

HOUSE USE ONLY

CHAIR:

WITH / WITHOUT



4th SESSION, 63rd GENERAL ASSEMBLY
Province of Prince Edward Island
59 ELIZABETH II, 2010

BILL NO. 30

Pension Benefits Act

Honourable Doug W. Currie
Minister of Justice and Public Safety and Attorney General

GOVERNMENT BILL

MICHAEL D. FAGAN
Queen's Printer
Charlottetown, Prince Edward Island

Pension Benefits Act

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. In this Act

Definitions

- (a) “additional voluntary contribution” means a contribution to a pension fund by a member of a pension plan beyond any amount that the member is required to contribute, but does not include optional ancillary contributions or a contribution in relation to which the employer of the member is required to make a concurrent additional contribution to the pension fund;

additional voluntary contribution
- (b) “administrator” means the person or persons who administer a pension plan;

administrator
- (c) “assets” means, in relation to an employer, assets that in the ordinary course of business would be entered in books of account, whether or not a particular asset is entered in the books of account of the employer;

assets
- (d) “bridging benefit” means a periodic payment provided under a pension plan to a former member of the pension plan for a temporary period of time after retirement for the purpose of supplementing the former member’s pension benefit until the former member is eligible to receive benefits under the *Old Age Security Act* (Canada) or is either eligible for or commences to receive retirement benefits under the Canada Pension Plan or the Quebec Pension Plan;

bridging benefit
- (e) “certified copy” means a copy certified to be a true copy;

certified copy
- (f) “collective agreement” means a collective agreement as defined in clause 7(1)(c) of the *Labour Act* R.S.P.E.I. 1988, Cap. L-1;

collective agreement
- (g) “commuted value” means the value, calculated in the prescribed manner and as of a fixed date, of a pension, a deferred pension, a pension benefit or an ancillary benefit;

commuted value
- (h) “continuous” means, in relation to employment, membership or service, continuous without regard to periods of temporary suspension of the employment, membership or service and without regard to periods of lay-off from employment;

continuous
- (i) “contributory benefit” means a pension benefit or part of a pension benefit to which a member is required to make contributions under the terms of the pension plan;

contributory benefit

deferred pension	(j) “deferred pension” means a pension benefit, payment of which is deferred until the person entitled to the pension benefit reaches the normal retirement date;
defined benefit	(k) “defined benefit” means pension benefit other than a defined contribution benefit;
defined contribution benefit	(l) “defined contribution benefit” means a pension benefit determined with reference to and provided by contributions, and the interest on the contributions, paid by or for the credit of a member and determined on an individual account basis;
designated province	(m) “designated province” means a province or territory of Canada that is prescribed as a province or territory in which there is in force legislation substantially similar to this Act;
employee	(n) “employee” means a natural person who is employed by an employer;
employer	(o) “employer” means, in relation to a pension plan, a member of a pension plan or a former member of a pension plan, the employer required to make contributions under the pension plan;
file	(p) “file” means file with the Superintendent;
former member	(q) “former member” means a person who has terminated employment or membership in a pension plan and <ul style="list-style-type: none"> (i) is entitled to a deferred pension payable from the pension fund, (ii) is in receipt of a pension payable from the pension fund, (iii) is entitled to commence receiving payment of pension benefits from the pension fund within one year after termination of employment or membership, or (iv) is entitled to receive any other payment from the pension fund;
insurance company	(r) “insurance company” means a corporation authorized to undertake life insurance in Canada;
joint and survivor pension	(s) “joint and survivor pension” means a pension payable until the death of the member or former member or the death of the spouse of the member or former member, whichever occurs later;
member	(t) “member” means, in respect of a pension plan, a member of the pension plan;
Minister	(u) “Minister” means the Minister of Justice and Public Safety and Attorney General;
multi-employer pension plan	(v) “multi-employer pension plan” means a pension plan established and maintained for employees of two or more employers who

contribute or on whose behalf contributions are made to a pension fund by reason of agreement, statute or municipal by-law to provide a pension benefit that is determined by service with one or more of the employers, but does not include a pension plan where all the employers are affiliates, within the meaning of the *Companies Act* R.S.P.E.I. 1988, Chap. C-14, of each other;

(w) “normal retirement date” means the date or age specified in the pension plan as the normal retirement date of members; normal retirement date

(x) “operative date” means the date that is 12 months after the date on which this Act comes into force; operative date

(y) “optional ancillary benefits” means enhanced benefits under a defined benefit provision in a pension plan that are optional ancillary benefits

(i) elected by a member, former member or spouse of a member or former member, and

(ii) funded either fully or partially through optional ancillary contributions provided by the member;

(z) “optional ancillary contributions” means contributions made by a member or former member to a pension plan, for conversion to optional ancillary benefits, that are in addition to those contributions required to obtain a pension, and includes interest on the contributions; optional ancillary contributions

(aa) “partial wind up” means the termination of part of a pension plan and the distribution of the assets of the pension fund related to that part of the pension plan; partial wind up

(bb) “participating employer”, in relation to a multi-employer pension plan, means an employer required to make contributions to the multi-employer pension plan; participating employer

(cc) “pension” means a pension benefit that is in payment; pension

(dd) “pension benefit” means the aggregate monthly, annual or other periodic amounts payable to a member or former member during the lifetime of the member or former member, to which the member or former member will become entitled under the pension plan or to which any other person is entitled upon the death of a member or former member; pension benefit

(ee) “pension committee” means a committee that is an administrator; pension committee

(ff) “pension fund” means the fund maintained to provide benefits under or related to a pension plan; pension fund

(gg) “pension plan” means a plan organized and administered to provide pensions for members and under which the employer of the pension plan

member is required to make contributions, and includes a multi-employer pension plan but does not include

- (i) an employee's profit-sharing plan or a deferred profit-sharing plan as defined in sections 144 and 147 of the *Income Tax Act* (Canada),
- (ii) a plan to provide a retiring allowance as defined in subsection 248(1) of the *Income Tax Act* (Canada),
- (iii) a plan under which all pension benefits are provided by contributions made by members, or
- (iv) any other prescribed type of plan;

prescribed	(hh) "prescribed" means prescribed by the regulations;
qualification date	(ii) "qualification date" means, in respect of the province, the operative date and, in respect of a designated province, the date on which under the law of the designated province a pension plan must be registered by the proper authority in the designated province;
reciprocal transfer agreement	(jj) "reciprocal transfer agreement" means an agreement related to two or more pension plans that provides for the transfer of money or credits for employment or both in respect of individual members;
registration	(kk) "registration" means registration pursuant to this Act;
spouse	(ll) "spouse" means a spouse as defined in clause 29(1)(b) of the <i>Family Law Act R.S.P.E.I. 1988, Cap. F-2.1</i> ;
Superintendent	(mm) "Superintendent" means the Superintendent of Pensions appointed pursuant to section 8 in accordance with the <i>Civil Service Act R.S.P.E.I. 1988, Cap. C-8</i> ;
surplus	(nn) "surplus" means the excess of the value of the assets of a pension fund over the value of the liabilities under the pension plan, both calculated in the prescribed manner;
termination	(oo) "termination" means, in relation to employment, includes retirement and death;
trade union	(pp) "trade union" means a trade union as defined in clause 7(1)(m) of the <i>Labour Act</i> ;
wind up	(qq) "wind up" means the termination of a pension plan in whole or in part and the distribution of the assets of the pension fund;
year's maximum pensionable earnings	(rr) "year's maximum pensionable earnings" has the same meanings as in the Canada Pension Plan.
Deemed province of employment	2. (1) For the purposes of this Act, a person is deemed to be employed in the province in which the establishment of the employer is located and to which the person is required to report for work.

(2) A person who is not required to report for work at an establishment of his or her employer is deemed to be employed in the province in which is located the establishment of his or her employer from which the person's remuneration is paid. *Idem*

APPLICATION OF ACT

3. (1) This Act applies and the regulations apply to every pension plan that is provided for persons employed in the province. *Application to pension plans*

(2) This Act does not bind the Crown. *Crown not bound*

4. This Act and the regulations shall not be construed to prevent the registration or administration of a pension plan and related pension fund that provide pension benefits or ancillary benefits more advantageous to members than those required by this Act and the regulations. *More advantageous plans*

ADMINISTRATION OF ACT

5. The Minister is responsible for the administration of this Act and the regulations and may designate persons to act on behalf of the Minister. *Administration of Act and regulations*

6. Subject to the approval of the Lieutenant Governor in Council, the Minister may *Powers of Minister*

(a) enter into agreements with a designated province or the Government of Canada to provide for the reciprocal application and enforcement of pension benefits legislation, the reciprocal registration, audit and inspection of pension plans and for the establishment of a Canadian association of pension supervisory authorities;

(b) authorize a Canadian association of pension supervisory authorities to carry out such duties on behalf of the Minister as the Minister may require; and

(c) delegate to or accept delegation from a pension supervisory authority, a designated province or the Government of Canada of such functions and powers pursuant to this Act as the Minister may determine.

7. (1) In this section, "multi-jurisdictional pension plan" means a pension plan to which this Act and the regulations apply and to which the pension-benefits legislation of one or more prescribed jurisdictions in Canada also applies. *multi-jurisdictional pension plan, defined*

(2) With the approval of the Lieutenant Governor in Council, the Minister may enter into one or more agreements described in subsection (3) with the government of a prescribed jurisdiction in Canada, with a government agency of such a jurisdiction or with another person who has *Agreements*

supervisory or regulatory powers under pension-benefits legislation of such a jurisdiction.

Idem (3) An agreement may provide for matters relating to the application of this Act and the regulations to multi-jurisdictional pension plans, the application of pension-benefits legislation of a prescribed jurisdiction in Canada to such pension plans and the supervision and regulation of such pension plans.

Idem (4) Without limiting the generality of subsection (3), an agreement may provide for

- (a) matters respecting the administration and enforcement of this Act and the regulations and of the pension-benefits legislation of a prescribed jurisdiction in Canada;
- (b) the delegation of any powers and duties of the Superintendent under this Act and the regulations to a person who has supervisory or regulatory powers under pension-benefits legislation of a prescribed jurisdiction; and
- (c) the delegation to the Superintendent of any powers and duties under pension-benefits legislation of a prescribed jurisdiction of a person who has supervisory or regulatory powers under that legislation.

Effect on application of this Act (5) Where an agreement specifies that the pension-benefits legislation of a prescribed jurisdiction in Canada governs multi-jurisdictional pension plans instead of all or part of this Act and the regulations,

- (a) this Act and the regulations cease to apply to the multi-jurisdictional pension plans to the extent specified in the agreement; and
- (b) the pension-benefits legislation of the prescribed jurisdiction applies, in lieu of this Act and the regulations, to the multi-jurisdictional pension plans to the extent and in the manner specified in the agreement.

Idem (6) Subsection (5) ceases to apply in respect of an agreement if the Minister ceases to be a party to the agreement.

Commencement of agreement or amendment (7) An agreement or an amendment to an agreement does not come into effect in the province until the date specified in the agreement or the amendment, whichever date is later.

Inspection of copy of agreement (8) The Superintendent shall make a copy of each agreement and any amendments to an agreement available for inspection by the public upon request.

Delegation to the Superintendent (9) The Superintendent may accept a delegation described in clause (4)(c).

8. (1) A Superintendent of Pensions, who shall be the chief administrative officer, and such officers and employees as are necessary to enable the Superintendent to perform the duties of the Superintendent, shall be appointed in accordance with the *Civil Service Act*. Superintendent and other personnel

(2) The Superintendent, in exercising and performing the Superintendent's functions, duties and powers pursuant to this Act and the regulations, shall act in accordance with the directions of the Minister. Superintendent to act in accordance with directions of Minister

9. The Minister may engage the services of such counsel, actuaries, accountants and other experts to advise the Superintendent in respect of matters as the Minister deems necessary for the efficient carrying out of the Superintendent's duties and functions pursuant to this Act and the regulations. Experts

10. The Superintendent shall Duties of Superintendent

(a) promote the establishment, extension and improvement of pension plans throughout the province;

(b) make recommendations to the Minister in respect of pension plans throughout the province; and

(c) perform such functions and discharge such duties as are assigned from time to time by the Lieutenant Governor in Council or the Minister.

11. (1) The Superintendent shall conduct surveys and research programs and compile statistical information related to pensions and pension plans. Surveys, research and information

(2) The Superintendent may request an employer, an administrator or a member of a pension plan to provide information necessary to compile the statistical information and such person shall comply with the request within a reasonable period of time. Information requests

(3) The Superintendent shall use the information obtained under this section only for the purpose of compiling the statistical information referred to in subsection (1) and shall not otherwise reveal the information without the consent of the person who supplies the information. Use of information

REGISTRATION AND ADMINISTRATION

12. No person shall administer a pension plan, unless a certificate of registration for, or an acknowledgement of application for registration of, the pension plan has been issued by the Superintendent. Requirement for certificate or acknowledgement

Where refusal or revocation	13. Where the registration of a pension plan has been refused or revoked by the Superintendent, no person shall administer the pension plan except for the purpose of winding up the pension plan.
Who may administer	<p>14. (1) A pension plan is not eligible for registration unless it is administered by an administrator who is</p> <ul style="list-style-type: none"> (a) the employer; (b) a pension committee composed of one or more representatives of <ul style="list-style-type: none"> (i) the employer, or any person, other than the employer, required to make contributions under the pension plan, and (ii) the members of the pension plan; (c) a pension committee composed of representatives of the members of the pension plan; (d) the insurance company that provides the pension benefits under the pension plan, where all the pension benefits under the pension plan are guaranteed by the insurance company; (e) where the pension plan is a multi-employer pension plan established pursuant to a collective agreement or a trust agreement, a board of trustees appointed pursuant to the pension plan or a trust agreement establishing the pension plan of whom at least one half are representatives of members of the multi-employer pension plan and a majority of such representatives of the members must be Canadian citizens or landed immigrants; (f) a person appointed as administrator by the Superintendent under section 77; or (g) a board, agency or commission made responsible by an enactment for the administration of the pension plan.
Representatives of persons receiving pensions	(2) A pension committee, or a board of trustees, that is the administrator of a pension plan may include a representative of persons who are receiving pensions under the pension plan.
employer, defined	<p>(3) For the purposes of clause (1)(b), “employer” includes</p> <ul style="list-style-type: none"> (a) an affiliate, within the meaning of the <i>Companies Act</i>, of the employer; and (b) such other persons or classes of persons as may be prescribed.
Application for registration	15. (1) The administrator of a pension plan shall apply to the Superintendent, within the prescribed period, for registration of the pension plan.
<i>Idem</i>	<p>(2) An application for the registration of a pension plan shall be made by paying the prescribed fee to the Superintendent and filing</p> <ul style="list-style-type: none"> (a) a completed application in the form approved by the Superintendent;

- (b) certified copies of the documents that create and support the pension plan;
- (c) certified copies of the documents that create and support the pension fund;
- (d) a certified copy of any reciprocal transfer agreement related to the pension plan;
- (e) a certified copy of the explanations and other information provided pursuant to subsection 32(1);
- (f) a certification in a form approved by the Superintendent and signed by the applicant in which the applicant attests that the pension plan complies with this Act and the regulations; and
- (g) any prescribed documents.

(3) In subsection (2), “document” includes a collective agreement.

document, defined

16. (1) The documents that create and support a pension plan shall set out

Content of pension plan documents

- (a) the method of appointment and the details of appointment of the administrator of the pension plan;
- (b) the conditions for membership in the pension plan;
- (c) the benefits and rights that are to accrue upon termination of employment, termination of membership, retirement or death;
- (d) the normal retirement date under the pension plan;
- (e) the requirements for entitlement under the pension plan to any pension benefit or ancillary benefit;
- (f) the contributions or the method of calculating the contributions required by the pension plan;
- (g) the method of determining benefits payable under the pension plan;
- (h) the method of calculating interest to be credited to contributions under the pension plan;
- (i) the mechanism for payment of the cost of administration of the pension plan and pension fund;
- (j) the mechanism for establishing and maintaining the pension fund;
- (k) the treatment of surplus during the continuation of the pension plan and on the windup of the pension plan;
- (l) the method of allocation of the assets of the pension plan on windup;
- (m) particulars of any predecessor pension plan under which members of the pension plan may be entitled to pension benefits;
- (n) the obligation of the administrator to provide members with information and documents required to be disclosed under this Act and the regulations; and
- (o) any prescribed information related to the pension plan or pension fund.

Multi-employer pension plan documents	(2) The documents that create and support a multi-employer pension plan pursuant to a collective agreement or a trust agreement shall set out the powers and duties of the board of trustees that is the administrator of the multi-employer pension plan.
Eligibility for registration, accrual of pension benefits	17. (1) A pension plan is not eligible for registration unless it provides for the accrual of pension benefits in a gradual and uniform manner.
Variable contributions or benefits	(2) A pension plan is not eligible for registration if the formula for computation of the employer's contributions to the pension fund or the pension benefit provided under the pension plan is variable at the discretion of the employer.
Variable deferred profit-sharing	(3) A deferred profit-sharing pension plan or a pension plan that provides defined contribution benefits is not eligible for registration if the formula governing allocation of contributions to the pension fund and profits among members of the plan is variable at the discretion of the employer.
Exception	(4) Notwithstanding subsections (1) to (3), the Superintendent may register a pension plan if the Superintendent is of the opinion that registration is justified in the circumstances of the pension plan and the members.
Application for registration of amendment	18. (1) The administrator of a pension plan shall apply to the Superintendent, within sixty days after the date on which the pension plan is amended, for registration of the amendment.
Requirements for registration	(2) An application for registration of an amendment to a pension plan shall be made by paying the prescribed fee to the Superintendent and filing <ul style="list-style-type: none"> (a) a certified copy of the amending document; (b) certified copies of any prescribed documents; (c) a certification in a form approved by the Superintendent and signed by the administrator of the pension plan in which the administrator attests that the amendment complies with this Act and the regulations; and (d) any prescribed information.
Filing changes	(3) The administrator of a pension plan shall file a certified copy of each document that changes the documents that create and support the pension plan or pension fund.
Effective date of amendment	19. (1) An amendment to a pension plan is not effective until an application for registration of the amendment is made in accordance with this Act and the regulations.

(2) An amendment to a pension plan may be made effective as of a date before the date on which the amendment is registered.

Retroactive amendment

20. (1) An amendment to a pension plan is void if the amendment reduces

Amendment void

(a) the amount or the commuted value of a pension benefit accrued under the pension plan with respect to employment before the effective date of the amendment;

(b) the amount or the commuted value of a pension or a deferred pension accrued under the pension plan; or

(c) the amount or the commuted value of an ancillary benefit for which a former member has met all eligibility requirements under the pension plan necessary to exercise the right to receive payment of the benefit.

(2) Subsection (1) does not apply to a multi-employer pension plan established pursuant to a collective agreement or a trust agreement.

Application of subsection (1)

(3) Subsection (1) does not apply to a pension plan that provides defined benefits if the obligation of the employer to contribute to the pension fund is limited to a fixed amount set out in a collective agreement.

Idem

21. The Superintendent shall issue an acknowledgment of application for registration of a pension plan within thirty days after receiving an application for registration that complies with this Act and the regulations.

Acknowledgement of application

22. The Superintendent shall issue a certificate of registration for each pension plan registered under this Act.

Certificate of registration

23. The Superintendent shall issue to the administrator of a pension plan a notice of registration for each amendment to a pension plan registered under this Act.

Notice of registration

24. (1) The Superintendent may

Refusal and revocation

(a) refuse to register a pension plan that does not comply with this Act and the regulations;

(b) revoke the registration of a pension plan that does not comply with this Act and the regulations;

(c) revoke the registration of a pension plan that is not being administered in accordance with this Act and the regulations;

(d) refuse to register an amendment to a pension plan if the amendment is void or if the pension plan with the amendment would cease to comply with this Act and the regulations; or

(e) revoke the registration of an amendment that does not comply with this Act and the regulations.

Application of subsection (1) Effect of refusal or revocation	<p>(2) The authority of the Superintendent under subsection (1) is subject to the right to a reconsideration under section 90.</p> <p>(3) A refusal of registration of a pension plan or a revocation of registration of a pension plan operates to terminate the pension plan as of the date specified by the Superintendent.</p>
<i>Idem</i>	<p>(4) A refusal of registration of an amendment to a pension plan or the revocation of an amendment to a pension plan operates to terminate the amendment as of the date specified by the Superintendent.</p>
Wind up of pension plan	<p>(5) Where registration of a pension plan is refused or revoked, the administrator of the pension plan shall wind up the pension plan in accordance with this Act and the regulations.</p>
Amendment of existing plans	<p>25. (1) Every employer who maintains a pension plan on the operative date shall amend the pension plan to conform with this Act and the regulations within two years after that date.</p>
<i>Idem</i>	<p>(2) Where a pension plan is governed by a collective agreement or an arbitration award made under the <i>Labour Act</i> that requires a provision contrary to this Act or the regulations and that is in effect on the operative date, the parties to the collective agreement or arbitration award shall amend the pension plan to conform to this Act and the regulations not later than</p> <ul style="list-style-type: none"> (a) the date that is two years after the operative date; or (b) where the collective agreement or arbitration award expires on or after the operative date, and before or on the date that is two years after the operative date, upon such expiry.
Duties of administrator	<p>26. (1) The administrator of a pension plan shall ensure that the pension plan and the pension fund are administered in accordance with this Act and the regulations.</p>
Application of subsection (1)	<p>(2) Subsection (1) applies whether or not the pension plan is amended to comply with this Act and the regulations.</p>
Duties of administrator	<p>(3) The administrator of a pension plan shall ensure that the pension plan and the pension fund are administered in accordance with</p> <ul style="list-style-type: none"> (a) the filed documents in respect of which the Superintendent has issued an acknowledgment of application for registration or a certificate of registration, whichever is issued later; and (b) the filed documents in respect of an application for registration of an amendment to the pension plan, if the application complies with this Act and the regulations and the amendment is not void under this Act.

(4) The administrator of a pension plan may administer or permit administration of the pension plan and the pension fund in accordance with an amendment pending registration or refusal of registration of the amendment. *Idem*

(5) Subsection (3) does not apply to enable the administrator of a pension plan to administer the pension plan contrary to this Act and the regulations. Application of subsection (3)

27. (1) The administrator of a pension plan shall file each year an annual information return in respect of the pension plan in the prescribed form and shall pay the prescribed filing fee. Annual returns

(2) The administrator shall file additional reports at the times and containing the information prescribed. Additional reports

28. An administrator of a pension plan shall file with the Superintendent a certified copy of a reciprocal transfer agreement entered into in respect of the pension plan within 90 days after entering into the agreement. Filing of reciprocal transfer agreement

29. (1) The administrator of a pension plan shall exercise the care, diligence and skill in the administration and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another person. Care, diligence, knowledge and skill

(2) The administrator or, if the administrator is a committee or a board of trustees, a member of the committee or board shall use in the administration of the pension plan, and in the administration and investment of the pension fund, all relevant knowledge and skill that the administrator or member possesses or, by reason of profession, business or calling, ought to possess. Special knowledge and skill

(3) The administrator or, if the administrator is a pension committee or a board of trustees, a member of the committee or board shall not knowingly permit the administrator's or member's interest to conflict with the administrator's or member's duties and powers in respect of the pension fund. Conflict of interest

(4) Where it is reasonable and prudent in the circumstances to do so, an administrator may employ one or more agents to carry out any act required to be done in the administration of the pension plan and in the administration and investment of the pension fund. Employment of agent

(5) No person other than a prescribed person shall be a trustee of a pension fund. Trustee of a pension fund

(6) An administrator of a pension plan who employs an agent shall personally select the agent and be satisfied of the agent's suitability to Responsibility for agent

perform the act for which the agent is employed, and the administrator shall carry out such supervision of the agent as is prudent and reasonable.

Employee or agent,
standards

(7) An employee or agent of an administrator is also subject to the standards that apply to the administrator pursuant to subsections (1), (2) and (3).

Administrator not
entitled to benefits

(8) The administrator or, if the administrator is a pension committee or a board of trustees, a member of the committee or board is not entitled to any benefit from the pension plan other than pension benefits and fees and expenses related to the administration of the pension plan and permitted by law or provided for in the pension plan.

Agent not entitled
to payment from
fund

(9) An agent of the administrator is not entitled to payment from the pension fund other than the usual and reasonable fees and expenses for the services provided by the agent in respect of the pension plan.

Information from
employer

30. An employer shall provide to the administrator of a pension plan any information required by the administrator for the purpose of complying with the terms of the pension plan or of this Act or the regulations.

Advisory committee

31. (1) The members and former members of the pension plan, by the decision of a majority of those members participating in a vote, may establish an advisory committee.

Representatives of
each class of
employees

(2) Each class of employees that is represented in the pension plan is entitled to appoint at least one representative to the advisory committee established pursuant to subsection (1).

Representative of
former members

(3) The former members of the pension plan are entitled to appoint one representative to the advisory committee established pursuant to subsection (1).

Functions

(4) An advisory committee shall

- (a) monitor the administration of the pension plan;
- (b) make recommendations to the administrator respecting the administration of the pension plan; and
- (c) promote awareness and understanding of the pension plan on the part of members of the pension plan and persons receiving pension benefits under the pension plan.

Records,
examination and
copies

(5) An advisory committee or its representative has the right to examine the records of the administrator in respect of the administration of the pension plan and the pension fund and to make extracts from and copies of the records, but this subsection does not apply in respect of information as to the service, salary, pension benefits or other personal

information related to any specific person without that person's prior consent.

(6) Subsection (1) does not apply

- (a) where the pension plan is administered by a pension committee at least one of the members of which is appointed by the members of the pension plan; or
- (b) in respect of a multi-employer pension plan established pursuant to a collective agreement.

Application of subsection (1)

(7) The administrator of a pension plan shall provide to the advisory committee or its representative such information as is under the control of the administrator and is required by the advisory committee or its representative for the purpose of the committee.

Administrator to provide information required by advisory committee

DISCLOSURE OF INFORMATION

32. (1) The administrator of a pension plan shall provide in writing to each person who will be eligible or is required to become a member

Information for member

- (a) an explanation of the provisions of the plan that apply to that person;
- (b) an explanation of that person's rights and obligations in respect of the pension plan; and
- (c) any other prescribed information.

(2) The administrator shall provide the information mentioned in subsection (1) to

Administrator to provide information

- (a) each person who becomes a member within the prescribed period of time after the date on which the pension plan is established;
- (b) a person who is likely to become eligible to become a member of the pension plan, within the prescribed period of time before the date on which that person is likely to become eligible; and
- (c) each person who becomes eligible to become a member of the pension plan upon becoming employed by the employer, within the prescribed period of time after the date on which that person becomes so employed.

(3) The employer shall transmit to the administrator the information necessary to enable the administrator to comply with subsection (2) and shall transmit the information in sufficient time to enable the administrator to comply with the time limits set out in that subsection.

Employer to transmit information to administrator

33. (1) Where the administrator of a pension plan applies for registration of an amendment to the pension plan that may reduce the prospective pension benefits, rights or obligations of a member or former member or a person entitled to payments from the pension fund, the

Invitation for comments on amendment

Superintendent shall require the administrator to transmit to each such member, former member or other person a written notice containing an explanation of the amendment and inviting comments to be submitted to the administrator and the Superintendent, and the administrator shall provide to the Superintendent a copy of the notice and shall certify to the Superintendent the date on which the last such notice was transmitted.

Required delay
before registration

(2) Where the Superintendent has required the administrator to transmit notices pursuant to subsection (1), the Superintendent shall not register an amendment mentioned in that subsection before the expiration of forty-five days after the date certified to the Superintendent under that subsection, but, after the expiration of the forty-five day period, the Superintendent may register the amendment with such changes as are requested in writing by the administrator.

Notice of
amendment

(3) Within the prescribed period of time after an amendment to a pension plan is registered, the administrator shall transmit notice and an explanation of the amendment to each member, former member and other person affected by the amendment.

Exception

(4) The Superintendent need not require the transmittal of notices concerning an amendment to a pension pursuant to subsection (1) or may by order dispense with the notice of an amendment to a pension plan required by subsection (3), or both, if

(a) the amendment, in the opinion of the Superintendent, is of a technical nature and will not substantially affect the pension benefits, rights or obligations of a member or former member or a person entitled to payments from the pension fund;

(b) the amendment has been agreed to by a trade union that represents the members; or

(c) the amendment is in respect of a multi-employer pension plan established pursuant to a collective agreement or a trust agreement.

Notice required
where members
represented by a
trade union

(5) Where a proposed amendment affects members or former members represented by a trade union that is a party to a collective agreement filed as the document that creates or supports a pension plan, the administrator shall transmit to the trade union the written notice referred to in subsection (1).

Annual statement

34. The administrator of a pension plan shall transmit annually to each member a written statement containing the prescribed information in respect of the pension plan, the member's pension benefits and any ancillary benefits.

Information upon
ceasing to be
member

35. (1) Where a member of a pension plan terminates employment with the employer or otherwise ceases to be a member, the administrator of the pension plan shall give to the member, or to any other person who as

a result becomes entitled to a payment under the pension plan, a written statement setting out the prescribed information in respect of the benefits, rights and obligations of the member or other person.

(2) Subsection (1) applies in respect of a multi-employer pension plan where a member of such a pension plan ceases to be a member, but does not apply where a member terminates employment with an employer but continues to be a member.

Application of
subsection (1)

36. (1) On written request, the administrator of a pension plan shall make available the prescribed documents and information in respect of the pension plan for inspection without charge by

Persons entitled to
information

- (a) a member;
- (b) a former member;
- (c) the spouse of a member or former member;
- (d) any other person entitled to pension benefits under the pension plan;
- (e) an agent authorized in writing by a person referred to in clause (a), (b), (c), (d), (g) or (h);
- (f) a representative of a trade union that represents members of the pension plan;
- (g) an employer;
- (h) a person required to make contributions under a pension plan on behalf of an employer; or
- (i) any other prescribed person.

(2) The administrator shall make the prescribed documents and information available,

Place of inspection

- (a) for a member, at the premises of the employer where the member is employed;
- (b) for a former member, at the premises where the former member was employed; or
- (c) for a member, former member or any other person, at such other location as may be agreed upon by the administrator and the member, former member or other person making the request.

(3) The administrator shall permit the person making the inspection to make extracts from or to copy the prescribed documents and information.

Extracts or copies

(4) On request, the administrator shall provide the person making the inspection with copies of any of the prescribed documents or information upon payment to the administrator of a reasonable fee.

Idem

(5) A member, former member, a spouse, another person, an agent of any of them, or a trade union by a representative, is entitled to make an inspection pursuant to subsection (1) not more than once in a calendar year.

Limitation

Inspection of plan documents

37. Any person mentioned in subsection 36(1) and the administrator of a pension plan are entitled to inspect, at the offices of the Superintendent during business hours of the Superintendent, the documents that comprise the pension plan and such other prescribed documents as are filed in respect of the pension plan, and are entitled to copies of the documents upon payment of the prescribed fees.

MEMBERSHIP

Eligibility and length of employment

38. (1) Every employee of a prescribed class of employees for whom a pension plan is established is eligible to be a member of the pension plan.

Full time employment

(2) An employee in a prescribed class of employees for whom a pension plan is maintained is entitled to become a member of the pension plan upon application at any time after completing twenty-four months, or such lesser time as the pension plan provides, of continuous full-time employment.

Part-time employment

(3) A pension plan may require not more than twenty-four months of less than full-time continuous employment with the employer with the lesser of

- (a) earnings of not less than thirty-five per cent of the year's maximum pensionable earnings; or
- (b) seven hundred hours of employment with the employer,

in each of two consecutive calendar years immediately prior to membership in the pension plan, or such equivalent basis as is approved by the Superintendent, as a condition precedent to membership.

Multi-employer pension plan

(4) A multi-employer pension plan may require not more than the lesser of

- (a) earnings of not less than thirty-five per cent of the year's maximum pensionable earnings with one or more participating employers; or
- (b) seven hundred hours of employment with one or more participating employers,

in each of the two consecutive calendar years immediately before the year in which membership is applied for, or such equivalent basis as is approved by the Superintendent, as a condition precedent to membership in the multi-employer pension plan.

Approval

(5) The Superintendent may give the approval mentioned in subsection (3) or (4) if the Superintendent is of the opinion that the basis is equivalent in the circumstances to the earnings mentioned in the subsection.

39. An employee who is a member of a pension plan shall continue as a member of that plan so long as the employee's employment, in respect of which the pension plan is maintained, continues.

Continuation as member of plan

40. A member of a pension plan who is employed continuously on a less than full-time basis does not cease to be a member by reason only that the member has earnings of less than thirty-five per cent of the year's maximum pensionable earnings in a calendar year or is employed for fewer than seven hundred hours in a calendar year.

Drop in part-time employment

41. (1) Where there is a dispute as to whether or not an employee is a member of a class of employees for whom a pension plan is established or maintained, the Superintendent may, subject to section 90, by order require the administrator to accept the employee as a member.

Order to accept employee

(2) The Superintendent may make an order under subsection (1) if the Superintendent is of the opinion that, on the basis of the nature of the employment or of the terms of employment of the employee, the employee is a member of the class.

Basis or ground for order

42. An employer may establish or maintain a separate pension plan for employees employed in less than full-time continuous employment with the employer if the separate pension plan provides pension benefits and other benefits reasonably equivalent to those provided under the pension plan maintained by the employer for employees of the same class employed in full-time continuous employment.

Separate plan for part-time employees

RETIREMENT AND VESTING

43. (1) A member of a pension plan is entitled to a pension under the pension plan calculated in accordance with the benefit formula of the pension plan if

Pension entitlement and retirement date

- (a) the member's employment with the employer is terminated on or after the normal retirement date under the pension plan; and
- (b) the member was a member for a continuous period of at least twenty-four months on or after the operative date.

(2) The normal retirement date under a pension plan submitted for registration on or after the operative date shall not be later than one year after the attainment of sixty-five years of age.

Normal retirement date

(3) Every pension plan registered or submitted for registration before the operative date shall be deemed to specify a normal retirement date in respect of pension benefits that accrue on or after the operative date that is not later than one year after the attainment of sixty-five years of age, unless the pension plan specifies an earlier normal retirement date.

Transitional, deemed normal retirement date

Continuation after normal retirement date	<p>(4) A member of a pension plan who continues to be employed by the employer after the normal retirement date, and who is not receiving a pension under the pension plan, has the right to continue to be a member of the pension plan to the date of termination of the employment and has the right to continue to accrue pension benefits calculated in accordance with the benefit and contribution formula of the pension plan to the date of termination of the employment to the maximum benefits allowed under the pension plan.</p>
Deferred pension	<p>44. (1) A member of a pension plan who</p> <ul style="list-style-type: none"> (a) is a member on or after the operative date; (b) is a member for a continuous period of at least twenty-four months, counting time as a member both before and on and after the operative date; and (c) has terminated employment before reaching the normal retirement date under the pension plan, <p>is entitled to a deferred pension equal to</p> <ul style="list-style-type: none"> (d) the pension benefit provided under the pension plan in respect of employment in the province or in a designated province on or after the operative date or on or after the qualification date if the qualification date is later than the operative date; (e) the pension benefit that results from any amendment to the pension plan on or after the operative date; and (f) the pension benefit under a new pension plan established on or after the operative date for members of the pension plan.
Application of subsection (1)	<p>(2) Subsection (1) does not apply in respect of benefits that result from additional voluntary contributions.</p>
Termination of membership by member	<p>45. (1) A person who is</p> <ul style="list-style-type: none"> (a) a member of a multi-employer pension plan; (b) a member of a pension plan who is employed by the employer on a less than full-time basis; or (c) a member of a pension plan who has been laid off from employment by the employer, <p>is entitled to terminate membership in the pension plan if no contributions are paid or are required to be paid to the pension fund by or on behalf of the member for twenty-four consecutive months or for such shorter period of time as is specified in the pension plan.</p>
Effect of termination	<p>(2) For the purpose of determining benefits under this Act, a person who terminates membership in a pension plan is deemed to have terminated employment.</p>
Application of subsections (1) and (2)	<p>(3) Subsections (1) and (2) do not apply if contributions are not paid or are not required to be paid because the person has become a member of</p>

another pension plan and there is a reciprocal transfer agreement respecting the two pension plans.

(4) For the purpose of determining entitlement to a deferred pension, a member of a multi-employer pension plan who terminates employment with a participating employer or an employer on whose behalf contributions are made under the pension plan is deemed not to have terminated employment until the member terminates membership in the pension plan.

Determination of entitlement to a deferred pension

(5) Where a member of a multi-employer pension plan is represented by a trade union that, in accordance with the *Labour Act* ceases to represent the member, and the member joins a different pension plan, the member is entitled to terminate membership in the first plan.

Termination where trade union ceases to represent member

(6) Subsection (5) does not apply where there is a reciprocal agreement respecting the two pension plans.

Application of subsection (5)

46. (1) Where an employer receives money from an employee pursuant to an arrangement that the employer will pay the money into a pension fund as the employee's contribution under the pension plan, the employer shall hold the money in trust for the employee until the employer pays the money into the pension fund.

Employee and employer contributions to be held in trust

(2) For the purposes of subsection (1), money withheld by an employer, whether by payroll deduction or otherwise, from money payable to an employee is deemed to be money received by the employer from the employee.

Money deemed to be received by employer

(3) An employer who is required to pay contributions to a pension fund shall hold in trust for the beneficiaries of the pension plan an amount of money equal to the employer contributions due and not paid into the pension fund.

Amount employer to hold in trust

(4) Where a pension plan is wound up in whole or in part, an employer who is required to pay contributions to the pension fund shall hold in trust for the beneficiaries of the pension plan an amount of money equal to employer contributions accrued to the date of the wind up but not yet due under the plan or regulations.

Idem

(5) The administrator has a lien and charge on the assets of the employer in an amount equal to the amounts required to be held in trust pursuant to subsections (1), (3) and (4).

Lien and charge on assets of employer

(6) The lien referred to in subsection (5) is not a charge against a parcel registered pursuant to the *Registry Act* R.S.P.E.I. 1988, Cap. R-10 until a certificate evidencing the lien has been recorded in the judgment roll.

Idem

Notice of lien	(7) The administrator may record a notice of the lien referred to in subsection (5) in the parcel register of any property owned by a person for whom or on account of whom the amounts are required to be held in trust pursuant to subsections (1), (3) and (4) to which the lien applies and shall thereupon serve that person with a copy of the lien and recording particulars.
<i>Idem</i>	(8) Upon satisfaction of the lien, including payment of the fees for recording the lien and the release, the administrator shall record a release of the lien in the parcel registers in which notice of the lien was recorded.
Employer to keep money held in trust separate and apart	(9) Money required by subsection (1), (3) or (4) to be held in trust shall be kept separate and apart from other money or property of the employer.
Application of subsections (1) to (9) to insurance companies	(10) Subsections (1) to (9) apply with such changes as are necessary in respect of money to be paid to an insurance company that guarantees pension benefits under a pension plan.

BENEFITS

Minimum commuted value	47. (1) Where the commuted value of a former member's deferred pension accrued before the operative date is less than the value of the contributions the former member was required to make under the pension plan prior to that date plus interest credited to the contributions, the former member is entitled to have the commuted value of the deferred pension increased so that the commuted value is equal to the value of the contributions and the interest.
<i>Idem</i>	(2) An increase in the value of the pension or deferred pension in respect of employment before the operative date resulting from an amendment to the pension plan made on or after the operative date maybe included in calculating the commuted value of the deferred pension for the purposes of subsection (1).
Maximum percentage of commuted value to be provided by former member's contributions	(3) A former member's contributions made on or after the operative date under a pension plan and the interest on the contributions shall not be used to provide more than fifty per cent of the commuted value of the pension or deferred pension in respect of the contributory benefit accrued after that date to which the former member is entitled under the pension plan on termination of membership or employment.
Termination payment, amount	(4) A former member referred to in subsection (3) is entitled upon termination of employment or membership to payment from the pension fund of the amount by which the former member's contributions under the pension plan made on or after the operative date, plus the interest on those contributions, exceed one-half of the commuted value of the former member's pension or deferred pension in respect of the contributory benefit accrued on or after the operative date.

(5) The following may be excluded when determining that part of the commuted value of a pension or deferred pension to which subsections (3) and (4) apply:

Benefits not included in determination of commuted value

- (a) defined contribution benefits;
- (b) benefits that result from additional voluntary contributions;
- (c) in the case of a multi-employer pension plan that permits a member who has not accrued maximum pension benefits permitted under the pension plan in a fiscal year of the pension plan to make contributions to increase the member's pension benefit to the maximum permitted for the fiscal year, benefits resulting from such contributions;
- (d) benefits that result from voluntary contributions for past service as defined in the regulations;
- (e) optional ancillary benefits; and
- (f) any other benefits prescribed for the purpose of this subsection.

(6) The following may be included by the administrator in calculating a member's contributory benefit for the purposes of subsection (3):

Benefits included in calculation of contributory benefit

- (a) ancillary benefits related to employment on or after the operative date;
- (b) increases to pension benefits and ancillary benefits related to employment before the date of the amendment resulting from an amendment to the pension plan made on or after the operative date, but that are not included in calculating commuted value under subsection (2);
- (c) pension benefits and ancillary benefits related to employment before the date of the establishment of the pension plan, in the case of a pension plan established on or after the operative date.

(7) The conversion of optional ancillary contributions to optional ancillary benefits shall be done pursuant to actuarial assumptions and methods that are appropriate and in accordance with accepted actuarial practice.

Conversion of optional ancillary contributions

(8) Where a member's accumulated optional ancillary contributions exceed the amount that can be converted to optional ancillary benefits upon retirement, termination, death or plan wind-up, the pension plan may provide for forfeiture of the unused portion.

Idem

48. (1) A pension plan may provide the following ancillary benefits:

Ancillary benefits

- (a) disability benefits;
- (b) death benefits in excess of those provided in section 56;
- (c) bridging benefits;
- (d) supplemental benefits, other than bridging benefits, payable for a temporary period of time;
- (e) early retirement options and benefits in excess of those provided by section 49;

	(f) postponed retirement options and benefits in excess of those referred to in subsection 43(4);
	(g) any other prescribed ancillary benefit.
Use in calculating pension benefit	(2) An ancillary benefit for which a member has met all eligibility requirements under the pension plan necessary to exercise the right to receive payment of the benefit shall be included in calculating the member's pension benefit or the commuted value of the pension benefit.
Consent of employer	(3) For the purpose of subsection (2) and clause 20(1)(c), where the consent of an employer is an eligibility requirement for entitlement to receive an ancillary benefit and a member or former member has met all other eligibility requirements, the employer is deemed to have given the consent to the member or former member.
Early retirement option for former member	49. (1) A former member of a pension plan is entitled to elect to receive an early retirement pension under the pension plan if the former member <ul style="list-style-type: none"> (a) terminated employment with the employer on or after the operative date; (b) is entitled to a deferred pension pursuant to this Act; and (c) is within ten years of attaining the normal retirement date.
<i>Idem</i>	(2) A member who is within ten years of attaining the normal retirement date and who would be entitled to a deferred pension on termination of employment is entitled upon termination of the employment or on the wind up of the pension plan in whole or in part to elect to receive an early retirement pension under the pension plan.
Commutated value	(3) The commuted value of a member's early retirement pension shall not be less than the commuted value of the member's pension benefit under the pension plan.
<i>Idem</i> , former member	(4) The commuted value of a former member's early retirement pension shall not be less than the commuted value of the former member's deferred pension benefit under the pension plan.
Payment	(5) The member or former member is entitled to require the commencement of payment of the early retirement pension at any time within the ten-year period mentioned in subsection (1) or (2).
Election	(6) An election pursuant to subsection (1) or (2) shall be made in writing, signed by the member or former member, and delivered to the administrator of the pension plan.
Transfer	50. (1) A former member of a pension plan who, on or after the operative date, terminates employment or ceases to be a member of the pension plan and who is entitled to a deferred pension is entitled to

require the administrator to pay an amount equal to the commuted value of the deferred pension

- (a) to the pension fund related to another pension plan, if the administrator of the other pension plan agrees to accept the payment;
- (b) into a prescribed retirement savings arrangement; or
- (c) for the purchase for the former member of a life annuity under which payments will not commence before the earliest date on which the former member would have been entitled to receive payment of pension benefits under the pension plan.

(2) Where the amount of the commuted value of the deferred pension of the former member to be paid into a prescribed retirement savings arrangement pursuant to clause (1)(b) is greater than the amount prescribed for such a transfer under the *Income Tax Act* (Canada), the administrator shall pay the portion that exceeds the prescribed amount as a lump sum to the former member.

Lump sum

(3) The entitlement under subsection (1) is subject to the prescribed limitations in respect of the transfer of funds from pension funds.

Limitation

(4) Subsection (1) does not apply to a member whose employment is terminated and who is entitled to immediate payment of a pension benefit under the pension plan or under section 49, unless the pension plan provides such an entitlement.

Application of subsection (1)

(5) A former member may exercise an entitlement pursuant to subsection (1) by delivering to the administrator within the prescribed period of time a direction in a form supplied by the Superintendent.

Direction

(6) Subject to compliance with the requirements of this section and the regulations, the administrator shall comply with the direction within the prescribed period of time after delivery of the direction.

Compliance with direction

- (7) The administrator shall not make payment
- (a) under clause (1)(b) unless the retirement savings arrangement meets the prescribed requirements; or
 - (b) under clause (1)(c) unless the contract to purchase the deferred life annuity meets the prescribed requirements.

Payment, terms of arrangement or deferred annuity

(8) Where a payment under subsection (1) does not meet the limitations prescribed in relation to transfers of funds from pension funds, the administrator shall not make the payment without the approval of the Superintendent.

Approval of Superintendent

(9) The Superintendent may approve the payment subject to such terms and conditions as the Superintendent considers appropriate in the circumstances.

Terms and conditions

Order for repayment	(10) Where a payment that does not meet the limitations prescribed in relation to transfers of funds from pension funds is made without the approval of the Superintendent or there is failure to comply with a term or condition attached to the approval, the Superintendent may, subject to section 90, by order require any person to whom payment under subsection (1) has been made to repay an amount not greater than the amount of the payment together with interest thereon.
Enforcement of repayment order	(11) Subject to section 90, an order for payment under subsection (10), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court.
Discharge of administrator	(12) The administrator is discharged on making the payment or transfer in accordance with the direction of the former member if the payment or transfer complies with this Act and the regulations.
Purchase of pension from insurance company	51. (1) The administrator of a pension plan who is required by the pension plan to provide a pension, a deferred pension or an ancillary benefit may purchase the pension, deferred pension or ancillary benefit from an insurance company.
Limitations	(2) The authority of the administrator pursuant to subsection (1) is subject to the entitlement of a member under section 50 and to the limitations prescribed in relation to transfers of funds from pension funds.
Approval of Superintendent	(3) Where a purchase pursuant to subsection (1) does not meet the limitations prescribed in relation to transfers of funds from pension funds, the administrator shall not make the purchase without the prior approval of the Superintendent.
<i>Idem</i>	(4) The Superintendent may approve a purchase mentioned in subsection (3) subject to such terms and conditions as the Superintendent considers appropriate in the circumstances.
Order for repayment	(5) Where a purchase that does not meet the limitations prescribed in relation to transfers of funds from pension funds is made without the approval of the Superintendent or there is a failure to comply with a term or condition attached to the approval, the Superintendent may, subject to section 90, by order require any person to whom payment under subsection (1) has been made to repay an amount not greater than the amount of the payment together with interest thereon.
Enforcement of repayment order	(6) Subject to section 90, an order for payment pursuant to subsection (5), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court.

- 52.** (1) Every pension paid under a pension plan to a former member who has a spouse on the date that the payment of the first instalment of the pension is due shall be a joint and survivor pension. Joint and survivor pension
- (2) The commuted value of a joint and survivor pension under subsection (1) shall not be less than the commuted value of the pension that would be payable under the pension plan to the former member. Commuted value
- (3) The amount of the pension payable to the survivor of the former member and the spouse of the former member shall not be less than 60 per cent of the pension paid to the former member during the joint lives of the former member and the former member's spouse. Amount of survivor benefit
- (4) Subsections (1) to (3) do not apply in respect of Application of subsections (1) to (3)
- (a) a pension benefit if payment of the pension has commenced before the operative date; or
- (b) a former member who is living separate and apart from the spouse on the date that payment of the first instalment of the pension is due.
- 53.** (1) Before commencing payment of a pension or pension benefit, the administrator of a pension plan shall require the person entitled to the payment to provide to the administrator the information needed to calculate and pay the pension or pension benefit. Information for administrator
- (2) The person entitled to the payment shall provide the information to the administrator. Person to provide information
- (3) In the absence of actual notice to the contrary, the administrator is discharged on paying the pension or pension benefit in accordance with the information provided by the person in accordance with subsection (2) or, if the person does not provide the information, in accordance with the latest information in the records of the administrator. Discharge of administrator
- 54.** (1) The persons entitled to a joint and survivor pension benefit may waive the entitlement to receive payment of pension benefits in the form of a joint and survivor pension by delivering to the administrator of the pension plan or, in the case of a deferred life annuity, to the insurance company, a written waiver in the prescribed form that shall be supplied by the Superintendent. Waiver of entitlement
- (2) The waiver is not effective unless it is delivered to the administrator or the insurance company, as the case may be, within the period of 12 months immediately preceding the commencement of payment of the pension benefit. Time for delivery of waiver
- (3) Persons who have delivered a waiver pursuant to subsection (1) may jointly cancel the waiver by delivering a written and signed notice Cancellation of waiver

of cancellation to the administrator or the insurance company, as the case may be, before commencement of payment of the pension benefit.

Surviving spouse's
new spousal
relationship

55. (1) The spouse of a deceased former member of a pension plan who is receiving a pension under the pension plan is not disentitled to payment of the pension by reason only of becoming the spouse of another person after the death of the former member.

Application of
subsection (1)

(2) Subsection (1) applies in respect of pensions that are being paid on the operative date, or that commence to be paid on or after the operative date.

Pre-retirement death
benefit for spouse

56. (1) Where a person entitled under a pension plan to a deferred pension benefit described in section 44 dies before the payment of the deferred pension has commenced, the person's spouse at the date of death is entitled to receive payment of not less than 60 per cent of the commuted value of the deferred pension.

Idem

(2) Where the person dies while employed by the employer, entitlement to a deferred pension and the payment of not less than 60 per cent of the commuted value of the deferred pension shall be calculated as if the person's employment were terminated immediately before the person's death.

Application of
subsections (1) and
(2)

(3) Subsections (1) and (2) do not apply where the terms of employment of the deceased person provide for payment of a group life insurance benefit of not less than 60 per cent of the commuted value of the deferred pension.

Election

(4) Where the person does not have a spouse or where subsection (3) applies or where the person is living separate and apart from the person's spouse and a division of the deferred pension has been made under section 61, the person's beneficiary or estate is entitled to receive a refund of that person's contributions with interest as prescribed.

Application of
subsections (1) to
(4)

(5) Subsections (1) to (4) apply only in respect of contributions made and pension benefits accrued on or after the operative date.

Variation of
payment to disabled
person

57. A pension plan may permit variation in the terms of payment of a pension or deferred pension by reason of the mental or physical disability of a member or former member that is likely to considerably shorten the life expectancy of the member or former member.

Payment of
commuted value if
benefit small

58. A pension plan may provide for payment to a former member of the commuted value of a benefit if the annual benefit payable at the normal retirement date is not more than four per cent of the year's maximum pensionable earnings in the year that the former member terminated employment or if the commuted value of a benefit is less than ten per

cent of the year's maximum pensionable earnings in the year that the former member terminated employment.

59. (1) The administrator of a pension plan shall not take into account the sex of a member, former member or other beneficiary of the pension plan in

Sex of member or other beneficiary not to be a consideration

- (a) determining under the pension plan the amount of contributions required to be made by a member of the plan;
- (b) determining under the pension plan the pension benefits or the commuted value of pension benefits that a member, former member or other beneficiary is or may become entitled to;
- (c) the provision under the pension plan of eligibility conditions; or
- (d) the provision under the pension plan of ancillary benefits.

(2) An administrator of a pension plan may, in order to comply with subsection (1),

Administration

- (a) use annuity factors that do not differentiate as to sex;
- (b) provide for employer contributions that vary according to the sex of the employee; and
- (c) use any prescribed method of calculation or valuation.

(3) This section applies in respect of contributions, benefits and conditions in relation to

Application of section

- (a) employment on or after the operative date;
- (b) employment before the operative date, in so far as it is dealt with in an amendment made to the pension plan on or after that day; and
- (c) employment before the operative date, in so far as it is dealt with in a pension plan established on or after that day.

60. (1) The reduction of a pension benefit that may be required by a pension plan in relation to payment under the Canada Pension Plan, the Quebec Pension Plan or the *Old Age Security Act* (Canada) shall not exceed the reduction calculated in accordance with the prescribed formula applied in the prescribed manner.

Maximum reduction for C.P.P., Q.P.P. and *Old Age Security Act* (Canada)

(2) The amount of a reduction in a pension benefit required under a pension plan in relation to the payments mentioned in subsection (1) shall not be increased by reason of an increase in the amount of any of the other payments after the date of the member's termination of employment.

Idem

(3) A pension plan for which an application for registration is made on or after the operative date shall not permit the reduction of a pension or a deferred pension based on a person's entitlement under the *Old Age Security Act* (Canada).

Reduction re *Old Age Security Act* (Canada)

(4) A pension plan shall not permit the reduction of a pension or deferred pension based on a person's entitlement under the *Old Age*

Reduction

Security Act (Canada) in respect of a benefit accrued on or after the operative date.

Bridging benefit,
reduction

(5) The value of a bridging benefit, for receipt of which a member or former member has satisfied all eligibility requirements of the pension plan before the operative date, shall not be reduced by reason only of the eligibility of the member or former member to receive a payment before reaching sixty-five years of age under the Canada Pension Plan, the Quebec Pension Plan or the *Old Age Security Act (Canada)*.

Idem

(6) Where a pension plan provides a bridging benefit without reference to a specific age at which payment of the bridging benefit is to be reduced or to cease, the pension plan is deemed to provide that the bridging benefit shall be reduced or cease to be paid when the recipient of the bridging benefit reaches sixty-five years of age.

Application of
subsection (6)

(7) Subsection (6) ceases to apply to a pension plan that is amended on or after the operative date to establish a specific age for the purpose of determining when a bridging benefit shall be reduced or cease to be paid.

Deemed age of
recipient at which
variation is to occur

(8) Where a pension plan provides for variation of a pension benefit by reason of a benefit payable under the Canada Pension Plan, the Quebec Pension Plan or the *Old Age Security Act (Canada)* without specifically stating the age at which the variation is to occur, the pension plan is deemed to provide that the variation is to occur when the recipient of the pension benefit reaches sixty-five years of age.

Application of
subsection (9)

(9) Subsection (8) ceases to apply to a pension plan that is amended on or after the operative date to specifically state the age at which variation of a pension benefit is to occur.

Pension or pension
benefit

61. (1) Where a member or former member is entitled to a pension or a pension benefit and

- (a) a petition for divorce is filed;
- (b) an application is filed for a declaration of nullity; or
- (c) the member or former member and that person's spouse have been living separate and apart and there is no reasonable prospect of the resumption of cohabitation,

the pension or pension benefit earned during the marriage or the period when they were spouses may be divided in accordance with the regulations between the member or former member and that person's spouse by an order of the Supreme Court or in such other manner as is prescribed in the regulations.

Maximum
percentage of
benefit spouse may
receive

(2) Notwithstanding subsection (1), the spouse of the member or former member shall not receive more than one half of the pension or pension benefit accrued by the member or former member during the period when they were spouses.

CONTRIBUTIONS

- 62.** (1) A pension plan is not eligible for registration unless it provides for funding sufficient to provide the pension benefits, ancillary benefits and other benefits under the pension plan in accordance with this Act and the regulations. Funding requirements
- (2) An employer required to make contributions under a pension plan, or a person required to make contributions under a pension plan on behalf of an employer, shall make the contributions Payment by employer
- (a) to the pension fund; or
- (b) where pension benefits under the pension plan are paid by an insurance company, to the insurance company that is the administrator of the pension plan,
- in the prescribed manner and in accordance with the prescribed requirements for funding.
- (3) The administrator of a pension plan or, if there is an agent of the administrator responsible for receiving contributions under the pension plan, the administrator and the agent shall give written notice to the Superintendent of a contribution that is not paid when due. Notice of overdue contribution
- (4) The administrator and the agent shall give the notice to the Superintendent within sixty days after the date on which the administrator or the agent first became aware of the failure to pay the contribution. 60 days to give notice
- 63.** (1) Money that an employer is required to pay into a pension fund accrues interest on a daily basis. Daily accrual of interest re employer's contributions
- (2) Interest on contributions shall be calculated and credited at a rate not less than the prescribed rates and in accordance with the prescribed requirements. Interest on contributions
- 64.** The administrator of a pension plan may commence proceedings in a court of competent jurisdiction to obtain payment of contributions due under the pension plan, this Act and the regulations. Proceedings for payment
- 65.** The administrator of a multi-employer pension plan may require a person who received contributions to the pension fund, or who administers or invests the pension fund, to be bonded in an amount required by the administrator or in the prescribed amount. Bonding
- 66.** An employer who is required to make contributions to a multi-employer pension plan shall transmit to the administrator a copy of the agreement that requires the employer to make the contributions or a written statement that sets out the contributions the employer is required Transmission of agreement

to make and any other obligations of the employer under the pension plan.

Duty respecting investment

67. Every person engaged in the investment of money of a pension fund shall ensure that the money is invested in accordance with this Act and the regulations.

LOCKING IN

Restriction on refunds

68. (1) No member or former member is entitled to a refund from a pension fund of contributions made in respect of employment in the province or a designated province on or after the qualification date.

Idem

(2) Subsection (1) does not prevent the refund of an additional voluntary contribution or optional ancillary contribution and interest thereon to a member or former member or a payment under subsection 47(4).

Idem

(3) Notwithstanding subsection (1), a member whose employment is terminated and who is not entitled to a pension or to a deferred pension pursuant to section 44 is entitled to payment within the prescribed period of time of an amount equal to not less than the amount of the member's contributions, and the interest on the contributions, made under the pension plan in respect of the member's employment on or after the operative date.

Application of subsection (1)

(4) Subsection (1) does not apply to
 (a) prevent the commutation of a pension benefit under section 58;
 or
 (b) such other circumstances as are prescribed.

Application of subsections (3) and (4)

(5) Subsections (3) and (4) do not apply in respect of a member of a multi-employer pension plan unless the member terminates membership in the multi-employer pension plan.

Refund of contributions with consent

(6) Subject to subsection (7), on application by the administrator of a pension plan, contributions may be refunded to a member or a former member of the pension plan with the consent of the Superintendent.

Idem

(7) On application by the administrator, the Superintendent may consent to a refund pursuant to subsection (6) if the pension plan provides or has been amended to provide for the refund and the employer has assumed responsibility for funding all pension benefits associated with the contributions.

Shorter qualification periods

69. (1) A pension plan may provide for shorter qualification periods than those set out in subsection 44(1).

(2) A pension plan that provides for qualification periods for a deferred pension that are shorter than the periods set out in subsection 44(1) may permit a refund of contributions to a person who terminates employment after becoming entitled to a deferred pension under the pension plan before the completion of the qualification period referred to in subsection 44(1).

Refund

70. (1) Every transaction that purports to assign, charge, anticipate or give as security money payable under a pension plan is void.

Void transactions respecting money payable under pension plan

(2) Every transaction that purports to assign, charge, anticipate or give as security money transferred from a pension fund in accordance with section 50, section 51, subsection 56(1) or subsection 79(2) is void.

Idem

(3) Subsections (1) and (2) do not apply to prevent the assignment of an interest in money payable under a pension plan or money payable as a result of a purchase or transfer under section 50, section 51, subsection 56(1) or subsection 79(2) in accordance with section 61.

Application of subsections (1) and (2)

71. (1) Money payable under a pension plan is exempt from execution, seizure or attachment.

Exemption of money payable under plan from seizure

(2) Money transferred from a pension fund to a prescribed retirement savings arrangement or for the purchase of a life annuity pursuant to section 50, section 51, subsection 56(1) or subsection 79(2) is exempt from execution, seizure or attachment.

Idem

(3) Money payable from a prescribed retirement savings arrangement or from a life annuity purchased in accordance with section 50, section 51, subsection 56(1) or subsection 79(2) is exempt from execution, seizure or attachment.

Idem

(4) The entitlement of a person, in his or her discretion, to withdraw money from a locked-in retirement account as defined in the regulations shall not be considered when determining, for the purpose of any other Act, the income or assets available to the person.

Right to withdraw money from locked-in retirement account not to be considered

72. (1) Notwithstanding any enactment, for the purpose of enforcement of a maintenance order as defined in the *Maintenance Enforcement Act* R.S.P.E.I. 1988, Cap. M-1,

Enforcement of maintenance order

(a) money payable under a pension plan to a former member or a person as a result of a division under section 61 or payable from a prescribed retirement savings arrangement or life annuity that results from a purchase or transfer under section 50, 51 or 56 or subsection 79(2) is subject to a garnishment pursuant to the *Maintenance*

Enforcement Act and the prescribed requirements under that Act respecting garnishment;

(b) a deferred pension or pension benefit of a former member or of a person that results from a division under section 61 or a deferred life annuity or prescribed retirement savings arrangement of a person that results from a purchase or transfer under section 50, 51 or 56 or subsection 79(2) is subject to attachment by the Director of Maintenance Enforcement in accordance with the *Maintenance Enforcement Act* and the prescribed requirements under that Act respecting attachment of a pension entitlement.

Deduction where amount attached under subsection (1)

(2) Where an amount has been attached by the Director of Maintenance Enforcement as described in clause (1)(b), the administrator shall deduct from the commuted value of the deferred pension, pension benefit or the deferred life annuity or from the money transferred to a prescribed retirement savings arrangement,

(a) the cost of complying with the attachment calculated in the prescribed manner;

(b) the total amount of taxes, if any, that are required to be deducted or withheld as a result of the attachment; and

(c) the lesser of

(i) the amount attached, and

(ii) the remainder of the commuted value of the deferred pension, pension benefit or deferred life annuity or the remainder of the money transferred to a prescribed retirement savings arrangement.

Effect of attached on entitlement to pension or benefit

(3) Where an amount has been attached as described in clause (1)(b) of subsection (1),

(a) the person whose entitlement has been attached has no further claim or entitlement to any pension or benefit respecting the amount attached;

(b) the entitlement of a person after the person's entitlement has been attached is calculated on the basis of the commuted value of the person's deferred pension, pension benefit or deferred life annuity after the deduction of the amounts referred to in subsection (2) or the entitlement is the remainder of the money in the prescribed retirement savings arrangement after the deduction of the amounts referred to in subsection (2); and

(c) neither the administrator nor the plan is liable to any person by reason of having made payment pursuant to an attachment referred to in clause (1)(b).

Prohibition on commutation and surrender

73. (1) A pension, deferred pension, pension benefit, annuity or prescribed retirement savings arrangement that results from a purchase or transfer pursuant to section 50, 51 or 56 or subsection 79(2) to which a

person is entitled is not capable of being commuted or surrendered during the person's life.

(2) A transaction that purports to commute or surrender, in whole or in part, a pension, deferred pension, pension benefit, annuity or prescribed retirement savings arrangement referred to in subsection (1) is void. *Void transactions*

(3) Subsections (1) and (2) do not apply to a variation of a pension or deferred pension under section 57 or to a commutation of a benefit under section 58. *Application of subsection (1) and (2)*

(4) Subsections (1) and (2) do not apply to the commutation or surrender, in whole or in part, of a prescribed retirement savings arrangement in such circumstances or in such amounts as may be prescribed, subject to such restrictions as may be prescribed. *Idem*

WINDING UP

74. (1) An employer or, in the case of a multi-employer pension plan, the administrator may wind up the pension plan in whole or in part. *Wind up of plan*

(2) The administrator of a pension plan shall, before the wind up of the pension plan is commenced, give written notice of the proposed wind up to *Notice of wind up*

- (a) the Superintendent;
- (b) each member who is affected;
- (c) each former member who is affected;
- (d) each trade union that represents members;
- (e) the advisory committee of the pension plan; and
- (f) any other person entitled to a payment from the pension fund who is affected.

(3) In the case of a proposal to wind up only part of a pension plan, the administrator of the pension plan is not required to give written notice of the proposed partial wind up to members, former members or other persons entitled to payment from the pension fund if those persons will not be affected by the proposed partial windup. *Idem*

(4) The notice of wind up shall contain the information prescribed. *Idem*

(5) A multi-employer pension plan shall not be wound up by reason only of the withdrawal of a participating employer from the pension plan but the Superintendent may, by order, require the wind up if the Superintendent is of the opinion that in the circumstances the pension plan ought to be wound up. *Multi-employer pension plan*

(6) The effective date of the wind up of a pension plan shall not be earlier than the date member contributions under the pension plan, if any, *Effective date of wind up*

cease to be deducted, in the case of contributory pension benefits or, in any other case, the date notice of the wind up is given to members of the pension plan.

Idem

(7) The Superintendent may, by order, change the effective date of the wind up of a pension plan if the Superintendent is of the opinion that there are reasonable grounds for the change.

Order to wind up

75. (1) The Superintendent may, by order, require the wind up of a pension plan in whole or in part if

- (a) there is a cessation or suspension of employer contributions to the pension fund except where payments are being made from surplus funds;
- (b) the employer fails to make contributions to the pension fund as required by this Act or the regulations;
- (c) the employer is bankrupt within the meaning of the *Bankruptcy Act* (Canada);
- (d) a significant number of the members cease to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer;
- (e) all or a significant portion of the business carried on by the employer at a specific location is discontinued;
- (f) all or part of the employer's business or all or part of the assets of the employer's business are sold, assigned or otherwise disposed of and the person who acquired the business or assets does not provide a pension plan for the members of the employer's pension plan who become employees of the person; or
- (g) in the case of a multi-employer pension plan,
 - (i) there is a significant reduction in the number of members, or
 - (ii) there is a cessation of contributions under the pension plan or a significant reduction in such contributions; or
- (h) any prescribed event or prescribed circumstance occurs.

Idem

(2) In an order made under subsection (1), the Superintendent shall specify the effective date of the wind up, the persons or classes of persons to whom the administrator shall give notice of the order and the information that shall be given in the notice.

Wind-up report

76. (1) The administrator of a pension plan that is to be wound up in whole or in part shall file a wind-up report that sets out

- (a) the assets and liabilities of the pension plan;
- (b) the benefits to be provided under the pension plan to members, former members and other persons;
- (c) the methods of allocating and distributing the assets of the pension plan and determining the priorities for payment of benefits; and

(d) such other information as is prescribed.

(2) An administrator of a pension plan shall not make any payment out of its pension fund after a notice of proposal to wind up the pension plan has been given in accordance with section 74 until the Superintendent has approved the wind-up report that is filed in respect of the wind up.

Approval of report before payments made

(3) Subsection (2) does not apply to prevent the continued payment of any pension or benefit that commenced before the giving of the notice of the wind up of the pension plan or to prevent any payment that is prescribed or that is approved by the Superintendent.

Application of subsection (2)

(4) After a wind-up report in respect of a pension plan has been approved by the Superintendent, the administrator of the pension plan shall not make payment out of the pension fund except in accordance with the approved wind-up report.

Payments to be made in accordance with approved report

(5) The Superintendent may refuse to approve a wind-up report that does not meet the requirements of this Act and the regulations or that does not protect the interests of the members and former members of the pension plan that is the subject of the wind-up report.

Refusal to approve wind-up report

(6) On the partial wind up of a pension plan, members, former members and other persons entitled to benefits under the pension plan shall have rights and benefits that are not less than the rights and benefits they would have on a full wind up of the pension plan on the effective date of the partial wind up.

Rights and benefits on partial wind up

77. (1) Where a pension plan that is to be wound up in whole or in part does not have an administrator or the administrator fails to act, the Superintendent may act as or may appoint an administrator.

Replacement of administrator on wind up

(2) The Superintendent may terminate the appointment of an administrator appointed by the Superintendent under subsection (1) if the Superintendent considers it reasonable to do so.

Termination of appointment of administrator

(3) The reasonable administration costs of the Superintendent or of the administrator appointed by the Superintendent shall be paid out of the pension fund.

Administration costs, payment out of pension fund

78. (1) Within the prescribed period of time, the administrator of a pension plan that is to be wound up, in whole or in part, shall give to each person entitled to a pension, deferred pension or other benefit, or to a refund, under the pension plan a statement setting out the amount of the person's entitlement under the pension plan, the options available to the person and such other information as may be prescribed.

Statement of entitlement on wind up

Election	(2) Where a person to whom notice is given pursuant to subsection (1) is required to make an election, the person shall make the election within the prescribed period of time or shall be deemed to have elected to receive immediate payment of a pension benefit, if eligible therefor, or, if not eligible to receive immediate payment of a pension benefit, to receive a pension commencing at the earliest date mentioned in clause 80(1)(b).
Payment	(3) Within the prescribed period of time, the administrator shall make payment in accordance with the election or deemed election.
Determination of amount of benefits on wind up	<p>79. (1) For the purpose of determining the amounts of pension benefits on the winding up of a pension plan, in whole or in part,</p> <p>(a) the employment of each member of the pension plan affected by the winding up shall be deemed to have been terminated on the effective date of the winding up;</p> <p>(b) each member's pension benefits as of the effective date of the wind up shall be determined as if the member had satisfied all eligibility conditions for a deferred pension; and</p> <p>(c) provision shall be made for the rights pursuant to section 88.</p>
Rights of person entitled to a pension benefit	(2) A person entitled to a pension benefit on the wind up of a pension plan, other than a person who is receiving a pension, is entitled to the rights under subsection 50(1) of a member who terminates employment and for that purpose subsection 50(4) does not apply.
Pension rights of member on wind up	<p>80. (1) A member of a pension plan whose combination of age plus years of employment or membership in the pension plan equals at least fifty-five, at the effective date of the wind up of the pension plan, in whole or in part, has the right to receive</p> <p>(a) a pension in accordance with the terms of the pension plan if, under the pension plan, the member is eligible for immediate payment of the pension benefit;</p> <p>(b) a pension in accordance with the terms of the pension plan, beginning at the earlier of</p> <p>(i) the normal retirement date under the pension plan, and</p> <p>(ii) the date on which the member would be entitled to an unreduced pension under the pension plan if the pension plan were not wound up and if the member's membership continued to that date; or</p> <p>(c) a reduced pension beginning on the date on which the member would be entitled to the reduced pension under the pension plan if the pension plan were not wound up and if the member's membership continued to that date.</p>
Credit for each month of age and employment or membership	(2) In determining for the purposes of subsection (1) the combination of age plus employment or membership of a member of a pension plan

on its effective date of wind up, one-twelfth credit shall be given for each month of age and for each month of employment or membership.

(3) Bridging benefits offered under the pension plan to which a member would be entitled if the pension plan were not wound up and if the membership of the member were continued shall be included in calculating the pension benefit under subsection (1) of a person who has at least ten years of continuous employment with the employer or has been a member of the pension plan for at least ten years.

Inclusion of bridging benefits

(4) For the purposes of subsection (3), where the bridging benefit offered under the pension plan is not related to period of employment or membership in the pension plan, the bridging benefit shall be prorated by the ratio that the member's actual period of employment bears to the period of employment that the member would have to the earliest date on which the member would be entitled to an unreduced pension under the pension plan if the pension plan were not wound up.

Idem

(5) Membership in a pension plan that is wound up, in whole or in part, includes the period of notice of termination of employment required under the *Employment Standards Act* R.S.P.E.I. 1988, Cap. E-6.2.

Inclusion of period of notice of termination

(6) Subsection (5) does not apply for the purpose of calculating the amount of a pension benefit of a member who is required to make contributions to the pension fund unless the member makes the contributions in respect of the period of notice of termination of employment.

Application of subsection (5)

(7) For the purpose of this section, where the consent of an employer is an eligibility requirement for entitlement to receive an ancillary benefit, the employer is deemed to have given the consent.

Deemed consent of employer

(8) This section and section 79 apply in respect of the wind up, in whole or in part, of a pension plan where the effective date of the windup is on or after the coming into force of this subsection.

Application of this section and section 79

(9) A person affected by a wind up who elects to receive a benefit under subsection (1) is not entitled to payment of any refund of contributions under subsection 68(3) or (4).

Refunds

(10) This section does not apply in respect of a multi-employer pension plan.

Application of this section to multi-employer pension plan

81. (1) Where a pension plan is wound up in whole or in part, the employer shall pay into the pension fund an amount equal to the total of all payments that, pursuant to this Act, the regulations and the pension

Employer's payments on wind up

plan, are due or have accrued and that have not been paid into the pension fund.

Idem

(2) Where, on the wind up of a pension plan in whole or in part, other than a multi-employer pension plan, the assets in the pension fund are less than the value of the benefits provided under the plan and under section 80, the employer shall make such payments into the pension fund of the amount necessary to fund the benefits provided under the plan and under section 80.

Idem

(3) The employer shall pay the monies due under subsections (1) and (2) in the prescribed manner and at the prescribed time.

Application of Act after wind up

82. The pension fund of a pension plan that is wound up continues to be subject to this Act and the regulations until the employer satisfies its obligations under section 81 and all the assets of the pension fund have been disbursed.

Reduction of benefits

83. Where the money in a pension fund is not sufficient to pay all the pension benefits and other benefits on the wind up of the pension plan, in whole or in part, the pension benefits and other benefits shall be distributed and, if appropriate, reduced in the prescribed manner.

SURPLUS

Consent of Superintendent to pay surplus

84. (1) No money that is surplus shall be paid out of a pension fund of a pension plan to the employer without the prior consent of the Superintendent.

Application for consent

(2) An employer who applies to the Superintendent for consent to payment of money to the employer out of the surplus of a pension fund of a pension plan shall transmit notice of the application, containing the prescribed information, to

- (a) each member and each former member;
- (b) each trade union that represents members; and
- (c) any individual who is receiving payments out of the pension fund.

Representations respecting an application for consent

(3) A person to whom notice has been transmitted pursuant to subsection (2) may make written representation to the Superintendent with respect to the application within thirty days after receiving the notice.

Conditions for consent to payment out of surplus

85. (1) The Superintendent shall not consent to payment of money to the employer out of a continuing pension plan unless

- (a) the Superintendent is satisfied, based on reports provided with the application, that the pension plan has a surplus;

- (b) the pension plan provides for the withdrawal of surplus by the employer while the pension plan continues in existence, or the applicant satisfies the Superintendent that the applicant is otherwise entitled to withdraw the surplus;
- (c) where all pension benefits under the pension plan are guaranteed by an insurance company, an amount equal to at least two years of the employer's current service costs is retained in the pension fund as surplus;
- (d) where the members are not required to make contributions under the pension plan, the greater of
 - (i) an amount equal to two years of the employer's current service costs, and
 - (ii) an amount equal to twenty-five per cent of the liabilities of the pension plan calculated as prescribed,
 is retained in the pension fund as surplus;
- (e) where members are required to make contributions under the pension plan, all surpluses attributable to contributions paid by members and the greater of
 - (i) an amount equal to two years of the employer's current service costs, and
 - (ii) an amount equal to twenty-five per cent of the liabilities of the pension plan calculated as prescribed, are retained in the pension fund as surplus; and
- (f) the applicant and the pension plan comply with all other requirements prescribed pursuant to other sections of this Act in respect of the payment of surplus money out of a pension fund.

(2) On and after the date that is two years after the operative date, a pension plan that does not provide for the withdrawal of surplus money while the pension plan continues in existence shall be construed to prohibit the withdrawal of surplus money accrued on or after the operative date. Deemed prohibition of withdrawal

(3) The Superintendent shall not consent to an application in respect of a pension plan that is being wound up, in whole or in part, unless Consent of Superintendent

- (a) the Superintendent is satisfied, based on reports provided with the application, that the pension plan has a surplus;
- (b) the pension plan provides for payment of the surplus to the employer on the wind up or the employer has a claim to the surplus or part of the surplus;
- (c) all liabilities of the pension plan, calculated for the purpose of the termination of the pension plan, have been paid; and
- (d) the applicant and the pension plan comply with all other requirements prescribed pursuant to other sections of this Act in respect of the payment of surplus money out of a pension fund.

Employer's claim to surplus	<p>(4) An employer has a claim to the surplus or a part of the surplus if, after being notified of the employer's proposal, containing the prescribed information, for a refund of that surplus or part of it, at least two thirds of the persons in each of the following categories notify the employer that they consent to the proposal:</p> <ul style="list-style-type: none"> (a) members of the pension plan; (b) former members of the plan; (c) other persons within a prescribed class.
Surplus to be distributed proportionally	<p>(5) On and after the date that is two years after the operative date, a pension plan that does not provide for payment of surplus money on the wind up shall be construed to require that surplus money accrued on or after the operative date, be distributed proportionately on the wind up among members, former members and any other persons entitled to payments under the pension plan on the date of the wind up.</p>
Decision of Superintendent, transmission	<p>(6) The Superintendent shall issue a decision on an application made in accordance with subsection 84(2) and shall transmit a copy of that decision together with written reasons therefor, to the applicant and to each person who made a written representation to the Superintendent in accordance with subsection 84(3).</p>
Conditions attached to consent	<p>(7) The Superintendent may attach such conditions and limitations to any consent given by the Superintendent under this section as the Superintendent considers necessary in the circumstances.</p>
"successor employer" defined	<p>86. (1) In this section, "successor employer" means the person who acquires the business or the assets of an employer.</p>
Sale or disposition by employer of business or assets, effect	<p>(2) Where an employer who contributes to a pension plan sells, assigns or otherwise disposes of all or part of the employer's business or all or part of the assets of the employer's business, a member of the pension plan, who in conjunction with the sale, assignment or disposition becomes an employee of the successor employer and becomes a member of a pension plan provided by the successor employer,</p> <ul style="list-style-type: none"> (a) continues to be entitled to the benefits provided under the employer's pension plan in respect of employment in the province or a designated province to the effective date of the sale, assignment or disposition without further accrual; (b) is entitled to credit in the pension plan of the successor employer for the period of membership in the employer's pension plan, for the purpose of determining eligibility for membership in or entitlement to benefits under the pension plan of the successor employer; and (c) is entitled to credit in the employer's pension plan for the period of employment with the successor employer for the purpose of determining entitlement to benefits under the employer's pension plan.

(3) Clause (2)(a) does not apply if the successor employer assumes responsibility for the accrued pension benefits of the employer's pension plan and no wind up shall be deemed to have occurred.

Application of
clause (2)(a)

(4) Where a transaction described in subsection (2) takes place, the employment of the employee shall be deemed, for the purpose of this Act, not to be terminated by reason of the transaction.

Effect of transaction
described in
subsection (2)

(5) Where a transaction described in subsection (2) occurs and the successor employer assumes responsibility, in whole or in part, for the pension benefits provided under the employer's pension plan, no transfer of assets shall be made from the employer's pension fund to the pension fund of the plan provided by the successor employer without the prior consent of the Superintendent or contrary to the prescribed terms and conditions.

Consent of
Superintendent to
transfer of assets

(6) The Superintendent shall refuse to consent to a transfer of assets that does not protect the pension benefits and any other benefits of the members and former members of the employer's pension plan or that does not meet the prescribed requirements and qualifications.

Refusal of consent

(7) The Superintendent may, by order, require the transferee to return to the pension fund, with interest, assets transferred without the prior consent required by subsection (5).

Order to return
assets

(8) Where a group of members of a multi-employer pension plan are represented by a trade union and, in accordance with the *Labour Act*, the trade union ceases to represent the members and the members become represented by a different trade union certified as their bargaining agent and become members of a different pension plan, the administrator of the first plan shall transfer to the administrator of the new pension plan all the assets and liabilities respecting those members who have elected pursuant to section 50 to transfer their entitlement to the new pension plan and the administrator of the new pension plan shall accept the transfer as assets and liabilities of the new plan.

Transfer of assets
and liabilities
between plans

(9) Where a group of members of a multi-employer pension plan are represented by a trade union and, in accordance with the *Labour Act*, the trade union ceases to represent the members and former members and they become represented by a different trade union certified as their bargaining agent and become members of a different pension plan and the members are not entitled to make an election pursuant to section 50, the administrator of the old pension plan shall transfer to the administrator of the new pension plan all assets and liabilities of the pension plan attributable to the members determined as prescribed and the administrator of the new pension plan shall accept the assets and

Idem

liabilities as assets and liabilities, determined as prescribed, of the new plan.

Application of subsections (8) and (9)	(10) Subsections (8) and (9) do not apply where there is a reciprocal agreement respecting the pension plans.
Filing of order for return of assets	(11) Subject to section 90, an order of the Superintendent made under subsection (7) for the return of assets to a pension fund, exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of the Court.
Establishment of new pension plan	87. (1) Where a pension plan is established by an employer to be a successor to an existing pension plan and the employer ceases to make contributions to the original pension plan, the original pension plan is deemed not to be wound up and the new pension plan is deemed to be a continuation of the original pension plan.
Benefits of original plan deemed benefits of new plan	(2) The benefits under the original pension plan in respect of employment before the establishment of the new pension plan are deemed to be benefits under the new pension plan.
Application of subsection (2)	(3) Subsection (2) applies whether or not the assets and liabilities of the original pension plan are consolidated with those of the new pension plan.
No transfer of assets without consent	(4) No transfer of assets shall be made from the pension fund of the original pension plan to the pension fund of the new pension plan without the prior consent of the Superintendent or contrary to the prescribed terms and conditions.
Refusal of consent	(5) The Superintendent shall refuse to consent to a transfer of assets that does not protect the pension benefits and any other benefits of the members and former members of the original pension plan or that does not meet the prescribed requirements and qualifications.
Order for return of assets	(6) The Superintendent by order may require the transferee to return to the pension fund assets, with interest calculated in the prescribed manner, transferred without the prior consent of the Superintendent or transferred contrary to a prescribed term or condition.
Filing of order for return of assets	(7) Subject to section 90, an order of the Superintendent made under subsection (6) for the return of assets to a pension fund, exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of the Court.
No transfer of assets without consent	(8) No transfer of assets shall be made from one pension fund to another pension fund in circumstances where subsections (1) to (7) do not apply or where sections 51 or 86 do not apply, without the prior consent of the Superintendent or contrary to the prescribed terms and

conditions and, for that purpose, subsections (5) to (7) apply with such changes as are necessary.

ORDERS

88. (1) The Superintendent, in the circumstances mentioned in subsection (2) and subject to section 90, by a written order may require an administrator or any person to take or to refrain from taking any action in respect of a pension plan or a pension fund. Order of Superintendent

(2) The Superintendent may make an order pursuant to this section if the Superintendent is of the opinion, upon reasonable and probable grounds, that *Idem*

- (a) the pension plan or pension fund is not being administered in accordance with this Act, the regulations or the pension plan;
- (b) the pension plan does not comply with this Act and the regulations; or
- (c) the administrator of the pension plan, the employer or the other person is contravening a requirement of this Act or the regulations.

(3) In an order pursuant to this section, the Superintendent may specify the time when or the period of time within which the person to whom the order is directed shall comply with the order. Time for compliance

(4) An order pursuant to this section is not effective unless the reasons for the order are set out in the order. Reasons for order

89. (1) Where the Superintendent is of the opinion that Order as result of report

- (a) the assumptions or methods used in the preparation of a report required pursuant to this Act or the regulations in respect of a pension plan are inappropriate for a pension plan;
- (b) the assumptions or methods used in the preparation of a report required pursuant to this Act or the regulations in respect of a pension plan are not consistent with accepted actuarial practice; or
- (c) a report submitted in respect of a pension plan does not meet the requirements and qualifications of this Act, the regulations or the pension plan, subject to section 91,

the Superintendent may make an order requiring the administrator to take the action specified in the order.

(2) An order pursuant to this section may include, but is not limited to, requiring the preparation of a new report and specifying the assumptions or methods or both that shall be used in the preparation of the new report. *Idem*

RECONSIDERATION

- Notice of proposed refusal or revocation **90.** (1) Where the Superintendent proposes to refuse to register a pension plan or an amendment to a pension plan or to revoke a registration, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the applicant or administrator.
- Notice of proposed order (2) Where the Superintendent proposes to make an order pursuant to
 (a) subsection 50(10);
 (b) subsection 51(5);
 (c) subsection 86(7);
 (d) subsection 87(6); or
 (e) section 88,
 the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator and on any person to whom the Superintendent proposes to direct the order.
- Notice of proposed order to accept an employee (3) Where the Superintendent proposes to make or to refuse to make an order requiring an administrator to accept an employee as a member of a class of employees for whom a pension plan is established or maintained, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator, and the Superintendent shall serve or require the administrator to serve a copy of the notice and the written reasons on the employee.
- Notice of proposed order to refuse consent or approval (4) Where the Superintendent proposes to refuse to give an approval or consent or proposes to attach terms and conditions to an approval or consent pursuant to this Act or the regulations, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the applicant for the approval or consent.
- Notice of proposed order re wind up (5) Where the Superintendent proposes to make an order requiring the wind up of a pension plan or declaring a pension plan wound up, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator and the employer, and the Superintendent may require the administrator to transmit a copy of the notice and the written reasons on such other persons or classes of persons as the Superintendent specifies in the notice to the administrator.
- Reconsideration (6) A notice pursuant to subsection (1), (2), (3), (4) or (5) shall state that the person on whom the notice is served is entitled to a hearing by the Superintendent if the person delivers to the Superintendent, within thirty days after service of the notice pursuant to that subsection, notice in writing requiring a reconsideration, and the person may so require such a reconsideration.

(7) Where the person on whom the notice is served does not require a reconsideration in accordance with subsection (6), the Superintendent may carry out the proposal stated in the notice. *Idem*

(8) Where the person requires a reconsideration by the Superintendent in accordance with subsection (6), the Superintendent shall reconsider the proposed action and notify the person of the decision. *Idem*

(9) Upon receipt by a person of the decision of the Superintendent pursuant to subsection (8), that person may appeal to the Supreme Court and the Court may confirm the decision or substitute any decision the Superintendent is authorized to make. Appeal to Supreme Court

GENERAL

91. (1) Where the Superintendent proposes to consider
 (a) making an order requiring the administrator of a pension plan to take specific action in relation to a report in respect of the pension plan; or
 (b) refusing to consent to a refund of contributions pursuant to section 68, Notice of proposed order re report or refusal

the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator.

(2) The administrator shall transmit copies of the Superintendent's notice to such persons or classes of persons as the Superintendent specifies in the notice to the administrator. Transmission of copies

(3) A notice by the Superintendent pursuant to subsection (1) shall state that the administrator, the persons and the representatives and members of classes of persons specified in the notice are entitled to make written representations to the Superintendent within thirty days after service of the notice pursuant to that subsection. Contents of notice

(4) An individual who is entitled to make representation to the Superintendent pursuant to subsection (3) shall be afforded an opportunity, during the period of time when representation may be made, to examine any written or documentary evidence that will be produced or any report the contents of which will be considered by the Superintendent when the Superintendent considers the proposal. Examination of evidence

(5) The Superintendent shall transmit a copy of the decision, together with written reasons therefor, to the administrator, the employer and every person who made representation to the Superintendent pursuant to subsection (3). Decision

92. (1) The Superintendent may require an employer, an administrator or any person to supply to the Superintendent information, in such form Information to Superintendent

as is acceptable to the Superintendent and within such time limits as specified, for the purpose of ascertaining whether or not this Act and the regulations are being complied with.

Compliance with request

(2) A person to whom a request is made pursuant to subsection (1) shall comply with the request within the time specified by the Superintendent or person designated by the Superintendent.

Personal liability

93. The Superintendent or the staff of the Superintendent are not personally liable for anything done in good faith in the execution or intended execution of a duty or authority pursuant to this Act or the regulations or for alleged neglect or default in the execution in good faith of such a duty or authority.

Examination by Auditor General

94. The Auditor General may from time to time examine the accounts and financial transactions of the Superintendent.

Annual report to Minister

95. (1) The Superintendent shall report annually to the Minister.

Idem

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Agency

96. The Lieutenant Governor in Council may establish or designate an agency for the purposes, among others, of receiving, holding and disbursing pension benefits pursuant to this Act.

Time extension

97. The Superintendent may extend any prescribed time limit before or after the expiration of the time if satisfied that there are reasonable grounds for applying for the extension, and may give such directions as the Superintendent considers proper, consequent upon the extension.

Authority of Superintendent

98. The Superintendent or any person authorized in writing by the Superintendent for any purpose relating to the administration of this Act may, at any reasonable time,

(a) inspect or audit any books, records, writings or other documents relating to a pension plan or to any securities, obligations or investments in which pension fund money is invested;

(b) require an administrator to furnish such information as the Superintendent deems necessary for the purpose of ascertaining whether or not the provisions of this Act or the regulations have been or are being complied with.

Contravention of Act or regulations

99. (1) Every person who contravenes a provision of this Act or the regulations is guilty of an offence.

Contravention of order

(2) Every person who contravenes an order made pursuant under this Act is guilty of an offence.

100. (1) Every person who is guilty of an offence contrary to this Act is liable on summary conviction to a fine not exceeding twenty-five thousand dollars. Fines

(2) Notwithstanding subsection (1), where a corporation is convicted of an offence contrary to this Act, the maximum fine that may be imposed is one hundred thousand dollars. Corporate fine

(3) Where a corporation is convicted of an offence contrary to this Act,
 (a) each director of the corporation; and
 (b) each officer, employee or agent of the corporation who was, in whole or in part, responsible for the conduct of that part of the business of the corporation that gave rise to the offence,
 is guilty of an offence and liable on summary conviction to a fine not exceeding twenty-five thousand dollars unless the director, officer, employee or agent satisfies the court that that person took all reasonable care to prevent the commission of the offence. Liability of directors and officers

(4) Where a person is convicted of an offence related to the failure to submit or make payment to a pension fund or to an insurance company, the court that convicts the person may, in addition to any fine imposed, assess the amount not submitted or not paid and order the person to pay the amount to the pension fund or to the insurance company. Order to pay pension fund or insurance company

(5) An order for payment pursuant to subsection (4) may be made an order of the Supreme Court and shall be enforced in a like manner as any order or judgment of such court. Order of Supreme Court

(6) To make such decision or order an order of the Supreme Court, the Superintendent shall endorse a copy of the decision or order certifying it to be a true copy as follows: Idem

Make the within an order of the Supreme Court
 Dated this day of 20.....

Superintendent of Pensions
 and the Superintendent may forward the decision or order so endorsed to a clerk of the Supreme Court who shall, on receipt thereof, enter the same as a record, and it shall thereupon become and be an order of the Supreme Court and enforceable as any order or judgment thereof.

(7) No proceeding pursuant to this Act or the regulations shall be commenced more than two years after the date when the subject-matter of the proceeding came to the knowledge of the Superintendent. No proceeding after two years

(8) A statement by the Superintendent as to the date when the subject-matter of the proceeding first came to the knowledge of the Superintendent Proof of facts in statement of Superintendent

Superintendent is admissible in evidence in or in respect of the proceeding as prima facie proof of the facts stated therein without proof of the appointment or signature of the Superintendent.

Injunction

101. Where a provision of this Act or the regulations is contravened, notwithstanding any other remedy or penalty imposed, the Superintendent may apply to the Supreme Court for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the Court, will or will likely result in the continuation or repetition of the contravention by the person committing the contravention, and the Court may make the order and the order may be enforced in the same manner as any other order of the Court.

Manner of giving, serving or delivery

102. (1) A notice, order or other document pursuant to this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by first-class mail addressed to the person to whom it is to be given, served or delivered at the person's last known address.

Deemed date of giving, serving or delivery

(2) A notice, order or other document sent by first-class mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, the person did not receive the notice, order or other document, or did not receive it until a later date, through absence, accident, illness or other cause beyond that person's control.

Time limit for action

103. The administrator of a pension plan who is required to take an action pursuant to this Act or the regulations shall take the action within the prescribed period of time.

Conflict with other Acts

104. In the event of a conflict between this Act and any other Act, this Act prevails unless the other Act states that it is to prevail over this Act.

Regulations

105. (1) The Lieutenant Governor in Council may make regulations

- (a) prescribing any matter referred to in this Act as prescribed;
- (b) prescribing the times for filing or the last dates for filing of documents that are required to be filed pursuant to this Act;
- (c) prescribing reports that shall be submitted to the Superintendent, the contents and the method of preparation of the reports and the persons or classes of persons by whom the reports must be prepared;
- (d) prescribing procedures that shall govern the establishment of advisory committees and the appointments of members of advisory committees;
- (e) prescribing fees for the purpose of this Act;
- (f) prescribing classes of employees for the purpose of this Act and the regulations;

- (g) prescribing the methods of calculating the values of assets and liabilities of pension funds;
- (h) prescribing criteria that shall be complied with before any surplus may be paid out of a pension fund;
- (i) prescribing the rate or the method of determining the rate at which an employer shall pay money due from the employer pursuant to this Act on a wind up, and prescribing the manner of payment and to whom payment shall be made;
- (j) regulating or prohibiting the investment of money from pension funds and prescribing investments or classes of investments in which such money may be invested;
- (k) prescribing requirements for retirement savings contracts and life annuity contracts between members and trustees to whom administrators may make payment when required in accordance with this Act, requiring such trustees to file specimens of such contracts before such payments may be made and authorizing the Superintendent to refuse to file a specimen contract that does not meet the requirements;
- (l) respecting the division of pension or pension benefits pursuant to section 61;
- (m) respecting commencement of payment of a pension for the purpose of section 61;
- (n) respecting circumstances in which section 50 is applicable to a spouse of a member or former member for the purpose of section 61;
- (o) respecting the entitlement to a pension or pension benefit divided under section 61 upon the death of
 - (i) a member or former member, or
 - (ii) a spouse of a member or former member;
- (p) prescribing limitations on fees that may be charged by administrators in relation to divisions made pursuant to section 61;
- (q) prescribing the rate of interest and the method of calculating interest payable pursuant to this Act or the regulations, if such rate or method is not specified in the requirement for payment of the interest;
- (r) prescribing forms and providing for their use;
- (s) prescribing the time within which any document specified in the regulations that this Act requires to be given, transmitted, filed or served shall be given, transmitted, filed or served;
- (t) prescribing requirements that shall be complied with in the administration of a pension plan;
- (u) prescribing records that shall be kept by an administrator and the period of time for which such records shall be retained by the administrator;
- (v) requiring the audit of pension plans or classes of pension plans and pension funds or classes of pension funds and prescribing the

persons or classes of persons who may perform the audits and the manner of performing the audits;

(w) prescribing the manner of determining the portion of a pension benefit, pension, deferred pension or ancillary benefit that is attributable to employment on or after the operative date;

(x) governing the wind up of pension plans or classes of pension plans and prescribing priorities or the method of determining priorities on wind up, including priorities in allocation of assets;

(y) governing the receiving, holding and disbursing of pension benefits by any agency established or designated pursuant to this Act;

(z) exempting any pension plan, class of pension plan or class of employees from the application of this Act or the regulations or from any section of this Act or the regulations;

(aa) prescribing for the purpose of section 72, the cost of complying with an attachment;

(bb) prescribing retirement savings arrangements, circumstances and amounts, and restrictions for the purpose of section 71;

(cc) prescribing the requirements of agreements for the purpose of clause 85(3)(b);

(dd) defining any word or expression used but not defined in this Act;

(ee) generally for carrying into effect the provisions of this Act.

Application

(2) A regulation may be general or particular in its application and may be limited as to time or place.

Application of codes or standards

(3) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, formula, standard or procedure, and may require compliance with a code, formula, standard or procedure so adopted.

REPEAL

Repeal

106. The *Pension Benefits Act* S.P.E.I. 1990, Cap. 41 is repealed.

COMMENCEMENT

Commencement

107. This Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council.

EXPLANATORY NOTES

SECTION 1 sets out the definitions for the words and terms used in this Act.

SECTION 2 specifies the circumstances where a person is deemed to be employed in the province for the purposes of this Act.

SECTION 3 specifies the scope of this Act and regulations.

SECTION 4 confirms that this Act and the regulations set out minimum standards.

SECTION 5 specifies that Minister is responsible for the administration of this Act.

SECTION 6 provides authority to enter into reciprocal agreements with the other provinces and the federal government.

SECTION 7 defines the meaning of a multi-jurisdictional pension plan provides authority to enter into reciprocal agreements with the other provinces and the federal government regarding multi-jurisdictional pension plans.

SECTION 8 specifies that the Superintendent of Pensions shall be the chief administrative officer under the direction of the Minister.

SECTION 9 stipulates that the Minister may engage expert services to advise the Superintendent.

SECTION 10 specifies the duties of the Superintendent.

SECTION 11 confirms that the Superintendent may conduct research, request information and use information related to pensions and pension plans.

SECTION 12 specifies that pension plans can only be administered if they are registered with the Superintendent or if they have received an acknowledgement of application for registration.

SECTION 13 specifies that pension plans may not be registered if registration has been refused or revoked.

SECTION 14 defines employer, specifies eligibility for a pension committee or board of trustees, and for pension plan registration.

SECTION 15 specifies the time period and manner of application for registration.

SECTION 16 specifies the required content of pension plan documents.

SECTION 17 stipulates non-discretionary accrual of benefits as a condition for registration.

SECTION 18 establishes the requirements for registration of an amendment to a pension plan.

SECTION 19 specifies the effective date for an amendment to a pension plan.

SECTION 20 outlines the conditions under which an amendment to a pension plan is void.

SECTION 21 specifies that the Superintendent shall issue an acknowledgment of application for registration.

SECTION 22 specifies that the Superintendent shall issue a certificate of registration for each plan registered under this Act.

SECTION 23 specifies that the Superintendent shall issue a notice of registration for each plan amendment registered under this Act.

SECTION 24 provides that the Superintendent may refuse or revoke an application for plan registration, and specifies the effect of such refusal or revocation.

SECTION 25 stipulates the time period within which an employer must amend a pension plan to conform with this Act.

SECTION 26 specifies duties of a plan administrator.

SECTION 27 outlines requirements for administrators to file annual returns and additional reports.

SECTION 28 specifies the requirement for administrators to file a copy of a reciprocal transfer agreement.

SECTION 29 stipulates further duties of a plan administrator.

SECTION 30 specifies information requirements from employer to administrator.

SECTION 31 stipulates the nature and functions of a pension plan advisory committee.

SECTION 32 provides information rights to members.

SECTION 33 outlines notice requirements for plan amendments that may reduce pension plan benefits.

SECTION 34 specifies reporting requirements from administrator to members.

SECTION 35 specifies reporting requirements from administrator to former members.

SECTION 36 outlines rights of members and other persons to access pension plan information from administrators without charge.

SECTION 37 specifies rights of members and other persons to inspect documents.

SECTION 38 specifies entitlement to membership in a pension plan.

SECTION 39 stipulates rights of continued membership in a pension plan.

SECTION 40 provides rights of continued membership by part-time employee members in a pension plan.

SECTION 41 provides the power for the Superintendent to order acceptance of employee as a member.

SECTION 42 provides employer discretion to establish a separate pension plan for part-time employees.

SECTION 43 provides entitlements to a pension and sets the normal retirement date.

SECTION 44 provides entitlements to a deferred pension.

SECTION 45 provides plan membership termination rights.

SECTION 46 specifies that employee and employers contributions to be held in trust and are subject to a lien against assets of employer.

SECTION 47 provides for minimum pension benefits for plan members.

SECTION 48 specifies that a plan may provide certain ancillary benefits.

SECTION 49 specifies early retirement entitlements for former members.

SECTION 50 provides transfer rights for former members entitled to a deferred pension.

SECTION 51 specifies rights of an administrator to purchase a pension, deferred pension or ancillary benefit from an insurance company.

SECTION 52 provides for joint and survivor pension benefits to a spouse of a former member.

SECTION 53 specifies pension recipient information requirements for administrator.

SECTION 54 specifies waiver of entitlements of joint and survivor pension recipients.

SECTION 55 stipulates entitlements of surviving spouse in new spousal relationship.

SECTION 56 specifies pre-retirement death benefit entitlements for surviving spouse.

SECTION 57 provides for variation of terms of payment due to disability likely to considerably shortened life expectancy of a member or former member.

SECTION 58 provides for payment of commuted value of a pension benefit if the benefit is small in relation to maximum pensionable earnings in year of termination of employment.

SECTION 59 specifies circumstances where an administrator may not take the sex of a member or other beneficiary into consideration.

SECTION 60 specifies the maximum pension plan benefit and bridging benefit reduction or variation for C.P.P., Q.P.P. and *Old Age Security Act* (Canada).

SECTION 61 stipulates spousal pension benefit entitlements upon marriage breakdown.

SECTION 62 specifies funding and notice requirements for employers and administrators of a pension plan.

SECTION 63 specifies daily accrual of interest on employer contributions to a pension plan.

SECTION 64 stipulates administrator rights to commence proceedings for payment of contributions due.

SECTION 65 specifies that an administrator of a multi-employer pension plan may impose bonding requirements.

SECTION 66 stipulates an employer's obligation to transmit to the administrator a copy of the agreement requiring the employer to make contributions to a pension plan.

SECTION 67 specifies the duty of persons engaged in the investment of money of a pension fund.

SECTION 68 outlines restrictions on member or former member entitlement to a refund from a pension plan.

SECTION 69 specifies that a pension plan may provide for shorter qualification periods.

SECTION 70 specifies that transactions purporting to assign, charge, anticipate or give as security money payable under a pension plan are void.

SECTION 71 specifies that money payable under a pension plan is exempt from execution, seizure or attachment.

SECTION 72 specifies that money payable under a pension plan is subject to an order as defined in the *Maintenance Enforcement Act*.

SECTION 73 establishes a prohibition on commutation and surrender of a pension, deferred pension, pension benefit, annuity or prescribed retirement savings arrangement.

SECTION 74 outlines rights and obligations of pension plan administrators to wind up a pension plan in whole or in part.

SECTION 75 specifies the circumstances where the Superintendent may order the wind up of a pension plan in whole or in part.

SECTION 76 establishes that a plan administrator subject to an order to wind up a pension plan file a wind-up report for approval by the Superintendent.

SECTION 77 specifies that the Superintendent may act as or may appoint an administrator on wind-up.

SECTION 78 stipulates that a plan administrator must give notice of a statement of entitlement on wind-up, that persons to whom notice is given must make election to receive payment, and that the administrator must make payment in accordance with the election or deemed election.

SECTION 79 specifies the determination of the amounts of pension benefits on the winding up of a pension plan, and specifies the rights of a person entitled to a pension benefit on wind-up.

SECTION 80 outlines the rights of a member on wind-up of a pension plan other than a multi-employer pension plan.

SECTION 81 specifies the employer's payment obligations on wind-up.

SECTION 82 states that the legislation continues to apply to a pension fund that is wound up.

SECTION 83 specifies that if, on wind-up, money in a pension fund is not sufficient to pay all pension benefits, benefits may be reduced.

SECTION 84 specifies that consent of the Superintendent is required prior to payment of surplus from a pension fund.

SECTION 85 outlines the conditions for consent of the Superintendent to payment out of surplus of a pension fund.

SECTION 86 defines "successor employer," specifies rights and obligations of a successor employer, and specifies that consent of the Superintendent is required prior to any transfer to assets to the successor employer.

SECTION 87 deems the continuation of the original pension plan where a pension plan is established by an employer to be a successor to an existing plan, specifies that consent of the Superintendent is required prior to any transfer to assets from the pension fund of the original plan to the pension fund of the new plan.

SECTION 88 specifies the power of the Superintendent to issue orders.

SECTION 89 establishes the power of the Superintendent to issue an order as a result of a report required pursuant to this legislation.

SECTION 90 specifies that the Superintendent must issue a notice of proposal to refuse to register a pension or an amendment to a pension plan or to revoke a registration and to issue certain other orders, and that such notice is subject to rights of reconsideration and appeal.

SECTION 91 specifies that the Superintendent must issue a notice of proposal when refusing to consent to a refund of contributions and when making an order requiring a plan administrator to take specific action in relation to a report in respect of the pension plan.

SECTION 92 specifies that the Superintendent may compel information from an employer, administrator or any person for the purposes of ascertaining whether or not the legislation is being complied with.

SECTION 93 specifies that neither the Superintendent nor his or staff is personally liable for acts done in good faith in the execution of this legislation.

SECTION 94 specifies that the Auditor General may examine accounts and financial transactions of the Superintendent.

SECTION 95 specifies that the Superintendent shall report annual to the Minister.

SECTION 96 specifies that the Lieutenant Governor in Council may establish or designate agency for the purposes of pension benefits under this legislation.

SECTION 97 specifies that the Superintendent may extend any prescribed time limit on reasonable grounds under this legislation.

SECTION 98 establishes authority of the Superintendent or any persons authorized Superintendent to inspect documents and to compel

information for the purposes of ascertaining whether or not the legislation is being complied with.

SECTION 99 specifies that every person who contravenes this legislation is guilty of an offence.

SECTION 100 specifies that every person or corporation who is guilty of an offence contrary to this Act or the regulations is liable to a specified fine.

SECTION 101 specifies that the Superintendent may apply to the Supreme Court for an injunction order.

SECTION 102 specifies the manner of giving, serving or delivering an order or other document pursuant to this Act.

SECTION 103 establishes that a limitation period may be prescribed on actions taken under this Act.

SECTION 104 specifies conflict rules regarding this and other legislation.

SECTION 105 specifies that the Lieutenant Governor in Council may make certain regulations under this Act.

SECTION 106 repeals the *Pension Benefits Act* S.P.E.I. 1990, Cap. 41.

SECTION 107 provides for the commencement of this Act.

BILL NO. 30

Pension Benefits Act

<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	December 1, 2010
<i>2nd Reading:</i>	
<i>To Committee:</i>	
<i>Reported:</i>	
<i>3rd Reading and Pass:</i>	
<i>Assent:</i>	

SIGNATURES:

Honourable Barbara A. Hagerman, Lieutenant Governor

Honourable Kathleen M. Casey, Speaker

Clerk

Honourable Doug W. Currie
Minister of Justice and Public Safety
and Attorney General

GOVERNMENT BILL
