PLEASE NOTE

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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*.**

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CHAPTER T-1

TEACHERS' SUPERANNUATION ACT

INTERPRETATION

1. (1) In this Act — Definitions

(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 10; — actuarial valuation report

(b) "Actuary" means the person or firm appointed as the Actuary under section 10; — Actuary

(c) "assets of the Fund" means the assets of the Fund, as determined in accordance with Canadian generally accepted accounting principles for the public sector, including: — assets of the Fund

(i) the cash balances in the accounts of the Fund,

(ii) the investments held in trust by the Minister of Finance on behalf of the Fund, 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 — average weighted indexed pensionable salary

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

where

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

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

(e) "average weighted indexed year's maximum pensionable earnings amount" means, in respect of a member, the amount determined by the formula — average weighted indexed year's maximum pensionable earnings amount

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

where

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

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

(f) "base contribution" means — base contribution

(i) in respect of a member, the contribution that the member is required, each calendar year, to make to the Fund under subsection 14(1), and

(ii) in respect of an employer, the contribution that the employer is required to make to the Fund, each calendar year, under subsection 14(2);

chairperson

(g) "chairperson" means the chairperson of the Commission appointed under subsection 3(2);

Commission

(h) "Commission" means the Teachers' Superannuation Commission appointed under subsection 3(1);

commissioner

(i) "commissioner" means a member of the Commission appointed under subsection 3(1);

court order

(j) "court order" means an order of a court of competent jurisdiction in Canada;

date of separation

(j.1) "date of separation" means the date that a member, vested former member or pensioner and his or her spouse or former spouse as of that date commenced living separate and apart;

dependant

(k) "dependant", in relation to an individual entitled to or receiving a pension under this Act at the time of the individual's death, means a parent, brother, sister or child, whether over 18 years of age or not, of the individual, who at the time of the death of the individual was dependant upon the individual for support;

domestic contract

(l) "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;

effective date

(m) "effective date" means, in respect of an actuarial valuation report and subject to subsection 10(6), April 1 of the year in which the actuarial valuation report is prepared;

employer

(n) "employer" means the employer of a member who makes contributions to the Fund under this Act in respect of service to which this Act applies;

employer's contributions

(o) "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 Fund under this Act and the regulations;

Fund

(p) "Fund" means the Teachers' Superannuation Fund established under this Act;

(q) "funded benefits ratio" means, in respect of the Fund, the ratio of the total value of the assets of the Fund to the total value of the liabilities of the Fund, 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, in accordance with this Act; funded benefits ratio

(r) "government guarantee shortfall amount" means the amount determined by the Actuary under subsection 14.04(1); government guarantee shortfall amount

(s) "indexed pensionable salary" means, in respect of a year, the member's pensionable salary for that year, together with any accumulated salary indexing increases made in respect of the member's prior years of service, as indexed under subsection 17.1(2); indexed pensionable salary

(t) "indexed year's maximum pensionable earnings amount" means, in respect of a year, the member's year's maximum pensionable earnings amount for that year, together with any accumulated indexing increases for the year's maximum pensionable earnings amount made in respect of the member's prior years of service, as indexed under subsection 17.1(5); indexed year's maximum pensionable earnings amount

(u) "instructional personnel" means instructional personnel as defined in clause 1(n) of the *School Act* R.S.P.E.I. 1988, Cap. S-2.1; instructional personnel

(v) "liabilities of the Fund" means, subject to subsections 10(7) and (8), the liabilities of the Fund as set out in an actuarial valuation report; liabilities of the Fund

(w) "member" means member

(i) a teacher who is employed by a school board,

(ii) a person who

(A) is an employee of a school board and is designated as a member of its instructional personnel or supervisory personnel under the *School Act*, and

(B) is not a member under the *Civil Service Superannuation Act* R.S.P.E.I. 1988, Cap. C-9,

(iii) a teacher who

(A) is employed by the Department of Education, Early Learning and Culture in the supervision of teaching or other service, and

(B) is not a member under the *Civil Service Superannuation Act*,

(iv) a teacher who

(A) is employed by the Prince Edward Island Teachers' Federation, and

(B) makes contributions to the Fund under this Act, or

(v) a teacher who

(A) is employed by any school located in the province operated by the Department of National Defence (Canada) or the Department of Indian and Northern Affairs (Canada) or by any other public agency recognized by the Minister as providing efficient instruction in a school,

(B) receives permission from the Minister to come under this Act, and

(C) makes contributions to the Fund under this Act,

but does not include substitute teachers;

member's contributions

(x) "member's contributions" means

(i) the base contribution, and

(ii) the supplementary contribution, if any,

that a member is required to make to the Fund each calendar year under this Act and the regulations;

Minister

(y) "Minister" means, except in sections 10 and 10.1, the Minister of Education, Early Learning and Culture;

pension

(z) "pension" means a pension granted upon retirement under section 16;

pension benefits

(aa) "pension benefits" means any pension, allowance, annuity, refund of contributions or other benefits or amount payable under this Act;

pension indexation asset amount

(bb) "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 Fund, 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 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 Fund, as of the effective date of the report, is less than or equal to110%, 0;

(cc) "pension indexing percentage" means, in respect of any year after 2013, pension indexing percentage

(i) for each of 2014, 2015 and 2016, 0.9%, 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 12-month period ending June 30 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 12-month period immediately preceding the 12-month period described in "A";

(dd) "pensionable salary" means, pensionable salary

(i) in respect of a year prior to 2014, the average of the five highest years of

(A) salary paid to the member for years, or part of a year, before 2014, during which the member made contributions under section 14 or 14.01, and

(B) salary deemed to be paid to the member under subsection (4) for years, or part of a year, before 2014, during which the member was away from his or her position on any unpaid leave, taken before, on or after the date this subsection comes into force for a purpose prescribed by the regulations, and

(ii) in respect of a year after 2013, the salary paid to the member for that year, or part year, during which the member made contributions under section 14 or 14.01;

(ee) "pensioner" means a former member who is receiving periodic pension payments from the Fund in accordance with this Act; pensioner

(ee.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; personal representative

(ff) "regulations" means regulations made under this Act; regulations

(gg) "salary" means the total remuneration payable to a member for service and, where applicable, includes such amounts of salary

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 or temporary absence;

school board

(hh) "school board" means a school board as defined in the *School Act*;

salary indexation asset amount

(ii) "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 Fund, and

B is the total value of the assets of the Fund,

(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 Fund, and

B is the total value of the assets of the Fund, and

(iii) if the funded benefits ratio as of that date is less than or equal to 100%, 0;

salary indexing percentage

(jj) "salary 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 of the wage measure for each month of the twelve-month period ending on June 30 of the immediately preceding 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";

separate pension

(jj.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;

service or teaching service

(kk) "service" or "teaching service" means, subject to the limitations imposed by sections 11 and 12.1,

(i) any service rendered by a member

(A) in teaching in any school operated by a school board,

(B) in the supervision of teaching or other service in any school operated by a school board,

(C) in the supervision of teaching or other service in the Department of Education, Early Learning and Culture,

(D) during any period of employment with the Prince Edward Island Teachers' Federation, and

(E) in teaching in any school located in the province operated by the Government of Canada or by any other public agency recognized by the Minister as providing efficient instruction in a school,

for which contributions have been made as required under this Act,

(ii) any period during which the member is 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 earnings capacity for which contributions have been made as required under this Act, and

(iii) where the member is a person referred to in subclause (w)(ii), any service rendered by the member during any period of employment with a school board for which contributions have been made as required under this Act,

but does not include any service by the member as a substitute or temporary teacher or any service given by the member to a person other than the primary employer of the member;

spouse

(ll) "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 the natural or adoptive parents of a child;

supervisory personnel

(mm) "supervisory personnel" means supervisory personnel as defined in clause 1(aa) of the *School Act*;

supplementary contribution

(nn) "supplementary contribution" means the contribution, if any, that a member or employer is required, in respect of a calendar year, to make to the Fund under section 14.01;

teacher

(oo) "teacher" means teacher as defined in clause 1(bb) of the *School Act*;

total cost of pension indexing for all pensioners

(pp) "total cost of pension indexing for all pensioners" means, in respect of the year immediately following the effective date of an actuarial valuation report, the amount determined by the formula

A x B

where

A is the pension indexing percentage for that year, and

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

total cost of salary indexing for all members

(qq) "total cost of salary indexing for all members" means, in respect of the year immediately following the effective date of the actuarial valuation report, the amount determined by the formula

A x B

where

A is the salary indexing percentage for that year, and

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

totally and permanently disabled

(rr) "totally and permanently disabled" means, in relation to an individual, suffering from a physical or mental impairment that prevents the individual from engaging in any employment for which the individual is reasonably suited by virtue of the individual's education, training or experience, and that can reasonably be expected to last for the remainder of the individual's practical working life;

vested former member

(ss) "vested former member" means a former member 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 Fund in accordance with this Act;

(tt) "vice-chairperson" means the vice-chairperson of the Commission appointed under subsection 3(2); vice-chairperson

(uu) "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); wage measure

(vv) "weighted indexed pensionable salary" means, in respect of a year, the amount determined by the formula weighted indexed pensionable salary

A x B

where

A is the service of a member for that year as determined under subsection 18(3),

B is the indexed pensionable salary of the member for that year;

(ww) weighted indexed year's maximum pensionable earnings amount" means, in respect of a year, the amount determined by the formula weighted indexed year's maximum pensionable earnings amount

A x B

where

A is the service of a member for that year as determined under subsection 18(3),

B is the indexed year's maximum pensionable earnings amount of the member for that year;

(xx) "year's maximum pensionable earnings amount" means, year's maximum pensionable earnings amount

(i) in respect of a year prior to 2014, the average amount of the year's maximum pensionable earnings of the member under the *Canada Pension Plan Act* for the five-year period referred to under subclause 1(1)(dd)(i), and

(ii) in respect of a year after 2013 for which a member has service, the amount of the year's maximum pensionable earnings of the member under the *Canada Pension Plan Act* for that year.

(2) Where in respect of a year a member works less than full-time in his or her position, the member's pensionable salary for that year shall be the salary the member would have received if he or she had worked full-time in his or her position during that period. Annualization of pensionable salaries

(3) Where the last day of employment for which a member has pensionable service is a date other than September 1 of a year, the salary indexing percentage in respect of that year shall be prorated so as to be Proration of salary indexation for partial year prior to retirement

proportionate to the part of the year from September 1 to the last day of that year for which the member has pensionable service.

Deemed salary during period of unpaid leave

(4) In determining the pensionable salary of a member, the salary deemed to be paid to the member for any year, or part of a year, prior to 2014 and during which the member was away from his or her position on or after the date this subsection comes into force for a purpose prescribed by the regulations, shall be the salary the member was receiving at the commencement of the leave increased annually by 60% of the percentage increase in the Consumer Price (all items) Index for Canada for the previous year, subject to a maximum increase of 4%.

Computation of five-year period where interruption in service

(5) Where teaching service has been interrupted, teaching service given immediately before the interruption shall be added to teaching service given immediately after the interruption in determining the five-year period referred to under subclause 1(1)(dd)(i). 1975,c.28,s.1; 1982,c.32,s.1; 1993,c.29,s.4; 1991,c.43,s.1; 1994,c.61,s.1; 1995,c.8,s.1; 1997,c.50,s.1; 2004,c.48,s.1; 2005,c.55,s.1; 2005,c.21,s.1; 2008,c.32,s.1; 2009,c.73,s.2; 2009,c.21,s.1; 2008,c.8,s.26(2); 2010,c.47,s.1; 2013,c.24,s.2; 2014,c.8,s.1; 2015,c.28,s.3.

APPLICATION

Application

2. This Act applies to

(a) every person who is a member; and

(b) every person who

(i) is a pensioner or a vested former member, or

(ii) made contributions to the Fund. 1991,c.43,s.2; 2008,c.32,s.2.

SPOUSES

Voidable or void marriage not in good faith

2.1 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.26(3).

ADMINISTRATION

Teachers' Superannuation Commission continued

3. (1) The Teachers' Superannuation Commission is hereby continued.

Act administered by Commission

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

Composition of Commission

(3) The Commission shall consist of eight commissioners appointed as follows:

(a) three persons appointed by the Minister;
(b) one person appointed by the Minister of Finance;
(c) three persons who are members, appointed by the Prince Edward Island Teachers' Federation; and
(d) one person who is a pensioner, appointed by the Prince Edward Island Retired Teachers' Association.

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.

Reappointment

(7) A commissioner may be re-appointed.

Vacancy

(8) Where a commissioner's position becomes vacant during the commissioner's term of appointment, another person shall be appointed as commissioner in his or her stead to serve for the unexpired balance of the term in accordance with section 5.

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 four commissioners. 1975,c.28,s.3; 1982,c.32,s.2; 1983,c.1,s.6; 1986,c.5,s.2; 1993,c.29,s.4; 2004,c.48,s.2; 2008,c.32,s.3,4; 2010,c.31,s.3; 2012,c.17,s.2; 2012(2nd),c.25,s.1; 2013,c.24,s.6; 2014,c.8,s.3; 2015,c.28,s.3.

Annual report

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

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. 1975,c.28,s.4; 1982,c.32,s.3; 2004,c.48,s.3; 2014,c.8,s.3.

Absence or incapacity of commissioner

5. (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 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 3(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. 1975,c.28,s.5; 2004,c.48,s.4; 2014,c.8,s.3.

Quorum of the Commission

6. (1) A quorum of the Commission is four commissioners, constituted as follows:

(a) the chairperson or the vice-chairperson, when acting under subsection 3(5);

(b) one other commissioner appointed under clause 3(3)(a) or (b);

(c) two of the commissioners appointed under clauses 3(3)(c) and (d).

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. 1975,c.28,s.6; 2014,c.8,s.3.

Duty of commissioner

7. (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. 1975,c.28,s.7; 2014,c.8,s.3.

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

Remuneration

(2) The following amounts are a charge upon and shall be paid out of the Fund:

Reasonable expenses

(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. 1975,c.28,s.8; 2014,c.8,s.3.

8.1 (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 Fund.

Indemnification of commissioners

(2) Every commissioner shall be indemnified out of the Fund 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.

Idem

(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.8,s.3.

Exception

8.2 The Minister shall provide all staff and other resources necessary to administer the Act and the Fund, the costs of which shall be paid out of the Fund. 2014,c.8,s.3.

Staff, etc.

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

Application of Act

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

Notice to Minister

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

Review by Minister

(4) After a review under subsection (3), the Minister may

Minister's powers

(a) confirm the determination of the Commission; or

(b) substitute his or her determination for the determination of the Commission.

(5) The Minister shall notify the Commission of any substitution of a determination made under clause (4)(b). 2014,c.8,s.3.

Notice to Commission

TEACHERS' SUPERANNUATION FUND

Establishment, Payments, Trust and Investments

Teachers' Superannuation Fund

9. (1) There shall be a Fund known as the "Teachers' Superannuation Fund" into which shall be paid all contributions made under this Act and out of which shall be paid only the following:

(a) all pension benefits authorized by this Act;

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

Payments out of Fund

(2) Repealed by 2013,c.24,s.8(2).

Payments into Fund by the Minister of Finance

(3) Repealed by 2013,c.24,s.8(2).

Investment of Fund

(4) The Fund shall be held in trust by the Minister of Finance and shall be invested by the Minister of Finance 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 Fund may be cancelled or recalled by the Government before the maturity of the promissory note unless the Government contributes to the Fund an asset with a value equal to or greater than the value of the promissory note on the date the promissory note is cancelled or recalled. 1975,c.28,s.10; 1982,c.32,s.5; 1983,c.1,s.6; 1986,c.5,s.2; 1988,c.65,s.1; 1993,c.29,s.4; 1995,c.40,s.1; 1997,c.20,s.3; 2005,c.55,s.2; 2008,c.32,s.4; 2010,c.31,s.3; 2012,c.17,s.2; 2013,c.24,s.8; 2015,c.28,s.3.

ACTUARY AND ACTUARIAL VALUATION REPORT

Actuary, appointment

10. (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) The Actuary shall, on or before December 31, 2014,

(a) prepare an actuarial valuation report respecting the financial status of the Fund with an effective date of April 1, 2014; and

(b) submit the actuarial valuation report to the Minister.

Annual actuarial valuation report

(3) The Actuary shall, on or before December 31 of every year following 2014,

(a) prepare an actuarial valuation report respecting the financial status of the Fund with an effective date of April 1 of that year; and

(b) submit the actuarial valuation report to the Minister.

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

Principles governing preparation of report

(5) The Actuary shall include in an actuarial valuation report the following information as of the effective date of the report:

Contents of actuarial valuation report

(a) the total value of the assets of the Fund, as expressed in Canadian currency;

(b) the total value of the liabilities of the Fund, as determined by the Actuary and as expressed in Canadian currency;

(c) the funded benefits ratio of the Fund;

(d) the salary indexation asset amount of the Fund;

(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 Fund;

(h) the pension indexing percentage in respect of the immediately following year;

(i) the total cost of pension indexing for all pensioners 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 14.04(1);

(k) such other information as the Minister may require.

(6) The Actuary shall, on or before December 31, 2014, also

Transitional valuation requirements for 2014

(a) prepare an actuarial valuation report respecting the financial status of the Fund with an effective date of January 1, 2014, which shall include the information described in subsection (5); and

(b) submit the report to the Minister.

(7) The Actuary shall, when determining the total value of the liabilities of the Fund for an actuarial valuation report with an effective date of April 1, 2014, April 1, 2015 or April 1, 2016,

Transitional liabilities

(a) include the total cost of salary indexing for all members under section 17.1 for 2014, 2015 and 2016;

(b) include the total cost of pension indexing for all pensioners under section 19.1 for 2014, 2015 and 2016;

(c) not include the total cost of salary indexing for all members under section 17.1 in respect of any year after 2016; and

(d) not include the total cost of pension indexing for all pensioners under section 19.1 after July 1, 2016.

Liabilities not to include future indexing

(8) The Actuary shall, when determining the total value of the liabilities of the Fund 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 17.1 in respect of any year after the effective date of the report; and

(b) the total cost of pension indexing for all pensioners under section 19.1 in respect of any year after the effective date of the report.

"Minister", defined

(9) In this section and in section 10.1, "Minister" means the Minister of Finance. 1980,c.51,s.1; 1991,c.43,s.3; 2013,c.24,s.9; 2014,c.8,s.4; 2015,c.28,s.3.

Going concern valuation for 2014

10.1 (1) The Actuary shall, on or before December 31, 2014,

(a) conduct a going concern valuation of the financial status of the Fund, as of April 1, 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.

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 Fund, as of April 1 of that year, 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.

Transitional going concern valuation for 2014

(3) The Actuary shall, on or before December 31, 2014, also

(a) conduct a going concern valuation of the financial status of the Fund, as of January 1, 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. 2013,c.24,s.9.

SERVICE

Limits

11. (1) Computation of teaching service is subject to this Act and to the following limitations

(a) teaching service after July 1, 1931 may be computed as teaching service; and

(b) approved leave may be computed as teaching service within the overall limits imposed by the *Income Tax Act* (Canada) and regulations on the crediting of service in a registered pension plan.

(2) Where a member has been employed in teaching in the province for at least one year between the last year of teaching service outside the province and his or her retirement, the Commission may, for all purposes relating to pension, include similar service since 1931 as a teacher fully engaged in teaching service in any province of Canada or in any country approved by the Commission if the member has paid into the Fund the full actuarial value of the transferred service, as determined by the Commission.

Including five years service outside province

(3) Service in the armed forces of Canada during any period when Canada is at war, or in any theatre of operation where a state of war exists, counts in computing teaching service, if the person claiming the service has, within the twelve month period immediately preceding his or her enlistment, been engaged in the teaching profession, or in the pursuit of studies appertaining to the teaching profession, and has resumed or commenced teaching in Prince Edward Island within five years of the date of his discharge from the forces.

Military service during war, computed as service

(4) A member who has been on approved leave without pay or with part pay under clause (1)(b) or subsection (3) may make such payments after returning from leave or re-employment as a teacher, as are equal to the full actuarial value, as determined by the Commission, of the period of leave or the equivalent period of unpaid leave in the case of part pay. 1975,c.28,s.12; 1982,c.32,s.6; 1987,c.67,s.1; 1995,c.40,s.2; 2001,c.58,s.1; 2004,c.48,s.5,6; 2008,c.32,s.6.

Purchase of previous leave

11.1 Notwithstanding subsection 11(4) and subject to clause 11(1)(b), a member may make contributions to the Fund for a period of leave taken as maternity, parental, adoption or sabbatical leave, in accordance with the regulations. 2001,c.58,s.2; 2005,c.21,s.2; 2008,c.32,s.4.

Contribution for parental leave

11.2 (1) to (5) Repealed by 2013,c.24,s.11. 2005,c.55,s.3; 2008,c.32,s.4; 2013,c.24,s.11.

"Program", defined

12. Repealed by 2004,c.48,s.6. 1975,c.28,s.13; 2004,c.48,s.6.

Prior employment with civil service recognized

12.1 Notwithstanding section 11, calculation of service, and contributions for purchase of pension entitlement for past service, shall be governed by the applicable rules and limitations required by the *Income Tax Act* (Canada) and service of a teacher prior to January 1, 1992 with an employer who does not make contributions to the Fund may be counted as service of the member under this Act only in accordance with a reciprocal transfer agreement or portability arrangement acceptable under the *Income Tax Act* (Canada). In addition, any foreign service may be counted as service of a teacher under this Act

Application of *Income Tax Act* rules

only if it conforms with the requirements under the *Income Tax Act* (Canada). 1994, c.61, s.2; 2004,c.48,s.7; 2008,c.32,s.7.

Maximum period of service

13. Repealed by 1995,c.40,s.3.

CONTRIBUTIONS

Base Contributions

Required base contributions, amount

14. (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 14.02(6) and the maximum contribution limits imposed under the *Income Tax Act* (Canada), the member shall make a base contribution to the Fund, in accordance with subsection 14.02(3) each calendar year in an amount equal to

(a) eight and three-tenths 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) ten 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*.

Employer's base contribution

(2) Subject to subsections (3) and (4) and subsection 14.02(5), the employer shall, in respect of each member employed by the employer, make a base contribution to the Fund each calendar year equal to the amount of the base contribution of the member under subsection (1) and pay it to the Minister of Finance, who shall cause the same to be paid into the Fund.

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 Fund 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 Fund 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) for 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 Fund 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 Fund 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 Fund 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 Fund is equal to or less than 140%. 1975, c.28, s.15; 1985, c.42, s.1; 1992, c.66, s.1; 1994, c.61, s.3; 1995,c.40,s.4; 2004,c.48,s.8; 2005,c.21,s.3; 2008,c.32,s.4,8; 2010,c.47,s.2; 2012(2nd),c.25,s.2; 2013,c.24,s.12; 2015,c.28,s.3.

Supplementary Contributions

Where funded benefits ratio is less than 110%

14.01 (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 Fund, as of the effective date of the report, is less than 110%,

(a) each member shall make a supplementary contribution to the Fund 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 Fund 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 Fund 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 Fund, 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 Fund 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 Fund required under clause (1)(b), and

(ii) a further supplementary contribution to the Fund 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 Fund is equal to or greater than 105%. 2013,c.24,s.12.

General

Member's contributions

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

Contribution calculation where salary deferred

(2) Subject to the requirements of sections 8507 and 8508 of the regulations to the *Income Tax Act* (Canada), a member who is participating in the deferred salary plan pursuant to the collective agreement 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 full-time equivalent for his or her position.

Deduction and payment of member's contributions

(3) 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 of Finance, who shall cause the same to be paid into the Fund.

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

(4) In no event shall a member continue to contribute to the Fund after December 30 of the calendar year in which the member attains the age of seventy-one 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

(5) 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.

(6) When, in accordance with subsection (5), contributions to the Fund 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.

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

(7) Where, pursuant to subclause 1(1)(kk)(ii), the service of a member includes a period of wage loss benefits under the *Workers Compensation Act*, the employer shall pay the member's contributions based on the member's salary at the date of commencement of receipt of those benefits by the member. 2013,c.24,s.12; 2014,c.8,s.5; 2015,c.28,s.3.

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

TRANSITIONAL GOVERNMENT FUNDING

14.03 (1) The Government shall contribute sufficient net assets to the Fund on or before December 31, 2014, as circumstances require, to ensure that, as of January 1, 2014, the total assets of the Fund would have equaled, if those net assets had been contributed on that date, an amount determined by the formula

Transitional funding commitment of government

$$(122\% \times A) + (100\% \times B)$$

where

A is the total liabilities of the Fund, the determination of which shall exclude

(i) the total cost of salary indexing for all members under section 17.1 in respect of any year after 2013, and

(ii) the total cost of pension indexing for all pensioners under section 19.1 after July 1, 2013, and

B is the sum of

(i) the total cost of salary indexing for all members under section 17.1 for 2014, 2015 and 2016, and

(ii) the total cost of pension indexing for all pensioners under section 19.1 for 2014, 2015 and 2016.

Interest

(2) Where the Government is required to contribute an asset to the Fund under subsection (1), interest is payable to the Fund by the Government on the value of the assets to be contributed, in respect of the period between the effective date of the actuarial valuation report and the date the contribution is made. 2013,c.24,s.12; 2014,c.8,s.6.

GOVERNMENT GUARANTEE

14.04 (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

Government guarantee shortfall amount

(a) the funded benefits ratio of the Fund 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 Fund on the effective date of the actuarial valuation report, is sufficient, in the Actuary's opinion, to achieve a funded benefits ratio of the Fund 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 Fund 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.24,s.12.

MISSED CONTRIBUTIONS

Written notice

14.1 (1) Where all or part of

(a) the member's contributions to the Fund required under subsection 14(1), 14.01(1) or 14.01(2); or

(b) the employer's contributions to the Fund required under subsection 14(2), 14.01(1) or 14.01(2),

have not been paid into the Fund, the Commission shall give written notice to the employer and the member respecting the contributions.

Missed contributions of employer

(2) An employer who has received a written notice under subsection (1) shall pay into the Fund the amounts that the employer should have paid under subsection 14(2), 14.01(1) or 14.01(2), together with interest.

Member may make contributions

(3) Subject to subsection (4), a member may make the contributions to the Fund in respect of the member's service for the period during which the contributions were required to be paid under subsection 14(1), 14.01(1) or 14.01(2) but were not paid, together with interest, in accordance with the regulations.

Idem

(4) Where a member pays contributions to the Fund under subsection (3), the interest accrued on the contributions shall be paid

(a) by the employer for the period during which the contributions were required to be paid under subsection 14(1), 14.01(1) or 14.01(2) but were not paid, up to the earlier of the following:
(i) the date the member starts making the contributions, or
(ii) the date which is 180 days after the date on which written notice was given under subsection (1); and
(b) by the member, starting on the earlier of the following:
(i) the date the member starts making contributions under this section, or
(ii) 180 days after the date on which written notice was given under subsection (1).

Interest

(5) Interest payable under this section
(a) shall be at the rate of five per cent compounded annually; and
(b) may be waived by the Commission in whole or in part. 2004,c.48,s.9; 2008,c.32,s.4; 2013,c.24,s.14.

Termination of right to contribute

15. (1) - (3) Repealed by 2013,c.24,s.15. 1994, c.61, s.4; 2004,c.48,s.10; 2008,c.32,s.4,9; 2013,c.24,s.15.

PENSION ELIGIBILITY

Eligibility for pension

16. (1) Subject to section 20 and the regulations, where a member, at his or her date of retirement, has at least two years of service and
(a) has attained the age of
(i) sixty-two years, or
(ii) sixty years and has no service after December 31, 2018; or
(b) retires on the grounds that he or she is totally and permanently disabled,
the member is eligible, upon written application, to receive an unreduced yearly pension, payable monthly.

Idem

(1.1) Subject to section 20 and the regulations, where a member, at his or her date of retirement, has
(a) attained the age of fifty-five years and has at least
(i) thirty-two years of service, or
(ii) thirty years of service, none of which are after December 31, 2018; or
(b) at least thirty-five years of service,
the member is eligible, upon written application, to receive an unreduced yearly pension, payable monthly.

Early retirement

(1.2) A member who has at least two years of service may retire or be retired on attaining the age of fifty-five years and is eligible, upon written application, to receive a reduced yearly pension, payable monthly.

Reduced yearly pension

(1.3) Where a member is eligible to receive a reduced yearly pension pursuant to subsection (1.2) the amount of reduced yearly pension shall be equal to the difference between

(a) the amount the member would receive as an unreduced pension under section 18 if the member were eligible to receive such a 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 respect of 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 thirty years of service;

C is the amount of pension in respect of 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 sixty-two, or

(ii) the number of months between the date of actual retirement and the date the member would have at least thirty-two years of service.

Evidence of disability

(2) Where a member applies for a pension on the grounds that he or she is totally and permanently disabled, the member shall provide evidence satisfactory to the Commission of the physical or mental condition of the teacher that resulted in the total and permanent disability.

Review

(3) Subject to the regulations, the Commission may review annually the case of a member superannuated on account of being totally and permanently disabled and, on the recovery of the member, the pension shall cease unless, in the meantime, the member has reached the age of fifty-five years. 1975,c.28,s.16; 1980,c.51,s.2; 1987,c.67,s.2; 1991,c.43,s.4; 1995, c.40,s.5; 1996,c.45,s.1; 1997,c.50,s.2; 2000,c.13,s.1; 2004,c.48,s.11; 2008,c.32,s.4,5,10; 2013,c.24,s.16; 2014,c.8,s.7.

OPTIONS UPON CESSATION OF EMPLOYMENT

Termination of employment before retirement

17. (1) Where a member or vested former member

(a) has at least two years of service; and

(b) ceases to be employed as a teacher with an employer,

the member or vested former member may elect

(c) to receive a refund of all member's contributions made by him or her under this Act, if the member or vested former member is not, at the time of the election, receiving a pension under this Act; or

(d) 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 16.

Consequences of election

(2) Where a member or vested former member mentioned in subsection (1) elects

(a) to receive a refund of the member's contributions pursuant to clause (c) of that subsection, the member's contributions shall be refunded to him or her; or

(b) to receive a deferred pension pursuant to clause (d) of that subsection, a yearly pension payable monthly shall be paid to that member or vested former member commencing on the effective date of the pension for which application is made under section 16. 1975,c.28,s.17; 1991,c.43,s.5; 1996,c.45,s.1; 2004,c.48,s.12; 2006,c.23,s.1; 2008,c.32,s.5,11; 2013,c.24,s.18; 2014,c.8,s.8.

INDEXING OF SALARIES AND YEAR'S MAXIMUM PENSIONABLE EARNINGS

Definitions

17.1 (1) In this section,

member

(a) "member" does not include a former member;

prorated salary indexing percentage

(b) "prorated salary indexing percentage" means, in respect of a year, the percentage determined by the formula

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

where

A is the salary indexing percentage for the year,

B is the salary 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 salary indexing for all members for the year.

Indexed pensionable salary increase

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

Application of prorated salary indexing percentage

(3) Where, under subsection (2), the total cost of salary indexing for all members for a year after 2016 exceeds the salary indexation asset amount as of the effective date of an actuarial valuation report immediately preceding the year, the member's pensionable salary for that

year, together with any accumulated salary indexing increases made under this section in respect of the member's prior years of service, shall be indexed under subsection (2) for that 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 year using the prorated salary indexing percentage for that year, in accordance with subsection (3),

the member's pensionable salary, together with the accumulated salary indexing increases made under this section in respect of the year that includes the effective date of the report and any prior years of service by the member, 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 subsections (6) and 1(3), where a member **i**s credited with service in respect of a year, the member's year's maximum pensionable earnings amount for that year, together with any accumulated indexing increases for the year's maximum pensionable earnings amount made under this section in respect of prior years of service by the member, shall be increased by the salary indexing percentage for that year.

Application of prorated salary indexing percentage

(6) Where, under subsection (2), the total cost of salary indexing for all members for a year after 2016 exceeds the salary indexation asset amount as of the effective date of an actuarial valuation report immediately preceding the year, the member's year's maximum pensionable earnings amount for that year, together with any accumulated indexing increases for the year's maximum pensionable earnings amount made under this section in respect of prior years of service by the member, shall be indexed under subsection (5) for that 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 year using the prorated salary indexing percentage for that 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 in respect of the year that includes the effective date of the report and any prior year of service by the member, 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.24,s.19.

COMPUTATION OF PENSIONS

Amount of Pension Payable on Retirement

Calculation of unreduced lifetime pension

18. (1) The amount of **y**early pension payable to any member who retires or is retired and who is eligible to receive a yearly pension pursuant to subsection 16(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 service,

B is the member's average weighted indexed pensionable salary, and

C is the amount of the yearly pension determined under subsection (2).

Calculation of bridge pension amount

(2) In addition to the amount of yearly pension payable to a member under subsection (1), 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 subsection 16(1) or (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 service of the member after July 1, 1972, 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.

Calculation of service

(3) The yearly pension payable to a member under this Act shall be calculated based on full-time equivalent days worked in accordance with the following formula:

$$\text{service} = \frac{\text{number of full-time equivalent days worked}}{\text{number of days in school year}}$$

Adjustment of pension benefits

(4) Where there has been a division of pension benefits pursuant to this Act, the amount of pension benefits payable pursuant to this section shall be adjusted as prescribed by regulation. 1975,c.28,s.18; 1980,c.51,s.3; 1982,c.32,s.9; 1985,c.42,s.2; 1990, c.62,s.1; 1994,c.61,s.6; 1995,c.40,s.6; 2005,c.21,s.4; 2005,c.21,s.4; 2006,c.23,s.2; 2008,c.32,s.4,12; 2008,c.8,s.26(4); 2013,c.24,s.21; 2014,c.8,s.9.

Minimum pension

19. (1) The minimum annual pension payable to a member under this Act with respect to service prior to January 1, 1992 shall be $100 multiplied by the number of years of the member's service prior to January 1, 1992, subject to a maximum of thirty-five years of such service.

Maximum pension

(2) Notwithstanding any other provision of this Act, the lifetime pension payable in any year to a member under this Act in respect of service after 1991 shall in no case exceed the maximum allowed under section 8504 of the regulations to the *Income Tax Act* (Canada) and any bridging benefit payable in any year to a member under this Act in respect of service after 1991 shall in no case exceed the maximum allowed under section 8503(2)(b) of the regulations made under the *Income Tax Act* (Canada).

Limit on initial annual pension purchased service prior to 1990

(3) Notwithstanding any other provision of this Act, the total initial annual pension (prior to any reduction for early retirement) payable under this Act in respect of service prior to 1990 purchased after 1991 pursuant to this Act, but which was never previously counted as service under this Act, shall in no case exceed an amount equal to $1,150, or two-thirds of such other defined benefit limit that is prescribed under the *Income Tax Act* (Canada) for the calendar year in which the pension commences, multiplied by the number of years of purchased service. 1994, c.61, s.7; 2004,c.48,s.13; 2008,c.32,s.4; 2008,c.32,s.4.

Indexing of Pensions and Deferred Pensions

Definition, prorated pension indexing percentage

19.1 (1) In this section, "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 all pensioners for the year.

Pension indexing

(2) Subject to subsections (3) and (6), where a pensioner is in receipt of a pension as of June 30 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

(a) the immediately following July 1 each year until January 1, 2017;

(b) January 1, for 2017 and each year thereafter.

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 July 1, 2016, to December 31, 2016.

Application of prorated pension indexing percentage

(3) Where, under subsection (2), the total cost of pension indexing for all pensioners for 2017 or any subsequent 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 missed indexing

(4) Where

(a) the funded benefits ratio in an actuarial valuation report with an effective date of April 1, 2017, or April 1 of any subsequent year, is greater than 118%; and

(b) the pension indexing for a pensioner was determined under this section in a prior year using the prorated pension indexing percentage for that year, in accordance with subsection (3),

the pension of the pensioner, together with any accumulated pension indexing increases made under this section within three months after the effective date of the actuarial valuation report, shall be increased, as of July 1 of the calendar year immediately following the effective date of the actuarial valuation report, in such amount or by such percentage, as is required by the regulations.

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) Subsections (2) to (5) apply to a pension deferred under clause 17(1)(d). 2013,c.24,s.22; 2014,c.8,s.10.

RE-EMPLOYMENT

Pension ceases on re-employment

20. (1) Where a person receiving a pension under this Act is re-employed as a teacher with an employer and the person becomes a member again during that re-employment, the person ceases to be entitled to the pension and the payment thereof as long as the person continues to be so 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 sections 16 and 18 in respect of the service credited to the member during the most recent period of re-employment. 1975,c.28,s.19; 1982,c.32,s.10; 1994,c.61,s.8; 2008,c.32,s.4,13; 2010,c.47,s.3; 2013,c.24,s.23.

Annual increase

21. (1) -(2) Repealed by 2013,c.24,s.24. 1995,c.40,s.7; 2005,c.21,s.5; 2006,c.23,s.3; 2008,c.32,s.14; 2013,c.24,s.24.

Integration with Canada Pension

22. (1) Repealed by 2013,c.24,s.24.

Transitional

(2) Repealed by 1999,c.17,s.1. 1995,c.40,s.8; 1999,c.17,s.1; 2006,c.23,s.4; 2013,c.24,s.24.

REFUNDS OF MEMBER'S CONTRIBUTIONS

Refund of contribution after April 25, 1968

23. (1) A person who ceases to teach and to contribute to the Fund on or after April 25, 1968, and is not eligible for a pension shall be paid, within such period as may be determined by the Minister, a refund of all contributions to the Fund that have been made by that person.

Return to teaching, minimum teaching period to receive refund

(2) A person who was not teaching and contributing to the Fund on April 25, 1968, and was not eligible for a pension, and who returns to teaching and contributes to the Fund thereafter, must teach a minimum of one year in order to receive all contributions made by him or her to the Fund.

(3) A person who ceased to teach and contribute to the Fund prior to April 25, 1968, and was not eligible for a pension is entitled to a refund of all contributions made by him or her to the Fund except those of the first two years.

Amount of refund

(4) If a member or vested former member dies before becoming eligible for a pension, any refunds to which he or she would be entitled shall be paid to his or her personal representative. 1975,c.28,s.22; 2004,c.48,s.14; 2006,c.23,s.5; 2008,c.32,s.15.

Death of teacher before being eligible for allowance

DEATH OF MEMBER, VESTED FORMER MEMBER OR PENSIONER

24. (1) Where a member or vested former member dies after two years of service and before retirement, three-fifths the pension to which he or she would have been entitled if he or she had retired by reason of incapacity immediately prior to his or her death, shall be paid to his or her spouse for life.

Teacher dies after five years service, payment to spouse

(2) Where a member or vested former member dies after two years of service and before retirement, leaving dependent children in addition to a spouse entitled to a pension under subsection (1), one-quarter of the remaining two-fifths of the pension to which the member or vested former member would have been entitled if the member or vested former member had retired by reason of incapacity immediately prior to death, shall be paid for each child until the child attains the age of sixteen years, or to age twenty five years if the child continues to attend school, and in no case shall payment to such children exceed three-quarters of the remaining two-fifths of the pension.

Payment to dependent

(3) Where a member or vested former member dies after two years of service and before retirement leaving dependent children but no spouse, a total pension equal to three-fifths of the pension to which the member or vested former member would have been entitled if the member or vested former member had retired by reason of incapacity immediately prior to death, shall be paid on behalf of any children under the age of sixteen years, or under the age of twenty five years while they are attending school and the allowance shall be paid to the guardian or guardians of the children or to any person designated by the Minister.

Dependant children but no spouse, payment to

(4) Where a member or vested former member dies after two years of service and before retirement leaving a dependant other than those provided for in subsections (1) to (3), the Lieutenant Governor in Council may grant that an allowance be continued to be paid on behalf of the dependant; this allowance shall not exceed fifty per cent of the pension to which the member or vested former member would have been

Other dependants, payments where

entitled if he or she had retired by reason of incapacity immediately prior to his or her death. 1975,c.28,s.23; 1987,c.67,s.4; 1996,c.45,s.1; 1999,c.17,s.2; 2004,c.48,s.15; 2008,c.32,s.5,16.

Teacher dies while receiving pension, payment to spouse

25. (1) Where a pensioner dies while receiving pension, three-fifths of the pension which he or she was receiving shall continue to be paid to his or her spouse for life.

Dies while receiving pension, payment to spouse and dependent children

(2) Where a pensioner dies while receiving pension leaving dependent children in addition to a spouse entitled to a pension under subsection (1), one-quarter of the remaining two-fifths of the pension which the pensioner was receiving shall continue to be paid for each child until the child attains the age of sixteen years, or to age twenty five years if the child continues to attend school, and in no case shall payment to such children exceed three-quarters of the remaining two-fifths of the pension.

Dependent children, no spouse, payments where

(3) Where a pensioner dies while receiving pension leaving dependent children but no spouse, a total pension equal to three-fifths of the pension which the pensioner was receiving shall continue to be paid on behalf of any children under the age of sixteen years, or under the age of twenty five years while they are attending school and the pension shall be paid to the guardian or guardians of the children or to any person designated by the Minister.

Other dependants, payments where

(4) Where a pensioner dies while receiving pension and having a dependant other than those provided for in subsections (1) to (3), the Lieutenant Governor in Council may grant that a pension, not to exceed fifty per cent of the pension received by the pensioner, to continue to be paid on behalf of the dependant. 1975,c.28,s.24; 1987,c.67,s.5; 1999,c.17,s.3; 2004,c.48,s.16; 2008,c.32,s.17.

Death of child or other dependant

25.1 (1) Notwithstanding sections 24 and 25, payments due to a child or other dependant of a member, vested former member or pensioner pursuant to section 24 or 25, shall cease upon the death of the child or other dependant.

Maximum aggregate benefits

(2) The aggregate amount of benefits payable under subsections 24(1), (2) and (3) for a particular month or payable under subsections 25(1), (2) and (3) for a particular month shall not exceed the limit on the aggregate amount of such benefits allowed under the *Income Tax Act* (Canada).1994, c.61, s.9; 2008,c.32,s.18.

Deemed to be unmarried

26. A non-member spouse who, after pension benefits have been divided, has no further rights under the Fund pursuant to subsection 31.1(4) shall be deemed not to be married to the member or vested former member and not to be a spouse or surviving spouse at the date of

death of the member or vested former member. 1975,c.28,s.25; 2008,c.8,s.26(5).

Computation of pension to dependants, right to

27. (1) Where a member, vested member or pensioner dies while receiving or being entitled to receive a pension, then a pension shall be continued to his or her dependants as of right in accordance with the intent of sections 24 to 26.

Teacher dies leaving no dependants

(2) Where a member, vested member or pensioner dies after becoming eligible for the pension provided for under this Act or while drawing pension, and leaving no dependants, his or her personal representatives are entitled to receive out of the Fund an amount equal to his or her contributions remaining in the Fund. 1975,c.28,s.26; 2004,c.48,s.17,19; 2008,c.32,s.19.

Cessation of bridge portion of spousal and dependant benefits

27.1 For greater certainty, any spouse or dependant receiving a pension under this Act arising from the death of a member, vested former member or pensioner, is entitled to receive the temporary pension referred to in subsection 18(2) until the member, vested former member, or pensioner would have, except for his or her death, attained the age of 65 years. 2008,c.32,s.20; 2013,c.24,s.27.

REFUNDS OF MEMBER'S CONTRIBUTIONS

Interest payable on refunds

28. (1) Interest is payable by the Minister on all refunds made by him or her under this Act at an annual interest rate, determined September 1 of each year, equal to the average of the CANSIM series v122526 rates, published by Statistics Canada, for the 12-month period ending June 30, compounded annually.

Repayment of refunded contributions

(2) Where a member repays refunded contributions, such repayment shall be in an amount equal to the full actuarial value of the repurchased service. 1975,c.28,s.27; 1995,c.40,s.9; 2004,c.48,s.18; 2008,c.32,s.4; 2014,c.8,s.11.

REQUISITIONS FOR PAYMENTS OUT OF THE FUND

Payment of benefits and administration expenses by requisition

29. 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 the issuance of a cheque from the Fund for the amount named in the requisition. 1975, c.28, s.28; 1983, c.1, s.6; 1986, c.5,s.2; 1993,c.29,s.4; 2004,c.48,s.19; 2005,c.21,s.6; 2010,c.31,s.3; 2012,c.17,s.2; 2014,c.8,s.12,23.

ASSIGNMENT OF RIGHTS

Assignment etc. of rights

29.1 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 pension or benefits to avoid the revocation of the registration of the plan under the *Income Tax Act* (Canada). 1994,c.61,s.10; 2004,c.48,s.20; 2014,c.8,s.13.

RECIPROCAL TRANSFER AGREEMENTS

Reciprocal transfer agreements

30. (1) The Commission may, with the approval of the Minister, enter into reciprocal transfer agreements with

(a) any commission, board, corporation or body having similar objects to those of the Commission;

(a.1) any department or agency of the government of the province;

(b) the government of any province of Canada;

(c) the government of Canada;

(d) any municipality, college or university in the province; and

(e) the Council of Maritime Premiers established under the *Council of Maritime Premiers Act* R.S.P.E.I. 1988, Cap. C-27,

for the transfer between Funds of contributions and periods of service.

Agreements subject to restrictions

(2) Agreements entered into by the Commission pursuant to subsection (1), are subject to any restrictions or limitations imposed under the *Income Tax Act* (Canada). 1975,c.28,s.29; 1994,c.61,s.11; 2004,c.48,s.21.

ANNUAL AUDIT

Audit of Commission affairs

31. The Auditor General shall conduct an annual audit of the affairs of the Commission. 1975,c.28,s.30; 1980,c.10,s.21.

DIVISION OF PENSION BENEFITS

Request for information re division of pension benefits

31.1 (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, 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.

Application division of pension benefits

(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, 2006.

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*.

Effect of division

(4) If the pension benefits under the Fund have been divided in accordance with subsection (3), the spouse or former spouse has no further right under the Fund 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 Fund pursuant to the circumstances described 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 Fund are not liable for any payments.

Application

(8) An application under subsection (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. 2008,c.8,s.26(6); 2014,c.8,s.14.

Interested party, defined

31.2 (1) In this section and in sections 31.3 and 31.4, 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 31.1(1.1).

Notice of receipt of application

(2) The Minister shall, after receiving an application under subsection 31.1(1.1), send a notice of the receipt in the prescribed manner to each interested party.

Notice to interested party

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

Deemed receipt

(4) The notice is deemed to be received by an interested party 30 days after the day on which it is sent in the prescribed manner to that party. 2008,c.8,s.26(6); 2014,c.8,s.15.

Interested party objects to division

31.3 (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 31.2(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. 2008,c.8,s.26(6).

Approval of division of pension

31.4 (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.

Decision on application deferred

(2) If an interested party submits a notice of objection to the Minister in accordance with section 31.3, 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 31.3(2)(a) or (b) have been established, or until the final disposition of the proceedings referred to in clause 31.3(2)(c), as the case may be.

Division of benefits refused 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 31.3(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 31.3(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. 2008,c.8,s.26(6); 2013,c.24,s.34.

Division of benefits effected by transferred amount

31.5 (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.

Benefits adjusted

(2) The pension benefits of the member, vested former member or pensioner shall be adjusted for the period between the date of separation 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 the 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 Fund that are attributed to the spouse or former spouse upon division of pension benefits.

Idem

(3.1) The Minister shall transfer the share of the 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 an application for information has been made to the Minister under subsection 31.1(1) prior to April 1, 2015, and an application for division of benefits has been made to the Minister under subsection 31.1(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 the 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.

Failing to direct how entitlement is dealt with

(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 Fund.

Contributions after division adjusted in accordance with regulations

(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.

No lump sum payment

(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 31.5(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 Fund after an application for information has been made to the Minister under subsection 31.1(1) prior to April 1, 2015, and an application for division of benefits has been made to the Minister under subsection 31.1(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.

Division of benefits for period of spousal relationship

(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.

No transfer of benefits because of death paid to estate

(8) An amount that cannot be transferred in accordance with subsection (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 sent to each interested party

(9) The Minister shall send a notice of the division of the pension benefits to each interested party. 2008,c.8,s.26(6); 2014,c.8,s.16.

Death of spouse or former spouse prior to receiving separate pension

31.51 (1) Subject to subsection (2), 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 Fund an amount determined by the formula

$$10 \times A$$

where

A is the yearly separate pension to which the spouse or former spouse would have been entitled if he or she had commenced to receive the separate pension immediately prior to his or her death.

Applicability of subsection 31.92(3)

(2) Subsection 31.92(3) is not applicable to the yearly separate pension used to calculate the amount payable to the estate of the spouse or former spouse under subsection (1).

Death of spouse or former spouse while receiving separate pension

(3) 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 Fund an amount determined by the formula

$$(120 - A) \times B$$

where

A is the number of months for which the spouse or former spouse received the separate pension; and

B is the monthly separate pension the spouse or former spouse was receiving at his or her date of death. 2014,c.8,s.17.

Amount paid in excess of entitlement

31.6 If the amount transferred in respect of a spouse or former spouse or paid to the estate of that deceased person under subsection 31.5(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. 2008,c.8,s.26(6).

Idem

31.7 Where an adjustment is made under section 31.5, 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 Fund 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 setoff against any pension benefits that are payable to that member, vested former member, or pensioner from the Fund, without prejudice to any other recourse for recovery that may be available to the Government of Prince Edward Island. 2008,c.8,s.26(6); 2014,c.8,s.18.

Amount not capable of being assigned, charged, anticipated or given as security

31.8 (1) Amounts to which a spouse or former spouse is or may become entitled under section 31.5 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.

Amount exempt from attachment, seizure and execution

(2) Subject to sections 31.6 and 31.7, amounts to which a spouse or former spouse is or may become entitled under section 31.5 are exempt from attachment, seizure and execution, either at law or in equity. 2008,c.8,s.26(6).

Court order

31.9 (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 Fund 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). 2008,c.8,s.26(6); 2014,c.8,s.19.

No service after December 31, 2018

31.91 (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 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 service.

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, 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 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.8,s.20.

Calculation, unreduced yearly separate pension

31.92 (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 31.91(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 18(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 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 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 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 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 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 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 service up to the date of separation, which is equal to

(i) the total number of years and part years of 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 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 31.91(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 18(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 service during the period of the spousal relationship described in subsection (1),

C is the member's, vested former member's or pensioner's 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 31.91(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 service during 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 service up to the date of separation described in subsection (1) and thirty years of service,

C is the amount of pension in clause (a) in respect of the member's, vested former member's or pensioner's 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 service up to the date of separation described in subsection (1) and thirty-two years of service.

Indexing

(4) Subject to subsection (5), a separate pension shall be indexed in accordance with subsections 19.1(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 19.1(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.8,s.20.

APPLICATION OF ACT

Application of Act

32. (1)-(3) Repealed by 2014,c.8,s.21. 1975,c.28,s.31; 2004,c.48,s.22; 2014,c.8,s.21.

GENERAL

Immunity from Legal Action

32.1 (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 Fund

(4) The Government of Prince Edward Island is entitled to full indemnity out of the Fund 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.24,s.36.

Regulations

33. The Lieutenant Governor in Council may make such 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) respecting the Teachers' Superannuation Commission;

(a.01) respecting the rules that govern the duties, practises and procedures of the Commission;

(a.1) describing the purposes applicable to paragraph 1(1)(dd)(i)(B) and subsection 1(4);

(a.2) respecting the information required to be included in a report under subsection 3(4);

(b) respecting the Teachers' Superannuation Fund, including investments, annual reports and reporting on the activity of the Fund to the Minister;

(c) respecting the payments of pensions or benefits under this Act, including proof of eligibility for a pension or benefits;

(d) respecting maternity, parental or adoption leave, sabbatical leave or other approved leaves;

(e) respecting the calculation of the yearly pension payable under this Act, including recalculations, deductions, adjustments for overpayments or underpayments of a pension or benefits, integration with the Canada Pension Plan, and compliance with the *Income Tax Act* (Canada);

(f) respecting pensions granted on the grounds that a member is totally and permanently disabled;

(g) respecting refunds of contributions to the Fund;
(h) respecting elections under section 17;
(h.1) respecting the amount or percentage of the increase required under subsection 17.1(7) and 19.1(4);
(i) respecting retirement from the service before becoming eligible for an unreduced pension under clause 16(1)(a) or (1.1)(a);
(j) respecting the suspension of a pension when the person receiving the pension is re-employed to provide teaching service in the province;
(k) respecting transfers of service from any of the bodies listed in subsection 30(1), transfers to the Fund from another superannuation or equivalent fund, the calculation of the full actuarial value of transferred service, payments in addition to transfers, and reciprocal transfer agreements;
(k.1) prescribing the circumstances in which a person may make an application under section 31.5 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;
(k.2) prescribing the circumstances in which a personal representative may make and proceed with an application pursuant to section 31.5;
(k.3) respecting the manner in which and the extent to which any provision of this Act applies to a person referred to in clauses (k.1) and (k.2) or in the circumstances prescribed by the regulations and adapting any provision of this Act to those persons or circumstances;
(k.4) respecting the withdrawal of applications;
(k.5) for the purposes of section 31.5, for determining, on the basis of generally accepted actuarial principles, the value of pension benefits during the period subject to division;
(k.6) respecting the apportionment or benefits payable upon the death of a member or vested former member;
(k.7) for the purposes of subsection 18(4) and section 31.5, respecting the adjustment of the pension benefits;
(k.8) requiring interest be paid on lump-sum amounts and prescribing the rate of interest or the manner of determining the rate of interest;
(k.9) for determining the effective date of the adjustment of pension benefits;
(k.10) respecting the provision of information to a spouse or former spouse under subsection 31.9(2);
(l) defining or describing any word, expression or term that is used, but is not already defined or described, in this Act. 1975,c.28,s.32; 2004,c.48,s.23; 2008,c.32,s.4; 2008,c.8,s.26(7); 2013,c.24,s.37; 2014,c.8,s.22,23.

SCHEDULE
TEACHERS' SUPERANNUATION FUND
SCHEDULE OF ADDITIONAL GOVERNMENT CONTRIBUTIONS

Repealed by 2005,c.55,s.4.