Plan on the transfer of his or her years of superannuation service;
- (a.6) respecting the information required to be included in an annual report prepared and submitted under section 6;
- (a.7) respecting the indexing increase of a member's pensionable salary, together with accumulated salary indexing increases, under subsection 7.3(4);
- (a.8) respecting the indexing increase of a member's year's maximum pensionable earnings amount, together with accumulated salary indexing increases, under subsection 7.3(7);
- (a.9) respecting the amount or percentage of the increase required under subsections 8.01(4), 8.02(3) and 8.02(6);
- (b) providing for proof to be furnished before any pension or allowance is paid under this Act;
- (c) prescribing the circumstances in which a person may make an application under section 23 of the Act on behalf of another person or may act on behalf of another person in prosecuting an application that has been made by that other person;
- (d) prescribing the circumstances in which a personal representative may make and proceed with an application pursuant to section 23;
- (e) respecting the manner in which and the extent to which any provision of this Act applies to a person referred to in clauses (c) and (d) or in the circumstances prescribed by the regulations and adapting any provision of this Act to those persons or circumstances;
- (f) respecting the withdrawal of applications;
- (g) for the purposes of section 23, for determining, on the basis of generally accepted actuarial principles, the valuation date and the value of pension benefits during the period subject to division;
- (g.1) respecting the apportionment of benefits payable upon the death of a member or vested former member;
- (h) for the purposes of sections 8 and 23, respecting the adjustment of the pension benefits;
- (i) requiring interest be paid on lump sum amounts and prescribing the rate of interest or the manner of determining the rate of interest;
- (j) for determining the effective date of the adjustment of pension benefits;
- (k) respecting the charging of amounts payable under this Act to the Government of Prince Edward Island or to any account or accounts in the accounts of the Government of Prince Edward Island;
- (l) respecting the provision of information to a spouse or former spouse under subsection 27(2);
- (m) prescribing any matter or thing that by this Act is to be or may be prescribed; and
- (n) defining or describing any word, expression or term that is used, but is not already defined, in this Act. 1998,c.84,s.7; 2000,c.4,s.4; 2001,c.30,s.11; 2004,c.28,s.15; 2005,c.41,s.18; 2008,c.8,s.3(9); 2013,c.6,s.29; 2014,c.3,s.24; 2017,c.3,s.18; 2020,c.60,s.3.