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TEACHERS' PENSION PLAN RULES

Background

Pursuant to the *Pension (Teachers) Act*, R.S.B.C. 1996, c. 357 (the "former Act"), a pension plan was provided for the benefit of teachers and certain other public service employees. The Teachers' Pension Fund was continued under the former Act.

The *Public Sector Pension Plans Act*, S.B.C. 1999, c. 44 (the "Act"), which received Royal Assent on July 15, 1999, introduced certain changes to British Columbia's four statutory pension plans, including the plan provided for under the former Act. Effective April 1, 2000, the plan provided for under the former Act was continued as the Teachers' Pension Plan under Schedule D to the Act and the regulations made pursuant to subsection 16(1) of Schedule D to the Act (the *Teachers' Pension Plan Regulation*, B.C. Reg. 115/2000). Effective April 1, 2000, the Teachers' Pension Fund was continued under Schedule D to the Act.

Section 18 of Schedule D to the Act provides that the government and the British Columbia Teachers' Federation may enter into a joint management agreement for the management of the Teachers' Pension Plan and the Teachers' Pension Fund. Once such a joint management agreement is concluded and section 1 of the Act is amended pursuant to section 115 of the Act, and Part 1 of Schedule D to the Act is repealed pursuant to section 122 of the Act, the joint management agreement and the pension plan rules made under that agreement will govern the Teachers' Pension Plan and the Teachers' Pension Fund.

The government and the British Columbia Teachers' Federation entered into a joint trust agreement which was made pursuant to, and constitutes a joint management agreement for the purposes of, section 18 of Schedule D to the Act. As a result, on the date that sections 115 and 122 of the Act come into force (the "effective date"), the Teachers' Pension Plan and the Teachers' Pension Fund will be continued under the joint trust agreement.

Beginning the effective date, the pension plan rules made under Article 11 of the joint trust agreement replace the *Teachers' Pension Plan Regulation*, B.C. Reg. 115/2000. This document constitutes the pension plan rules of the Teachers' Pension Plan made under Article 11 of the joint trust agreement.

Interpretation

- 1 (1) This document constitutes the pension plan rules of the Teachers' Pension Plan which replace the *Teachers' Pension Plan Regulation*, B.C. Reg. 115/2000. These pension plan rules are referred to in this document as the "Plan".
- (2) Part 13 contains definitions of terms used in this Plan.
- (3) Pursuant to subsections 3.1(b) to (d) of the Teachers' Pension Plan Joint Trust Agreement, the Plan applies to every person who, immediately before the effective date, was an employer, eligible employee or member under the *Teachers' Pension Plan Regulation*, B.C. Regulation 115/2000, or any predecessor legislation or regulation.
- (4) In this Plan, unless the context requires otherwise:
 - (a) gender-specific terms include both genders and include corporations;
 - (b) words in the singular include the plural, and words in the plural include the singular;
 - (c) where a word or expression is defined, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
 - (d) headings are used for ease of reference only and do not form part of the Plan;
 - (e) the use of the word "may" is to be construed as permissive and empowering; and
 - (f) the use of the word "must" is to be construed as imperative.

[NOTE: Sections of this Plan that are identical or similar to, or that correspond to, the rules made for the College Pension Plan, the Municipal Pension Plan, and the Public Service Pension Plan under the Act are given identical section numbering to the rules of those other pension plans, even though this means breaking the normal sequential section numbering system of this Plan.]

PART 1 – ENROLLMENT IN THE PENSION PLAN**Employer eligibility**

- 2 This Plan applies to the following employers with respect to their eligible employees:
 - (a) a board of school trustees constituted under the *School Act*;
 - (b) a francophone education authority established under the *School Act*;
 - (c) an official trustee appointed under the *School Act*;
 - (d) any other body designated by the board or former board as an employer, on terms and conditions of eligibility specified by the board or former board.

Employee eligibility

- 3** (1) Subject to terms and conditions of eligibility specified by the board or former board, this Plan applies to the following employees:
- (a) if the employer is an employer referred to in section 2 (a), (b) or (c), all employees of that employer on and after July 1, 2005.
 - (i) [Repealed]
 - (ii) [Repealed]
 - (b) if the employer is an employer referred to in section 2 (d), an employee of that employer who is employed on a permanent basis and is designated by the respective employer for coverage under this Plan.
- (2) [Repealed]
- (3) [Repealed]
- (4) [Repealed]
- (5) [Repealed]
- (6) [Repealed]
- (7) This section does not apply to a retired member who continues to receive a pension after again becoming an employee to whom this Plan would otherwise apply.
- (8) After this Plan begins to apply to an employee, it continues to apply to that employee as an active member until termination of employment.
- (9) Despite subsection (1), this Plan does not apply to an employee of an employer who, by virtue of that employment, is making contributions to the College Pension Plan, the Municipal Pension Plan or the Public Service Pension Plan in respect of that employment.
- 4** [Section Not Used]

PART 2 – CONTRIBUTIONS TO THE PENSION PLAN**Active member contributions**

- 5** (1) From each payment of salary made during a calendar year to an active member, the employer must deduct and pay to the pension fund, as a contribution from the member,
- (a) 7.16% of the member's salary payable that does not exceed the year's maximum pensionable earnings,
 - (a.1) [Repealed]
 - (b) 8.66% of the member's salary payable that exceeds the year's maximum pensionable earnings, and
 - (b.1) [Repealed]

- (c) 2% of the member's entire salary.
- (2) Member contributions must stop on the earlier of
 - (a) the member reaching latest retirement age, in which case the member is deemed to have terminated employment for the purposes of this Plan, and
 - (b) the member accruing 35 years of pensionable service, in which case the member is deemed to continue as an active member until termination of employment.

Employer contributions

- 6 (1) For each payment of salary made during a calendar year to an active member, the employer must pay to the pension fund, as a contribution from the employer,
 - (a) 11.16% of the member's salary that does not exceed the year's maximum pensionable earnings,
 - (a.1) [Repealed]
 - (b) 12.66% of the member's salary that exceeds the year's maximum pensionable earnings, and
 - (b.1) [Repealed]
 - (c) 1.13% of the member's entire salary.
- (2) Employer contributions must stop on the member reaching latest retirement age.
- (3) Subject to subsections (4) and (5), the government may at any time pay an amount to the pension fund as a contribution in respect of one or more employers' employees and former employees who are members.
- (4) Any contribution made under subsection (3) shall, pursuant to section 8502(b)(vii) of the *Income Tax Regulations* under the *Income Tax Act* (Canada), be deemed to have been made by the employers who employ or employed the members in respect of whom the contribution was made.
- (5) The government may concurrently with the making of a contribution under subsection (3) direct to which account established under section 75 the contribution is to be credited. For the purposes of subsection 75(3)(b), any contribution made under subsection (3) directed to the inflation adjustment account shall be deemed to be an employer contribution made under section 6 (1)(c).

7 [SECTION NOT USED]

Contribution remittances

- 8 (1) In this section, "**pay period end date**" means the date on which the employer normally pays the members.
- (2) For an employer with total annual active member and employer pension contribution remittances of \$100,000 or more per year based on the last reported year, contribution remittances must be received by the pension fund within 15 calendar days after the pay period end date for each payroll.
- (3) For an employer with total annual active member and employer pension contribution remittances of less than \$100,000 per year based on the last reported

year, contribution remittances must be received by the pension fund within 30 calendar days after the pay period end for each payroll.

- (4) Interest, compounded annually, at the fund interest rates, is charged on late payments from the due date for receipt of the payment as set out in subsection (2) or (3) to the date of payment.
- (5) An employer must pay the interest charge under subsection (4) within 30 calendar days from the date of the assessment notice.
- (6) If the interest payment is not received by the pension fund within the 30 calendar days referred to in subsection (5), additional interest will be charged in accordance with subsection (4).
- (7) Late payment includes a pension contribution remittance that
 - (a) is less than that required under this Plan, or
 - (b) arises from the application of incorrect contribution rates or other miscalculations.
- (8) All contributions or amounts that are due or owing to the pension fund, regardless of source, must be kept separate and apart from the employer's own assets.

Enrollment arrears

- 9 (1) If an employer has not made deductions under section 5 (1) from the date an employee becomes eligible to contribute to the pension fund, the plan administrative agent must order the employer
 - (a) to commence making deductions immediately, and
 - (b) to pay to the pension fund, at the time and in the manner specified by the plan administrative agent,
 - (i) an amount determined in accordance with section 6 (1) but using the member's full time equivalent salary payable for the most recent month of employment
multiplied by
 - (ii) the number of months and fractions of a month of pensionable service to be credited from the employee's eligibility date to the date contributions commenced in accordance with paragraph (a),and the employer must comply with the order.
- (2) An active member who receives a notice of enrollment arrears on or after April 1, 2002 may, at the member's option, apply to the plan administrative agent to purchase those arrears but such application must be made on or before the earlier of
 - (a) 5 years from the date the arrears notice is sent to the employee, and
 - (b) the termination of employment.
- (3) An active member who received a notice of enrollment arrears before April 1, 2002 may, at the member's option, apply to the plan administrative agent to purchase those arrears but such application must be made on or before March 31, 2007.

- (4) For the purposes of subsections (2) and (3), the active member must pay to the pension fund, at the time and in the manner specified by the plan administrative agent,
 - (a) an amount determined in accordance with section 5 (1) but using the member's full time equivalent salary payable for the most recent month of employment
multiplied by
 - (b) the number of months and fractions of a month of pensionable service to be credited from the employee's eligibility date to the date contributions commenced in accordance with subsection (1) (a).
- (5) If both the employer and member make the contributions referred to in subsections (1) (b) and (4), the period of service in respect of which contributions are made is contributory and pensionable service within the meaning of this Plan.
- (6) If only the employer portion is paid under subsection (1) (b),
 - (a) all of the period of service in respect of which employer contributions have been made is contributory service, and
 - (b) 1/2 of the period of service in respect of which employer contributions have been made is pensionable service.
- (7) This section does not apply to a period of service waived by an employee.
- (8) An order to pay made under subsection (1) is due and payable by the employer immediately upon receipt in accordance with the terms of the order.
- (9) This section applies to service before January 1, 1993 if
 - (a) an employee was employed in a capacity of less than half time,
 - (b) the employee did not, in writing, waive enrollment in the Plan, and
 - (c) there is documentary evidence, acceptable to the board or former board, that the employer gave the employee incorrect information respecting the employee's eligibility to enroll under section 3.

Payroll arrears

- 10** (1) If an employer has failed at any time to make the deductions required by section 5 (1) or the contributions required by section 6 (1), or both, in respect of an active member, the plan administrative agent must order the employer to make those deductions and contributions in accordance with subsection (2) for the period during which the required deductions and contributions were not made, and the employer must comply with the order.

- (2) The amount payable under subsection (1) is
 - (a) the sum of the amounts determined in accordance with sections 5 (1) and 6 (1) but using the member's full time equivalent salary payable for the most recent month of employment
multiplied by
 - (b) the number of months and fractions of a month of pensionable service to be credited for which the failure to make deductions or contributions, or both, occurred.
- (3) Subsection (1) does not apply to enrollment arrears under section 9.
- (4) An order to pay made under subsection (1) is due and payable by the employer immediately upon receipt.

Income Tax Act (Canada) limits

- 11** (1) Contributions made under section 5 (1) must not exceed the maximums set out in section 8503 (4) of the Income Tax Regulations under the *Income Tax Act* (Canada).
- (2) Contributions made under section 5 (1) in respect of a calendar year must not be paid before January 1 of that year.
- (3) Contributions made under sections 6 (1) and 6 (3) must qualify as eligible contributions under section 147.2 (2) of the *Income Tax Act* (Canada).

PART 3 – RECOGNITION OF SERVICE

Division 1 – Contributory and Pensionable Service

Limitation on accrual of contributory and pensionable service

- 12** (1) When determining contributory service, every calendar month in respect of which the member has pensionable service must be counted as one month's contributory service.
- (2) When determining pensionable service, part time service must be adjusted to its full time equivalent.
- (3) The maximum contributory service that can be accrued in a calendar year is one year.
- (4) The maximum pensionable service that can be accrued in a calendar year is one year.
- (5) For the purposes of subsections (3) and (4), if a member receives an annual salary paid over a 10 month period, the 10 months are considered to be one year.
- (6) If a member receives salary during a school year, part of which is paid on a 10 month installment basis and part on a 12 month basis, the total salary must be adjusted to a 12 month basis.

- (7) If an active member has applied for and is entitled to receive a benefit from a group disability plan, the member
 - (a) is deemed to have made a contribution to the pension fund during each month for which the member is entitled to the benefit, and
 - (b) is not entitled to a pension, but the period of service during which the member is or would have been employed, had the member not been receiving that group disability plan benefit, is deemed to be pensionable service.
- (8) Despite subsection (7), a member who has received a lump sum payment instead of a monthly income benefit under a group disability plan is not deemed to have made any contributions to the pension fund during the period in respect of which the lump sum payment is made, nor is such period deemed to be pensionable service.

Division 2 – Child Rearing

Child rearing

- 13**
- (1) This section applies to a member who
 - (a) terminates employment on or after October 1, 1995, and
 - (b) is an active member at the time of making an election under subsection (2).
 - (2) If a member terminated employment or took an approved leave of absence for the purpose of child rearing, engaged in the child rearing and again becomes an active member, the member may elect to have a period of time equivalent to the period of time during which the member was engaged in child rearing included as contributory service.
 - (3) The child rearing period is only to be included as contributory service if
 - (a) the member did not accrue, during the time the member was engaged in child rearing, an entitlement under the Canada Pension Plan, and
 - (b) the member
 - (i) left the contributions on deposit for service preceding the child rearing period, or
 - (ii) reinstated or reinstates the full period of service preceding the child rearing period.
 - (4) There is no restriction on the number of child rearing periods that can be included as contributory service, but the total amount of contributory service recognized under this section and section 14 must not exceed 5 years.

Out of province child rearing

- 14**
- (1) This section applies to a member who
 - (a) was a contributor with respect to previous employment under any registered pension plan established in Canada for the benefit of employees as defined in section 96 (1),

- (b) terminates employment on or after July 1, 1998, and
 - (c) is an active member at the time of making an election under subsection (2).
- (2) If a member terminated the previous employment or took an approved leave of absence for the purpose of child rearing, engaged in the child rearing and becomes an active member of this Plan, the member may elect to have a period of time equivalent to the period of time during which the member was engaged in child rearing included as contributory service under this Plan.
- (3) A child rearing period is only to be included as contributory service if
- (a) the member did not accrue, during the time the member was engaged in child rearing, an entitlement under the Canada Pension Plan, and
 - (b) the member accrued an entitlement to a pension with respect to the previous employment and
 - (i) left the contributions on deposit for service preceding the child rearing period,
 - (ii) reinstated or reinstates the full period of service preceding the child rearing period, or
 - (iii) transferred the full period of service preceding the child rearing period under a portability agreement made under the authority of this Plan, in which case the member is not required to have accrued an entitlement to a pension from the previous employment.

Division 3 – Leaves of Absence

Application of this Division

- 15** This Division applies to an active member who takes a leave of absence.

Leaves of absence for pregnancy or parental reasons

- 16** (1) If an active member is or was absent from service by reason of pregnancy leave or parental leave and the period of leave of absence is approved by the employer, the active member may apply to pay to the pension fund an amount determined in accordance with section 19 (1).
- (2) If payment is made under subsection (1), the employer must pay to the pension fund an amount determined in accordance with section 19 (2).
- (3) [Repealed]
- (4) [Repealed]
- (5) [Repealed]

- 17** [SECTION NOT USED]

Leaves of absence for other reasons

- 18** If an active member is or was absent from service for a reason other than under section 16 and the period of leave of absence is approved by the employer, the active

member may apply to pay to the pension fund an amount determined in accordance with section 19 (3).

Payment and conditions for leaves of absence

- 19**
- (1) In order to purchase a period of leave of absence under section 16, the member must pay to the pension fund, at the time and in the manner specified by the plan administrative agent,
 - (a) an amount determined in accordance with section 5 (1) but using the member's full time equivalent salary payable for the most recent month of employment
multiplied by
 - (b) the number of months and fractions of a month of pensionable service to be credited for the leave period.
 - (2) If the member pays the amount required by subsection (1), the employer must pay to the pension fund, at the time and in the manner specified by the plan administrative agent,
 - (a) an amount determined in accordance with section 6 (1) but using the member's full time equivalent salary payable for the most recent month of employment
multiplied by
 - (b) the number of months and fractions of a month of pensionable service to be credited for the leave period.
 - (3) In order to purchase a period of leave of absence under section 18, the member must pay to the pension fund, at the time and in the manner specified by the plan administrative agent
 - (a) the sum of the amounts determined in accordance with sections 5 (1) and 6 (1) but using the member's full time equivalent salary payable for the most recent month of employment
multiplied by
 - (b) the number of months and fractions of a month of pensionable service to be credited for the leave period.
 - (4) If payment is made in accordance with subsections (1) and (2) or subsection (3),
 - (a) the payment is considered to be contributions made by the member under section 5 (1) and by the employer under section 6 (1), and
 - (b) the period of service to which payment relates is contributory and pensionable service.
 - (5) An application under section 16 or 18 to purchase a period of leave of absence that ends on or after April 1, 2002 must be made on or before the earlier of
 - (a) the date which is 5 years from the end of the period of leave that is being purchased, and
 - (b) the termination of employment.
 - (6) An application under section 16 or 18 to purchase a period of leave of absence that ended before April 1, 2002 must be made on or before March 31, 2007.

Division 4 – Reinstatement of Service**Application of this Division**

- 20**
- (1) If an inactive member who has not taken a commuted value or refund with respect to a period of service again becomes an active member, that period of service for which the member's previous contributions remain on account in the pension fund must be reinstated immediately upon the member again becoming an active member.
 - (2) If a former member who has taken a commuted value with respect to a period of service again becomes an active member, the period of service cannot be reinstated.
 - (3) If a former member who has taken a refund with respect to a period of service which ended on or after January 1, 1996 again becomes an active member, the period of service must not be reinstated.
 - (4) If a former member who has taken a refund with respect to a period of service which ended before January 1, 1996 again becomes an active member, that period of service may be reinstated under section 21 or 22.
 - (5) If the member to whom subsection (4) applies does not reinstate a refund under section 21 or 22, the member is deemed to be a new member from the date on which the member again becomes a contributor to the pension fund and the member has no rights or obligations with respect to the previous service.
 - (6) [Repealed]

Reinstatement at the rate of 6% or at the refund interest rates

- 21**
- (1) Subject to section 20 and subsections (3) and (4) of this section, if an active member who previously discontinued contributions
 - (a) makes application in writing to the plan administrative agent for reinstatement of a period of previous service, and
 - (b) pays to the pension fund an amount equal to any refund taken with respect to that service, together with interest, compounded annually, at the interest rates determined in accordance with subsection (2), from the date of the refund to the date of repayment,the plan administrative agent must reinstate that service.
 - (2) For the purpose of subsection (1), the interest rates are calculated as follows:
 - (a) at the rate of 6% a year for any part of the period that occurs before January 1, 1984;
 - (b) at the refund interest rates for any part of the period that occurs on or after January 1, 1984.
 - (3) This section applies only in respect of one reinstatement during the member's entire membership in the pension plan and is limited to the earliest period of time eligible to be reinstated.
 - (4) For greater certainty, if an active member has already reinstated a period of service at the rate of 6% or at the refund interest rate, no further period of service may be reinstated under this section.

- (5) A person who becomes an active member on or after April 1, 2002 may apply to reinstate a refund under this section on or before the earlier of
 - (a) the date which is 5 years from the time contributions to the plan recommenced, and
 - (b) the termination of employment.
- (6) A person who was an active member on March 31, 2002 may apply to reinstate a refund under this section on or before March 31, 2007.

Reinstatement at the fund interest rates

- 22** (1) Subject to sections 20 and 21, if an active member who previously discontinued contributions
- (a) makes application in writing to the plan administrative agent for reinstatement of a period of previous service, and
 - (b) pays to the pension fund an amount equal to any refund taken with respect to that service, together with interest, compounded annually, at the fund interest rates, from the date of the refund to the date of repayment, the plan administrative agent must reinstate that service.
- (2) A person who becomes an active member on or after April 1, 2002 may apply to reinstate a refund under this section on or before the earlier of
- (a) the date which is 5 years from the time contributions to the plan recommenced, and
 - (b) the termination of employment.
- (3) A person who was an active member on March 31, 2002 may apply to reinstate a refund under this section on or before March 31, 2007.

23 [SECTION NOT USED]

Reinstatement and transfer to another plan

24 [Repealed]

Reinstatement on transfer back from a reciprocal employer

24.1 [Repealed]

Division 5 –Other Recognition of Service**Purchase of service**

- 25** The board may grant recognition as pensionable service to all or part of the service of an active member as an employee of any employer, whether or not the employer is an employer to whom this Plan applies, but the member and the current employer must contribute to the pension fund additional sums specified by the plan administrative agent in accordance with requirements established by the board or former board.

Service recognized as contributory and pensionable service

- 26** Subject to sections 27 and 28, service of a member that was performed before January 1, 1993 is declared to be contributory and pensionable service if
- (a) the member was employed in a capacity of less than half time,
 - (b) the service was performed with an employer to whom this Plan applies, whether or not that employer is the member's current employer, and
 - (c) the service was, at the time it was performed, eligible for contributions under the Plan and the member elected in writing not to be a member under the Plan or the member did not elect to become a member of the Plan.

Conditions for recognition of contributory and pensionable service

- 27** (1) An active member who becomes an active member under this Plan on or after April 1, 2002 may apply to purchase service under section 26 on or before the earlier of
- (a) the date which is 5 years from the date the member enrolls in the Plan, and
 - (b) the termination of employment.
- (2) An active member who was an active member under this Plan on March 31, 2002 may apply to purchase service under section 26 on or before March 31, 2007.

Calculation of member and employer contributions

- 28** (1) Subject to subsections (2) and (3), in order to purchase service under section 26 the active member must pay to the pension fund, at the time and in the manner specified by the plan administrative agent, the full cost to purchase the period of non-contributory service.
- (2) The amount payable under subsection (1) is
- (a) the sum of the amounts determined in accordance with sections 5 (1) and 6 (1) but using the member's full time equivalent salary payable for the most recent month of employment
multiplied by
 - (b) the number of months and fractions of a month of pensionable service to be credited for the period of non-contributory service.
- (3) Despite subsection (1), the full cost to purchase the period of non-contributory service may be shared by the active member and the employer in such proportions as they may agree.

Transfer of service agreements

- 29** (1) The board may enter into an agreement with another pension plan, in accordance with the terms and conditions established by the board or former board, to transfer an inactive member's contributory and pensionable service to another pension plan, and to transfer an active member's contributory and pensionable service from the other pension plan to this Plan.
- (2) Locked-in pension credits must not be transferred on behalf of a member to another pension plan unless the member and the plan administrative agent of the other pension plan make written commitments that the locked-in conditions required by this Plan will continue to apply to the pension credits.

30 to 40 [SECTIONS NOT USED]

Division 6 –Limitations on Recognition of Service**Income Tax Act (Canada) limits**

- 41** (1) In this section, “**defined benefit limit**” for a calendar year means the greater of
- (a) \$1,722.22, and
 - (b) 1/9 of the money purchase limit for the year.
- (2) If the period of a leave of absence of an active member is included as contributory and pensionable service by another employer under this Plan or by another plan registered under the *Income Tax Act* (Canada), the period of the leave of absence may not be purchased under this Part.
- (3) A member cannot purchase service under this Part that would result in pensionable service in excess of
- (a) one year pensionable service in a calendar year, or
 - (b) a cumulative total of 35 years pensionable service.
- (4) Contributions must not exceed the maximums set out in section 8503 (4) of the *Income Tax Regulations* under the *Income Tax Act* (Canada).
- (5) Contributions made in respect of a calendar year must not be paid before January 1 of that year.
- (6) The maximum service that an active member may purchase for leaves of absence completed after December 31, 1991 is restricted to
- (a) 3 years of pensionable service in respect of pregnancy leave and parental leave, each leave of absence not to exceed one year from the child's birth date or adoption date, and
 - (b) 5 years of pensionable service in respect of any other recognized leaves of absence.
- (7) Service before January 1, 1990 will only be recognized if the pension benefit for the year does not exceed 2/3 of the defined benefit limit for the year in which the benefits begin to be paid.

- (8) Subsection (7) does not apply for a particular calendar year if
 - (a) a period in the particular calendar year was pensionable service under a registered pension plan before June 8, 1990,
 - (b) the member was entitled, on June 7, 1990, under an arrangement in writing, to be provided with lifetime retirement benefits in respect of a period in the particular calendar year, whether or not the entitlement was conditional on contributions being made, and
 - (c) at the beginning of the particular calendar year, a period in the preceding calendar year was pensionable service of the member and the member was disabled or on a leave of absence.
- (9) For service after December 31, 1989, only service for which the plan administrative agent has received Canada Revenue Agency certification of the past service pension adjustment is eligible for reinstatement.
- (10) Service recognized under this Part must be eligible service as defined under the *Income Tax Act* (Canada) and its regulations.

PART 4 – TERMINATION BENEFITS

Eligibility for termination benefits

- 42**
- (1) Subject to subsection (2), a member who terminates employment on or after April 1, 2000 is eligible to receive one of the following:
 - (a) a refund under section 44 if the member has completed less than 2 years of contributory service and the member's age at termination is less than pensionable age;
 - (b) a deferred pension under section 45(1) if the member has completed 2 or more years of contributory service;
 - (c) a commuted value under section 46 if the member has completed 2 or more years of contributory service and the member's age is less than earliest retirement age.
 - (2) Despite subsection (1), an inactive member is not eligible to receive a termination benefit under this Part if the member is eligible to receive an immediate retirement benefit under Part 5.
 - (2.1) Subsection 2 does not apply to an inactive member who terminates employment within the 6 month period preceding earliest retirement age and who elects the commuted value option within the guarantee period as provided for in the termination benefits statement.
 - (3) [Repealed]
 - (4) If a member is entitled to a refund or commuted value under subsection (1), the refund or commuted value will be payable six months after the member terminates employment, unless the member re-enters the service of an employer under this Plan before the refund or commuted value is paid in which case the member is not eligible to receive a termination benefit under this Part.

- (5) The payment of the refund or commuted value must not be deferred under subsection (4) if
 - (a) the member was dismissed from service by the employer, or
 - (b) the certificate of qualification of the member was withdrawn or cancelled under the *School Act*.

Termination benefits statement

- 43**
- (1) The plan administrative agent must provide the inactive member with a termination benefits statement in the manner required by the *Pension Benefits Standards Act*.
 - (2) The plan administrative agent must only make a payment, if applicable, in accordance with section 44, 45 or 46 if the member who is eligible for a termination benefit under section 42 has elected an option as provided for in the termination benefits statement and has returned the completed election to the plan administrative agent before again becoming an active member.

Calculation of refund benefit

- 44**
- (1) An inactive member eligible for a termination benefit under section 42(1)(a) will, on application, receive a payment in the amount of the member's contributions, together with interest, compounded annually, at the refund interest rates determined in accordance with subsections (2) and (4) from the member's enrollment date to the end of the month immediately before the date of calculation.
 - (2) The interest payable under subsection (1) must be calculated as if
 - (a) the contribution made during the fiscal year in which the refund is paid were due and payable in a lump sum on the first day of the month in which payment of the refund is made, and
 - (b) the contributions made during any other fiscal year were due and payable in a lump sum on December 31 in those other fiscal years.
 - (3) The contributions referred to in subsection (1) do not include the employer's contribution.
 - (4) Interest is also payable from the date of calculation to the end of the month immediately before the date of payment.

Calculation of deferred pension benefit

- 45**
- (1) A member who
 - (a) is eligible for a termination benefit under section 42 (1) (b), and
 - (b) elects to receive a deferred pension,will receive a pension under Part 5 on meeting the eligibility requirements of section 50 (a) or (b) or 51 (a), other than the requirement of active membership.

- (2) For greater certainty, an inactive member who
 - (a) terminated employment before April 1, 2000,
 - (b) was eligible to receive a deferred pension under the rules of the *Pension (Teachers) Act*, R.S.B.C. 1996, c. 357, or any predecessor to that Act, as it read at the date of termination of employment, and
 - (c) applies to receive the deferred pension,is entitled to receive that pension in accordance with the rules in force at the date of termination of employment.
- (3) Despite subsection (2), in the case of an inactive member who terminated employment before April 1, 2000 and is entitled to a reduced pension, with an effective date on or after April 1, 2000, the pension must be calculated by using the formula described in section 54, but any reduction required by the rules in force at the date of termination must be applied to each of the amounts determined under section 54 (1) and (2).

Calculation of commuted value benefit

- 46** (1) Subject to subsection (2), an inactive member who
- (a) is eligible for a termination benefit under section 42 (1) (c), and
 - (b) elects to receive a commuted value, including interest, if any, on the commuted value,
- will receive that payment calculated on the basis of the method specified by the board.
- (1.1) For greater certainty, an inactive member who
 - (a) terminated employment before April 1, 2000,
 - (b) was eligible to receive a commuted value under the rules of the *Pension (Teachers) Act*, R.S.B.C. 1996, c. 357, or any predecessor to that Act, as it read at the date of termination of employment, and
 - (c) applies to receive the commuted value,is entitled to receive that commuted value in accordance with the rules in force at the date of termination of employment.
 - (1.2) Despite subsection (1.1), if a person described in subsection (1.1) is entitled to a reduced pension with a pension effective date on or after April 1, 2000, then the commuted value, if not yet paid, must be calculated using the formula described in section 54, but any reduction required by the rules in force at the date of termination must be applied to each of the amounts determined under sections 54 (1) and (2).
- (2) If the plan administrative agent is satisfied that the commuted value must be transferred on a locked-in basis, it may be transferred to
 - (a) another registered pension plan,
 - (b) an RRSP,
 - (c) a retirement income fund, or
 - (d) an insurance company or other financial institution,in accordance with the requirements of the *Pension Benefits Standards Act* for the transfer of locked-in funds.

- (3) The locked-in requirement of subsection (2) does not apply to a member who
 - (a) has been absent from Canada for 2 or more years, and
 - (b) has become a non-resident of Canada as determined for the purpose of the *Income Tax Act* (Canada).

Retirement annuity benefit

- 47** A member who is entitled to a benefit under this Part and who has contributions in the retirement annuity account is entitled to a benefit in an amount obtained by converting to a refund or commuted value any balance in that account.

Payment instead of deferred pension or commuted value

- 48** (1) Despite sections 45 to 47, a member may elect to receive, instead of a deferred pension or a commuted value, a payment equal to the commuted value of the pension if
- (a) the pension payment is less than 1/12 of 10% of the year's maximum pensionable earnings in the year of termination of employment, or
 - (b) the commuted value is not greater than 20% of the year's maximum pensionable earnings in the year of termination of employment.
- (2) Despite any provision of this Plan respecting the payment of the commuted value, if the amount of a member's contributions plus accrued interest exceeds the commuted value, the member's contributions plus accrued interest must be paid.

Income Tax Act (Canada) limits

- 49** (1) Benefits payable under this Part for service accrued after December 31, 1991 are limited to pension benefits in accordance with the maximum lifetime retirement benefits as set out in section 8504 of the *Income Tax Regulations* under the *Income Tax Act* (Canada).
- (2) The manner in which benefits are payable under this Part for service accrued after December 31, 1991 must be in accordance with section 8517 of the *Income Tax Regulations* under the *Income Tax Act* (Canada).
- (3) Commencement of payment of benefits must not be delayed beyond latest retirement age.

PART 5 – RETIREMENT BENEFITS**Eligibility for retirement pension benefit – unreduced benefit**

- 50** An active member who, on or after April 1, 2000, terminates employment is, on application, entitled to an unreduced pension, calculated under section 54 if the member has reached
- (a) earliest retirement age and the sum of the member's age plus years of contributory service is at least 90 years,
 - (b) pensionable age and has completed at least 2 years of contributory service, or
 - (c) normal retirement age while an active member and has not completed 2 years of contributory service.

Eligibility for retirement pension benefit – reduced benefit

- 51** An active member who, on or after April 1, 2000, terminates employment is, on application, entitled to a reduced pension
- (a) calculated under section 55 (1) if the member has reached earliest retirement age and has completed at least 2 years of contributory service, or
 - (b) calculated under section 55 (2) if the member has reached pensionable age while an active member and has not completed 2 years of contributory service.

Retirement benefits statement

- 52**
- (1) The plan administrative agent must provide to the member a retirement benefits statement in the manner required by the *Pension Benefits Standards Act*.
 - (2) If a member who is eligible for a retirement benefit under section 50 or 51 elects an option as provided for in the retirement benefits statement and returns the completed election to the plan administrative agent, the plan administrative agent must make the payment in accordance with this Part.

Effective date of retirement benefit

- 53**
- (1) A pension will be granted on
 - (a) the first day of the month following the month for which final payment of salary is made,
 - (b) the first day of the month in which the application for a pension is filed with the plan administrative agent but, if the application is made in the month of August or September and the member has not been engaged as an employee during either month, the pension must be granted on the first day of July immediately before the date of application, or
 - (c) the first day of the month following the month in which the member first becomes eligible to receive a pension,whichever is later.
 - (2) Despite subsection (1) (b), if a member fails to apply for a pension on or before the eligibility date for a pension and, in the opinion of the plan administrative agent, the failure to apply is due to
 - (a) the member being incapable of managing the member's affairs, or
 - (b) a good and sufficient reason why the member failed to apply for a pension,the plan administrative agent may grant a pension effective the date the member would have, but for the failure to apply, begun receiving the pension.
 - (3) Commencement of the payment of benefits must not be delayed beyond latest retirement age.

Calculation of unreduced retirement benefits

- 54** (1) A member referred to in section 50 is entitled to receive an unreduced pension, calculated on the basis of the single life option under section 56 (1) (a), that is the sum of
- (a) 2% of the member's highest average salary multiplied by the number of years of pensionable service accrued before January 1, 1966,
 - (b) 1.3% of the lesser of
 - (i) the member's highest average salary, and
 - (ii) 1/12 of the year's maximum pensionable earnings for the calendar year immediately before the calendar year of the effective date of the pension,multiplied by the number of years of pensionable service accrued on and after January 1, 1966 not exceeding 35 years, and
 - (c) 2% of the excess of the member's highest average salary over the amount determined under paragraph (b) (ii), multiplied by the number of years of pensionable service accrued on and after January 1, 1966 not exceeding 35 years.
- (2) In addition to the pension benefit payable under subsection (1), a member is entitled to a pension, payable until the earlier of the death of the member or the member reaching age 65, that is
- (a) 0.7% of the lesser of
 - (i) the member's highest average salary, and
 - (ii) 1/12 of the year's maximum pensionable earnings for the calendar year immediately before the calendar year of the effective date of the pension,multiplied by
 - (b) the number of years of pensionable service on and after January 1, 1966 not exceeding 35 years.
- (3) A member who is entitled to a benefit under this section and who has contributions in the retirement annuity account is entitled to
- (a) a benefit in an amount obtained by converting to a monthly pension any balance in that account, or
 - (b) a refund of any balance in that account.

Calculation of reduced retirement benefits

- 55** (1) A member referred to in section 51 (a) is entitled to receive a reduced pension that is the sum of
- (a) the amounts determined under section 54 (1) (a) to (c), each reduced by 3% for each year of age by which
 - (i) the member's age is less than pensionable age, or
 - (ii) the sum of the member's age plus years of contributory service is less than 90 years,whichever is less, and the percentage must be prorated for fractions of years, and

- (b) the amount determined under section 54 (2), reduced by 3% for each year of age by which
 - (i) the member's age is less than pensionable age, or
 - (ii) the sum of the member's age plus years of contributory service is less than 90 years,
 whichever is less, and the percentage must be prorated for fractions of years,

reduced, on the earlier of the death of the member or the member reaching age 65, by the amount determined under paragraph (b) of this subsection.
- (2) A member referred to in section 51 (b) is entitled to receive a reduced pension that is the sum of
 - (a) the amounts determined under section 54 (1) (a) to (c), each reduced by 5% for each year of age by which the member's age is less than normal retirement age, and the percentage must be prorated for fractions of years, and
 - (b) the amount determined under section 54 (2), reduced by 5% for each year of age by which the member's age is less than normal retirement age, and the percentage must be prorated for fractions of years,

reduced, on the earlier of the death of the member or the member reaching age 65, by the amount determined under paragraph (b) of this subsection.
- (3) Despite subsection (1), if the member terminates employment on or after April 1, 2000 and, while an active member,
 - (a) has not reached earliest retirement age,
 - (b) has not completed at least 10 years of pensionable service, or
 - (c) has not completed at least 10 months of pensionable service or 20 months of contributory service in the 24 calendar months immediately preceding termination of employment,

the 3% referred to in subsection (1) is deemed to be 5%.
- (4) A member who is entitled to a benefit under this section and who has contributions in the retirement annuity account is entitled to
 - (a) a benefit in an amount obtained by converting to a monthly pension any balance in that account, or
 - (b) a refund of any balance in that account.

Options and conditions at retirement

- 56** (1) A pension to which a member is entitled under section 50 or 51 may be granted on any of the following options:
- (a) single life with no guaranteed period, payable for the life of the member;
 - (b) single life guaranteed, payable for the longer of
 - (i) the life of the member, or
 - (ii) a term certain of 5, 10 or 15 years;

- (c) joint life and last survivor, payable
 - (i) during the joint life of the member and
 - (A) the spouse, or
 - (B) a former spouse who, as a result of a written agreement or court order, has such an entitlement, and
 - (ii) during the life of the survivor;
 - (d) temporary life annuity at a rate equal to the amount of the maximum pension payable under the *Old Age Security Act* (Canada), payments to cease when the member dies or reaches age 65, whichever first occurs;
 - (i) [Repealed]
 - (ii) [Repealed]
 - (e) a combination of options under paragraphs (a), (b), (c) and (d) as the member, with the approval of the plan administrative agent, may request.
- (2) The options referred to in subsection (1) must be adjusted to the actuarial equivalent of the pension otherwise payable under this Part on the single life option with no guaranteed period.
- (2.1) A temporary life annuity under subsection (1) (d) may only be granted in combination with an option under subsection (1) (a), (b), (c) or (e).
- (3) If a member has a spouse on the date the member elects an option under subsection (1), the member is required to elect that 60% of the member's pension, in relation to subsection (1) (a) to (c), be paid on the joint life and last survivor option under subsection (1) (c) unless the spouse waives this requirement in writing by completion of a form specified by the plan administrative agent or there is filed with the plan administrative agent a written agreement or court order made under Part 5 or 6 of the *Family Relations Act* with the same effect.
- (4) If a pension does not include an amount payable under subsection (1) (a) and payment of the pension ceases, the last survivor, or the last survivor's personal representative, must be paid any amount by which the refund value of the member contributions exceeds the total of the pension payments made under this Plan.
- (5) If the pension granted to a member includes the single life guaranteed option under subsection (1) (b), the plan administrative agent, on application by the member, may make provision that, if the member dies before the expiration of the term certain, payment of the pension during the remainder of the term must be made to the beneficiary of the member.
- (6) A member who has made application under subsection (5) may, by notice in writing to the plan administrative agent and on fulfilling further conditions the plan administrative agent specifies, change the member's beneficiary.

- (7) If provision is made under subsection (5) and the beneficiary survives the member, the pension does not for any purpose form part of the estate of the member but, if both the member and the beneficiary die before the expiration of the guaranteed period, the commuted value of the remaining payments must be paid to the estate of the last survivor.
- (8) Within 60 days after the date on the letter notifying a member that a pension is granted, the member may change the pension option by notice in writing filed with the plan administrative agent.
- (9) A member may elect to receive, instead of a pension, a payment equal to the commuted value of the pension if
 - (a) the pension payment is less than 1/12 of 10% of the year's maximum pensionable earnings in the year of termination of employment, or
 - (b) the commuted value is not greater than 20% of the year's maximum pensionable earnings in the year of termination of employment.
- (10) A member who reaches pensionable age and who is receiving a disability pension benefit under Part 6 is not entitled to benefits under this Part.

Special retirement incentive plan

- 57**
- (1) The employer may, by resolution, request that the plan administrative agent waive or alter the combined age plus years of contributory service or the percentage reduction, or both, provided for in sections 50 and 55, and the plan administrative agent, with the approval of the board or former board and subject to subsection (2), may make the waiver or alteration.
 - (2) The plan administrative agent must, on request for a waiver or alteration under subsection (1), determine all of the following:
 - (a) the additional cost to the pension fund that results from the payment of a pension to a member by the application of subsection (1);
 - (b) the amount and the time at which additional payments must be made to the pension fund by the employer;
 - (c) the class of members to whom subsection (1) applies;
 - (d) the period of time during which subsection (1) applies;
 - (e) the conditions under which the combined age plus years of contributory service or percentage reduction, or both, is waived or altered.
 - (3) Benefits payable under this Part are subject to the restrictions on early retirement provisions set out in section 8503 (3) of the Income Tax Regulations under the *Income Tax Act* (Canada).

58 [SECTION NOT USED]

Income Tax Act (Canada) limits

- 59** Pension benefits payable under this Part for service accrued after December 31, 1991 are limited to the maximum lifetime retirement benefits set out in section 8504 of the Income Tax Regulations under the *Income Tax Act* (Canada).

PART 6 – DISABILITY BENEFITS**Eligibility for disability benefits**

- 60** (1) In this Part, “**totally and permanently disabled**” means, in relation to a member, to be suffering from a mental or physical condition that
- (a) prevents the member from engaging in any employment for which the member is reasonably suited by virtue of the member’s education, training or experience, and
 - (b) can reasonably be expected to last for the remainder of the member’s lifetime.
- (2) A member is eligible to receive a disability pension determined in accordance with section 63 if the member
- (a) has terminated employment,
 - (b) has completed at least 2 years of contributory service,
 - (c) is, on or after July 15, 1999, totally and permanently disabled before reaching pensionable age, and
 - (d) is not eligible to receive a monthly income benefit under a group disability plan.
- (2.1) Despite subsection (2), a member who has received a lump sum payment instead of a monthly income benefit under a group disability plan is not eligible to receive a disability pension under this Part.
- (3) The pension that a member becomes eligible for under subsection (2) is only to be granted
- (a) on application by the member within 2 years after the date of the last contribution, or deemed contribution, made to the pension fund, and
 - (b) with the approval of the plan administrative agent.
- (4) A member is not totally and permanently disabled unless, within 2 years after the date of the last contribution, or deemed contribution, made to the pension fund,
- (a) the member has been examined at the direction of the plan administrative agent by at least 2 medical doctors,
 - (b) the medical doctors determine that the disability arises from the mental or physical condition of the member, and
 - (c) at least 2 medical doctors certify in writing that, to the best of their knowledge, the member is totally and permanently disabled.
- (5) For each member receiving a disability pension, the plan administrative agent must arrange a medical examination of the member, not more often than once in each year, until the member reaches pensionable age.
- (6) If the medical examination required by subsection (5) shows that the member is no longer totally and permanently disabled, the disability pension benefit must, immediately after that medical examination, be discontinued as follows:

- (a) if the member does not re-enter service and resume contributions, the member is entitled to apply for a benefit under Part 4 or 5 when the member qualifies for a benefit;
- (b) if the member re-enters service and resumes contributions, any later calculation or determination with respect to that member must be made as if the pension had not been paid during the disability.

Disability benefits statement

- 61**
- (1) The plan administrative agent must provide to the member a disability benefits statement upon request.
 - (2) If a member who is eligible for a disability benefit under section 60 elects an option provided for in the disability benefits statement and returns the completed election to the plan administrative agent, the plan administrative agent must make the payment in accordance with this Part.

Effective date of disability benefits

- 62**
- (1) A disability pension benefit will be granted on
 - (a) the first day of the month following the month for which final payment of salary was made, or
 - (b) the first day of the month in which the application for a disability pension is filed with the plan administrative agent, whichever is later.
 - (2) Despite subsection (1) (b), if a member fails to apply for a pension on or before the eligibility date for receiving a pension and, in the opinion of the plan administrative agent, the failure to apply is due to
 - (a) the member being incapable of managing the member's affairs, or
 - (b) another good and sufficient reason why the member failed to apply for a disability pension,the plan administrative agent may grant a pension effective the date the member would have, but for the failure to apply, begun receiving the pension.

Calculation of disability benefits

- 63**
- (1) A member who is eligible for a disability pension under section 60 and who terminated employment on or after July 1, 1994 is entitled to receive a pension calculated on the basis set out in section 54 (1).
 - (2) A member who is entitled to a benefit under this Part and who has contributions in the retirement annuity account is entitled to a benefit in an amount obtained by
 - (a) converting to a monthly pension any balance in that account, or
 - (b) adding to a refund or commuted value any balance in that account.

Options and conditions at retirement

- 64**
- (1) The pension that a member is entitled to receive under this Part is granted on the same options and conditions as set out in section 56.

- (2) A member who is receiving a disability pension benefit under this Part and who reaches pensionable age will continue to receive that benefit, whether or not the member remains totally and permanently disabled, unless the member returns to work.

Income Tax Act (Canada) limits

- 65** (1) Benefits payable under this Part are limited to the maximums set out in section 8503 (3) of the Income Tax Regulations under the *Income Tax Act* (Canada).
- (2) Pension benefits payable for service accrued after December 31, 1991 are limited to the maximum lifetime retirement benefits set out in section 8504 of the Income Tax Regulations under the *Income Tax Act* (Canada).

PART 7 – PRE-RETIREMENT DEATH BENEFITS**Eligibility for pre-retirement death benefits**

- 66** This Part applies to a member who dies on or after December 1, 1999 but before being granted a benefit under Part 4 or 5.

Death benefits statement

- 67** (1) The plan administrative agent must provide to the member's beneficiary a pre-retirement death benefits statement in the manner required by the *Pension Benefits Standards Act*.
- (2) If the member's beneficiary is eligible for a death benefit under this Part and applies to the plan administrative agent for that benefit, the plan administrative agent must pay the benefit in accordance with this Part.

Effective date of pre-retirement death benefit

- 68** If payable, a pension determined in accordance with section 69 will be granted on the first day of the month following the member's date of death.

Calculation of pre-retirement death benefit

- 69** (1) If a member who dies has completed less than 2 years of contributory service and is not entitled at the date of death to an immediate pension in accordance with section 50 or 51, a refund calculated in accordance with section 44 is payable to the beneficiary described in section 81.
- (2) If a member who dies has completed 2 or more years of contributory service and is not entitled at the date of death to an immediate pension in accordance with section 50 or 51 and there is no surviving spouse or a valid spousal waiver has been filed with the plan administrative agent, a benefit equal to the greater of
 - (a) the refund calculated in accordance with section 44, and
 - (b) the commuted value calculated in accordance with section 46,which the member would have been entitled to in respect of the member's pensionable service had the member terminated employment immediately before death, is payable to the beneficiary described in section 81 (b) or (c).

- (2.1) If a member who dies has completed 2 or more years of contributory service and is not entitled at the date of death to an immediate pension in accordance with section 50 or 51, and there is a surviving spouse and a valid spousal waiver has not been filed with the plan administrative agent, the spouse may elect to receive either
- (a) the greater of
 - (i) a refund calculated in accordance with section 44, and
 - (ii) the commuted value calculated in accordance with section 46 which the member would have been entitled to in respect of the member's pensionable service had the member terminated employment immediately before death, or
 - (b) an immediate pension which is actuarially equivalent to the amount calculated under paragraph (a) (ii), and payable as if the member had chosen the joint life and last survivor option under section 56 (1) (c).
- (3) If a member who dies is entitled at the member's date of death to an immediate pension in accordance with section 50 or 51 and there is a surviving spouse and a valid spousal waiver has not been filed with the plan administrative agent, a pension, calculated in accordance with section 54 (1), or section 54 (1) as reduced by section 55, as though the member had terminated employment at the date of death and had chosen the joint life and last survivor option under section 56 (1) (c), is payable to the spouse of the member.
- (4) If a member who dies is entitled at the member's date of death to an immediate pension in accordance with section 50 or 51, and there is no surviving spouse or a valid spousal waiver has been filed with the plan administrative agent, a benefit equal to the greater of
- (a) the refund calculated in accordance with section 44, and
 - (b) the commuted value calculated in accordance with section 46, which the member would have been entitled to in respect of the member's pensionable service had the member terminated employment immediately before death, is payable to the beneficiary described in section 81 (b) or (c).
- (5) A surviving spouse may elect to receive, instead of a pension calculated under subsection (3), a payment equal to the commuted value of the pension if
- (a) the pension payment is less than 1/12 of 10% of the year's maximum pensionable earnings in the year of termination of employment, or
 - (b) the commuted value is not greater than 20% of the year's maximum pensionable earnings in the year of termination of employment.

- (6) If the plan administrative agent is satisfied that the commuted value must be transferred on a locked-in basis, it may be transferred to
- (a) another registered pension plan,
 - (b) an RRSP,
 - (c) a retirement income fund, or
 - (d) an insurance company or other financial institution,
- in accordance with the requirements of the *Pension Benefits Standards Act* for the transfer of locked-in funds.
- (7) The locked-in requirement of subsection (6) does not apply to a surviving spouse or former spouse who
- (a) has been absent from Canada for 2 or more years, and
 - (b) has become a non-resident of Canada as determined for the purpose of the *Income Tax Act* (Canada).
- (8) The beneficiary of a member who has contributions in the retirement annuity account is entitled to a benefit in an amount obtained by
- (a) converting to a monthly pension any balance in that account, or
 - (b) adding to a refund or commuted value any balance in that account.
- (9) Despite any other provision of this Part, if a member who terminated employment before January 1, 1996 dies on or after April 1, 2000, and
- (a) was not entitled to a deferred or immediate pension or a commuted value at the time of termination of employment, then the entitlement to a pre-retirement death benefit is the benefit described in subsection (1),
 - (b) was entitled to a deferred pension at the time of termination of employment and was not entitled to an immediate pension at the time of death, then the entitlement to a pre-retirement death benefit is
 - (i) the benefit described in subsection (2) if there is no surviving spouse or a valid spousal waiver has been filed with the plan administrative agent, or
 - (ii) the benefit described in subsection (2.1) if there is a surviving spouse and a valid spousal waiver has not been filed with the plan administrative agent, or
 - (c) was entitled to an immediate pension at the time of termination of employment or was entitled to a deferred pension at the time of termination of employment and to an immediate pension at the time of death, then the entitlement to a pre-retirement death benefit is
 - (i) the benefit described in subsection (3) if there is a surviving spouse and a valid spousal waiver has not been filed with the plan administrative agent, or
 - (ii) the benefit described in subsection (4) if there is no surviving spouse or a valid spousal waiver has been filed with the plan administrative agent.

Options and conditions of pension benefits

- 70** (1) Despite any other provision of this Part, if a member is separated or divorced and, as a result of a written agreement or court order made under Part 5 or 6 of the *Family Relations Act*, the former spouse is entitled to a portion of the benefit payable under section 69 on the death of the member, the former spouse is entitled to that portion whether or not the member has nominated the former spouse or any other beneficiary.
- (2) Despite subsection (1), if the plan administrative agent has paid a benefit under section 69 on the death of a member before receiving notice of an agreement or court order, the plan administrative agent is not liable to make any payment to the former spouse except in accordance with section 77.
- (3) Despite any other provision of this Part, the remainder of the benefit over the amount of the court order or separation agreement must be paid to the beneficiary described in section 81 as the benefit would have been paid under section 69 had there been no court order or separation agreement.

Income Tax Act (Canada) limits

- 71** Benefits payable under this Part are limited to the maximums set out in section 8503 (2) of the Income Tax Regulations under the *Income Tax Act* (Canada).

PART 8 – RETIRED MEMBER BENEFITS**Payment of the pension**

- 72** The pensions paid under Parts 5, 6 and 7 must be paid monthly from the pension fund, including a full payment for the month in which the member dies or payment of the pension ends.

Cost of living benefits

- 73** (1) Cost of living benefits to members who receive a pension under this Plan are funded from the inflation adjustment account.
- (2) On January 1 of each year, the plan administrative agent must grant cost of living benefits to members in accordance with this section, but if, on the day a cost of living benefit is granted, the pension has been paid for a period of less than 12 months, the cost of living benefit must be reduced to the amount obtained by multiplying it by 1/12 for each complete month during which the pension was paid.
- (3) The portion of the pension eligible for adjustment is the total amount of the pension, including any previous cost of living benefits, less
- (a) any pension provided under sections 54 (3), 55 (4), 63 (2) and 69 (8).
 - (b) [Repealed]

- (4) The amount of a cost of living benefit granted on any January 1 must not exceed the amount obtained by multiplying
 - (a) the percentage increase in the consumer price index over the 12 months ending on the immediately preceding September 30by
 - (b) the portion of the pension eligible for adjustment on that January 1.
- (5) Subject to subsection (4), the cost of living benefit must be
 - (a) an amount, in total, that has a capitalized value less than or equal to the amount in the inflation adjustment account on the preceding September 30, and
 - (b) calculated to provide a uniform percentage increase in the portion of the pension eligible for adjustment.
- (6) The total capitalized value of all cost of living benefits granted on any January 1 under this section must not exceed the amount the plan administrative agent determines is in the inflation adjustment account on the preceding September 30.
- (7) The capitalized value of the aggregate of the cost of living benefits granted annually under this section must be transferred from the inflation adjustment account to the basic account.
- (8) A cost of living benefit ends when the part of the pension on which the cost of living benefit is based ends.

Public sector remuneration after retirement

- 74** (1) If a retired member becomes an employee to whom this Plan applies, the retired member may elect to do one of the following:
- (a) repay to the pension fund all amounts received, together with interest, compounded annually, at the refund interest rates from the date of the pension payment to the date of reinstatement determined in accordance with subsection (2), and be reinstated in the pension fund with the member's rights under the pension fund reinstated as nearly as possible to the position held at the time the pension was originally granted, in which case the payment of the pension must cease and the member will again become an active member and must begin making contributions and accruing service in respect of that re-employment;
 - (b) become an active member and begin making contributions and accruing service in respect of the re-employment without repayment of amounts received by way of a pension or repayment of interest, in which case the payment of the pension must cease;
 - (c) remain a retired member and continue to receive a pension, in which case the member is not eligible to make contributions and accrue service in respect of the re-employment.

- (2) The interest payable under subsection (1) must be calculated as if
 - (a) the pension payments made during the fiscal year in which the reinstatement occurs were due and payable in a lump sum on the first day of the month following the month in which the return to employment occurred, and
 - (b) the pension payments made during any other fiscal years were due and payable in a lump sum on December 31 in those other fiscal years.
- (3) If the payment of a pension ceases under subsection (1) (a), the pension payable to the member on termination of the period of re-employment must be calculated in accordance with section 54 or 55.
- (4) If the payment of a pension ceases under subsection (1) (b), the pension payable to the member on termination of the period of re-employment must be determined as the sum of the pension accrued during the period of that re-employment plus the pension that has ceased, recalculated in accordance with section 54 or 55, but the assumed age of retirement for the purposes of the calculation is the member's age when the new pension commences minus a period equivalent to the period for which the member received the pension that has ceased.
- (5) If the payment of a pension ceases under subsection (1) (a) or (b), it must cease at the end of the month in which contributions begin.
- (6) The provisions of this section apply on or after January 1, 1993 to a member who
 - (a) is or was receiving a pension under this Plan, and
 - (b) is currently an employee to whom this Plan applies.
- (7) An election made by a member under subsection (1) is irrevocable.
- (8) This section does not apply to a person who is receiving a pension as a beneficiary.

PART 9 – PENSION FUND

Accounts in the pension fund

- 75**
- (1) The pension fund is divided into the following 4 accounts:
 - (a) the basic account;
 - (b) the inflation adjustment account;
 - (c) the supplemental benefits account;
 - (d) the retirement annuity account.
 - (2) The basic account consists of all the assets of the pension fund other than assets in the inflation adjustment account, the supplemental benefits account and the retirement annuity account.

- (3) The inflation adjustment account consists of
- (a) the active member's contributions made under section 5 (1) (c),
 - (b) the employer's contributions made under section 6 (1) (c) less amounts allocated for the payment of group benefit entitlements under the Teachers' Pension Plan Post-retirement Group Benefit Rules,
 - (c) net investment income earned on the account, and
 - (d) income, as specified by the plan administrative agent, that
 - (i) is earned on other pension fund assets held in the basic account in respect of pensions being paid, and
 - (ii) is in excess of the investment rate of return assumed by the actuary in the most recent actuarial valuation of this Plan,
- less
- (e) amounts transferred to the basic account under sections 73 and 88,
 - (f) amounts refunded to a former member in respect of contributions made under section 5 (1) (c) or transferred out of the pension fund in respect of member contributions made under section 5 (1) (c), employer contributions made under section 6 (1) (c) or transfers under section 29,
 - (g) amounts determined by the plan administrative agent in respect of the portion of the commuted value or transfer of the actuarial reserve value that is attributable to the cost of living adjustment that is transferred out of the pension fund in accordance with section 29, 46 or 69 (2) (b) or (4) (b), and
 - (h) amounts transferred to the basic account that are equal to the capitalized value of the increase in a member's pension resulting from any increase in the member's highest average salary under section 100, and
 - (i) amounts contributed to the supplemental benefits account under subsection (4) (d) of this section.
- (4) The supplemental benefits account consists of
- (a) contributions to the pension fund provided for in section 86 and the Teachers' Pension Plan Post-retirement Group Benefit Rules,
 - (b) amounts from contributions under section 6 (1) (a) and (b) specified by the plan administrative agent as necessary to cover any annual shortfall between current assets in the account and the cost of providing benefits under section 87 and the cost of providing cost of living benefits under section 88,
 - (c) amounts otherwise contributed under section 6 (1) (a) and (b) which are specified by the plan administrative agent to be required to pay for the cost of administering the account, including the costs to administer any benefits under Part 11 and the Teachers' Pension Plan Post-retirement Group Benefit Rules, and
 - (d) other amounts that may be specified by the board or former board,

less

- (e) amounts paid in respect of benefits under section 87,
 - (f) amounts paid in respect of cost of living benefits under section 88,
 - (g) amounts paid in respect of group benefits under the Teachers' Pension Plan Post-retirement Group Benefit Rules, and
 - (h) amounts determined by the plan administrative agent as the cost of administering the account, including the costs to administer any benefits under Part 11 and the Teachers' Pension Plan Post-retirement Group Benefit Rules.
- (5) The retirement annuity account consists of
- (a) voluntary contributions in excess of those required made by the employee to a retirement annuity under the *Teachers' Pensions Act*, R.S.B.C. 1960,
 - (b) voluntary contributions made by the employee under section 6 (2) of the *Pension (Teachers) Act*, R.S.B.C. 1979, c. 320, as it read on December 31, 1992,
 - (c) voluntary contributions made by the employee to the retirement annuity account, before July 1, 1971 under the *Pension (Teachers) Act*, R.S.B.C. 1996, c. 357, and
 - (d) net investment income earned on the account.
- (6) The plan administrative agent must keep an account of
- (a) all contributions and money received and all money paid out, and
 - (b) all the assets and liabilities of the pension fund.
- (7) Subject to section 61.1 (2) of the *Pension Benefits Standards Act*, the plan administrative agent may return to a member or employer, or to the supplemental benefits account, any contributions that are inadvertently made to the basic account which are in excess of the maximum contributions set out in the *Income Tax Act* (Canada).

PART 10 – GENERAL ADMINISTRATIVE REQUIREMENTS

Assignment

- 76** A pension or refund, including a commuted value, of any amount in the pension fund to the credit of a member may not be assigned, charged, attached, anticipated, surrendered or given as security, and any transaction purporting to assign, charge, attach, anticipate, surrender or give as security a pension or refund, including a commuted value, is void.

Separation agreements and court orders

- 77 (1) If a member is separated or divorced and there is a written agreement or court order made under Part 5 or 6 of the *Family Relations Act* under which the spouse is entitled to, or relinquishes entitlement to, the benefits under this Plan or has that entitlement cancelled, a copy of that written agreement or court order must be filed with the plan administrative agent before the earlier of
- (a) the death of the member, and
 - (b) the date the member begins receiving a benefit.
- (2) If the written agreement or court order is not filed within the time required by subsection (1), the plan administrative agent must not make any adjustment in the payment of a pension
- (a) other than a pension granted under Part 7, or
 - (b) except as required by the *Family Relations Act*.
- (3) If an adjustment is made under subsection (2), the adjustment applies only to payments made after the written agreement or court order is filed.

Proof

- 78 (1) When required by the plan administrative agent, a member or other person claiming a benefit must submit
- (a) proof respecting
 - (i) age,
 - (ii) identity,
 - (iii) marital status,
 - (iv) employment,
 - (v) termination of employment, or
 - (vi) spouse, or
 - (b) any proof necessary for the determination of entitlement to a benefit.
- (2) The plan administrative agent may defer the granting of a benefit until proof satisfactory to the plan administrative agent has been submitted.
- (3) The plan administrative agent may require the person to provide evidence to establish the claim, including evidence by way of affidavit or declaration or by certified copy of a certificate or other required document.

Address of members or persons claiming an interest

- 79 A member or person with an interest or entitlement must
- (a) keep the plan administrative agent informed of his or her current address, and
 - (b) in the case of a retired member, report in person or by certificate, using the form specified by the plan administrative agent, as the plan administrative agent may require.

Employer's duties and rights

- 80** (1) An employer must do all of the following:
- (a) provide to the plan administrative agent, in the manner and within the time limits specified by the plan administrative agent, complete, accurate and sufficient personal information and records respecting any member as may be necessary for the administration of this Plan;
 - (b) collect and remit to the plan administrative agent all required member and employer contributions in accordance with Part 2;
 - (c) provide each member with the information supplied by the plan administrative agent as required by the *Pension Benefits Standards Act*, and provide any other information and records in the manner, and within the time limits, established by the plan administrative agent;
 - (d) obtain and retain a form of waiver from any employee who elects in writing not to be covered as a member under this Plan.
- (2) An employer must reimburse the plan administrative agent, on demand, for the full amount of any costs, charges, expenses or penalties imposed on, and paid by, the plan administrative agent on behalf of the employer arising out of
- (a) the employer's failure to report information in the form or within the deadlines specified by the plan administrative agent, or
 - (b) the employer's submission to the plan administrative agent of incomplete, inaccurate or insufficient data for the purposes of calculating the pension adjustment.
- (3) Nothing in this Plan impairs or affects the rights of an employer to remove or dismiss a person from service.

Beneficiary designation

- 81** For the purposes of this Plan, a beneficiary of a member is one of the following:
- (a) the member's spouse if there is a spouse and a valid spousal waiver has not been filed with the plan administrative agent;
 - (b) the person nominated by the member as beneficiary if there is no spouse or a valid spousal waiver has been filed with the plan administrative agent;
 - (c) the personal representative of the estate of the member in a representative capacity if there is no spouse or a valid spousal waiver has been filed with the plan administrative agent and there is no valid designation of a beneficiary.

Benefit payable to a minor

- 82** If, on the death of a member, a benefit becomes payable to a minor, the benefit must be paid to the Public Guardian and Trustee, in trust for the minor, for payment to the minor on reaching the age of 19 years.

Creditor's claim respecting a benefit

- 83** (1) If, on the death of a member, a benefit becomes payable to
- (a) the spouse of the member if there is a spouse and a valid spousal waiver has not been filed with the plan administrative agent, or
 - (b) the person nominated by the member as beneficiary if there is no spouse or a valid spousal waiver has been filed with the plan administrative agent, the amount
 - (c) is not subject to the control of the creditors of the deceased member, and
 - (d) does not form part of the member's estate.
- (2) If, on the death of a member, a refund, including a commuted value, becomes payable to the estate or to the personal representative of the member, the refund, including a commuted value, forms part of the member's estate and is subject to the control of the creditors.

84 [SECTION NOT USED]

Benefits under a group disability plan

- 85** (1) A member who receives a monthly income benefit under a group disability plan for a particular period of time is not entitled to a benefit under this Plan for that same period of time.
- (2) If a benefit was paid under this Plan for a period of time during which the member received a monthly income benefit under a group disability plan, the benefit paid under this Plan must be repaid to the Plan by the member as an amount due and owing by the member to the Plan.

PART 11 – SUPPLEMENTAL BENEFITS**Supplemental benefit contributions**

- 86** (1) If an active member contribution required under section 5 (1) is limited by section 11 (1), the difference between what would have been contributed and what is actually contributed under Part 2 must be contributed under this Part.
- (2) If an employer contribution required under section 6 (1) is limited by section 11 (3), the difference between what would have been contributed and what is actually contributed under Part 2 must be contributed under this Part.
- (3) If a member contribution required for a benefit under Part 3 is limited by section 41 (4) or (7) to (10), the difference between what otherwise would have been contributed and what was actually contributed under Part 2 may, with the approval of the board or former board, be contributed under this Part.
- (4) If an employer contribution required for a benefit under Part 3 is limited by section 41 (4) or (7) to (10), the difference between what otherwise would have been contributed and what was actually contributed under Part 2 may, with the approval of the board or former board, be contributed under this Part.
- (5) The contributions required by this section must be made to the supplemental benefits account.

Supplemental benefits

- 87**
- (1) If a benefit resulting from recognition of service that would be provided under Part 3 is limited by section 41 (7) to (10), the difference between what would have been provided and what is actually provided under Part 3 must, with the approval of the board or former board, be provided under this Part.
 - (2) If a benefit that would be provided under Part 4 is limited by section 49 (1), the difference between what would have been provided and what is actually provided under Part 4 must, with the approval of the board or former board, be provided under this Part.
 - (3) If a benefit that would be provided under Part 5 is limited by section 59, the difference between what would have been provided and what is actually provided under Part 5 must, with the approval of the board or former board, be provided under this Part.
 - (4) If a benefit that would be provided under Part 6 is limited by section 65, the difference between what would have been provided and what is actually provided under Part 6 must, with the approval of the board or former board, be provided under this Part.
 - (5) If a benefit that would be provided under Part 7 is limited by section 71, the difference between what would have been provided and what is actually provided under Part 7 must, with the approval of the board or former board, be provided under this Part.

Supplemental cost of living benefits

- 88**
- (1) If a member receives or is entitled to receive a cost of living benefit under section 73, the member must receive or is entitled to receive an additional cost of living benefit with respect to the amount of a supplemental benefit payable under section 87.
 - (2) The additional cost of living benefit provided under this section must
 - (a) be calculated using the same percentage increase as the increase provided with respect to a pension, and
 - (b) be provided in the same manner as a cost of living benefit provided with respect to a pension.

Payment of supplemental benefits

- 89**
- If a benefit is payable under this Part, the benefit is payable on the same terms and conditions as the original benefit payable under Parts 4 to 7 unless
- (a) the benefit was to be in the form of a commuted value transfer to a locked-in RRSP, in which case the payment of the commuted value amount under this Part must be made directly to the individual,
 - (b) the person has elected different options for the payment of benefits under Parts 4 to 7 and benefits under this Part, or
 - (c) different treatment is required under the *Income Tax Act* (Canada) or some other authority.

Supplemental benefits on re-employment

- 90** If a member receiving supplemental benefits becomes an employee to whom this Plan applies, the provisions of section 74 respecting a pension also apply to the supplemental benefits.

PART 12 – [REPEALED]

91 to 95 [Repealed]

PART 13 – DEFINITIONS AND PLAN INTERPRETATION

Division 1 – General Definitions

Definitions and interpretation

- 96** (1) In this Plan, unless the context requires another meaning, the following defined terms have the following meanings:
- “**Act**” means the *Public Sector Pension Plans Act*, S.B.C. 1999, c. 44;
- “**active member**” means an employee who is making, or is deemed to be making, contributions to the pension fund, including an employee
- (a) on a leave of absence approved by the employer,
 - (b) receiving a group disability plan benefit, or
 - (c) no longer required by section 5 (2) to contribute,
- but does not include a person who has terminated employment or who is receiving a pension benefit;
- “**actuarial interest rate**” means the investment rate assumed by the actuary in the most recent valuation of this Plan;
- “**associated professional**” or “**certified professional**” means a person who has membership in the British Columbia Teachers’ Federation and is employed by an employer to provide professional support to the educational program provided by the employer;
- “**beneficiary**” means a person referred to in section 81;
- “**benefit**” means a commuted value, pension, refund or any other entitlement payable under this Plan to a member or the beneficiary of a member;
- “**board**” means the Teachers’ Pension Board of Trustees established under the Teachers’ Pension Plan Joint Trust Agreement;
- “**capitalized value**” means, in relation to a pension or part of a pension, the actuarial present value of the pension or part of the pension determined, at the date of the calculation, in accordance with
- (a) generally accepted actuarial methods, and
 - (b) mortality and investment rates assumed by the actuary in the most recent actuarial valuation of this Plan,
- as approved by the board or former board;
- “**certified copy**” means, in relation to a document, a copy of the document certified to be a true copy by a person authorized by the employer or plan administrative agent to certify the document;

“**chief executive officer**” means the chief executive officer of the British Columbia Pension Corporation;

“**child rearing**” means the direct and active caring for a dependant who is under the age of 7 years.

“**College Pension Plan**” means the pension plan which was continued under Schedule A of the *Act*;

“**commuted value**” means, in relation to a benefit that a member has a present or future entitlement to receive, the actuarial present value of the benefit determined, at the date of calculation, in accordance with

- (a) generally accepted actuarial methods, and
 - (b) mortality and investment rates that are adequate and appropriate, and in accordance with generally accepted actuarial principles,
- as approved by the board or former board;

“**consumer price index**” means the Consumer Price Index for Canada, as published by Statistics Canada under the authority of the *Statistics Act* (Canada), used for calculating the amount of any benefit payable under this Plan and, if the Consumer Price Index for Canada is adjusted to reflect a new time basis or a new content basis, includes a corresponding percentage adjustment in the consumer price index;

“**contributory service**” means the period of service of a member, used to determine a member’s eligibility for a pension under this Plan, for which

- (a) contributions were made by the member or the employer, or are deemed to have been made by the member or by the employer with respect to the member, and
- (b) credit towards a pension is accumulated;

“**dependant**” [Definition Repealed]

“**earliest retirement age**” means the end of the calendar month in which a member reaches age 55;

“**effective date**” means the date ss. 115 and 122 of the *Act* come into force;

“**employee**” means any of the following:

- (a) a teacher or francophone teacher as those terms are defined in the *School Act*;
- (a.1) a principal, vice principal, director of instruction, francophone principal, francophone vice principal or francophone director of instruction;
- (b) a superintendent of schools, assistant superintendent of schools, chief executive officer of a francophone education authority or assistant to the chief executive officer of a francophone education authority as those terms are used in the *School Act*;
- (c) an associated professional or certified professional;
- (d) a person designated as an employee under section 3 (1) (b) by an employer referred to in section 2 (d);
- (e) a person designated as an employee by any other employer with the approval of the board;

- “**employer**” means a person or body directly or indirectly responsible for the payment of the salary of an employee;
- “**fiscal year**” means the year beginning on January 1 and ending on December 31 next following, or the period that the board establishes as the fiscal year;
- “**former Act**” means the *Pension (Teachers) Act*, R.S.B.C. 1996, c. 357;
- “**former board**” means the Teachers’ Pension Board established under section 3 of Schedule D to the *Act*;
- “**former member**” means a person, other than a beneficiary,
- (a) whose membership is terminated upon pre-retirement death, or
 - (b) who has received a benefit and has no further entitlement to a benefit;
- “**fund interest rates**” mean the net earned rate of the pension fund as specified by the board or former board;
- “**government**” means Her Majesty in Right of British Columbia;
- “**group disability plan**” means a disability plan, approved by the plan administrative agent, which meets criteria established by the board or former board;
- “**highest average salary**” has the meaning given to it in Division 2 of this Part;
- “**inactive member**” means a person who
- (a) was an active member,
 - (b) has terminated employment,
 - (c) is entitled to receive a benefit from this Plan, and
 - (d) is not currently receiving a benefit from this Plan;
- “**Interplan Pension Transfer Agreement**” means the October 1, 1999 agreement, approved under section 29, between the College Pension Plan, Municipal Pension Plan, Public Service Pension Plan, Teachers’ Pension Plan, Workers’ Compensation Board Superannuation Plan and the Retirement Plan for Employees of the Insurance Corporation of British Columbia, as amended from time to time;
- “**latest retirement age**” means the end of the calendar year in which the member reaches age 69;
- “**locked-in**” means that the pension plan funds must be used to provide a lifetime pension benefit;
- “**member**” means a person who is an active member, former member, inactive member or retired member;
- “**minor**” means a person under the age of majority;
- “**Municipal Pension Plan**” means the pension plan which was continued under Schedule B of the *Act*;
- “**normal retirement age**” means the end of the calendar month in which a member reaches age 65;
- “**pension**” means a monthly payment to a retired member;
- “**pension fund**” means the Teachers’ Pension Fund which was continued under the former Act and which, pursuant to section 9 of Schedule D to the *Act*, was

continued under Schedule D to the *Act*, and which is further continued under the Teachers' Pension Plan Joint Trust Agreement;

"pension index" means, for the purpose of the highest average salary, in any one year, the average of the consumer price index over a 12 month period ending on December 31 in that year;

"pensionable age" means the end of the calendar month in which a member reaches age 60;

"pensionable service" means the period of service of a member, used to determine the amount of the commuted value and the pension under Part 4, 5, 6 or 7, for which contributions were made by the member or the employer, or are deemed to have been made by the member or by the employer, but does not include service which the member is, because of this Plan, not permitted to count as pensionable service;

"plan administrative agent" means the British Columbia Pension Corporation established under section 5 of the *Act*;

"Public Service Pension Plan" means the pension plan which was continued under Schedule C of the *Act*;

"refund" means the value of the member's contributions, together with interest, at the refund interest rates to the end of the month preceding the date of payment;

"refund interest rates" means,

- (a) for periods before January 1, 1993, the rates specified by the board or former board,
- (b) for periods on or after January 1, 1993 and before January 1, 2004, the rates of interest calculated on the basis of the average yields of 5 year personal fixed term chartered bank deposit rates, published in the Bank of Canada Review as CANSIM Series B 14045, and
- (c) for periods on or after January 1, 2004, the rates of interest calculated on the basis of the average yields of 5 year personal fixed term chartered bank deposit rates, published in the Bank of Canada Review as CANSIM Series V122515;

"RRSP" means a retirement savings plan that is within the meaning of the *Income Tax Act* (Canada) and that is registered under that Act;

"reinstate" or **"reinstatement"** means to include, or the inclusion of, a period of previous service of a former member as contributory service or pensionable service or both;

"retired member" means a person who

- (a) has terminated employment, and
 - (b) is receiving a pension from the pension fund,
- and includes a person who receives or continues to receive a pension following the death of the member;

"salary" means the base salary received by a member, and includes

- (a) an isolation bonus,
- (b) an allowance paid to an administrative officer, department head, teacher consultant, head teacher, special counselor or teacher-in-charge,

(c) an allowance paid by the British Columbia Teachers' Federation to the officers of the British Columbia Teachers' Federation,

(d) any additional amounts which the board or former board may specify;

“school year” has the meaning assigned to it by the *School Act*;

“service” means service in the employment of an employer, but does not include service that, in combination with service with the same or additional employers, exceeds one year of pensionable service;

“Teachers' Pension Plan” means the plan provided for under the former Act which, pursuant to section 2 of Schedule D to the *Act*, was continued under Schedule D to the Act and the regulations made pursuant to subsection 16(1) of Schedule D, and which is further continued under the Teachers' Pension Plan Joint Trust Agreement;

“Teachers' Pension Plan Joint Trust Agreement” means the agreement between the government and the British Columbia Teachers' Federation concluded pursuant to section 18 of Schedule D to the *Act*;

“termination of employment” or **“terminated employment”** means,

- (a) in the case of a member who is covered by a collective agreement,
 - (i) the cessation by the member of employment for which the employer is required by this Plan to make contributions on the member's behalf, and
 - (ii) the cessation of seniority rights under the collective agreement,
- (b) in the case of a member who is not covered by a collective agreement, the cessation by the member of employment for which the employer is required by this Plan to make contributions on the member's behalf, or
- (c) in the case of a member who is entitled to receive benefits from a group disability plan and whose contributions to the pension fund have been discontinued because of that entitlement, the cessation of entitlement to benefits from the group disability plan;

“vested” means eligible under this Plan to receive

- (a) a deferred pension or a commuted value upon termination of employment,
- (b) an immediate pension or a commuted value upon pre-retirement death,
- (c) an immediate pension upon being found under this Plan to be totally and permanently disabled within the meaning of section 60 (1), or
- (d) an immediate pension benefit upon retirement;

“year's maximum pensionable earnings” has the meaning given to it in the *Canada Pension Plan*.

- (2) In this Plan, **“spouse”** means, in relation to another person,
 - (a) a person who at the relevant time was married to that other person, and who, if living separate and apart from that other person at the relevant time, did not live separate and apart from that other person for longer than the 2 year period immediately preceding the relevant time, or
 - (b) if paragraph (a) does not apply, a person who was living and cohabiting with that other person in a marriage-like relationship, including a marriage-like relationship between persons of the same gender, and who

had been living and cohabiting in that relationship for a period of at least 2 years immediately preceding the relevant time.

- (3) For the purposes of paragraph (a) of the definition of “spouse” in subsection (2), persons are living separate and apart
 - (a) if they are living apart and either of those persons has the intention to live separate and apart from the other, or
 - (b) if, before the relevant time,
 - (i) they had lived separate and apart for any period, and
 - (ii) that period was interrupted or terminated only because either person became incapable of continuing to live separate and apart or of forming or having the intention to continue to live separate and apart of that person’s own volition,and the separation would probably have continued if that person had not become incapable.

Division 2 – Highest Average Salary

Calculation of highest average salary – full time service

- 97**
- (1) This section only applies to a member whose service was full time during the 60 months immediately preceding termination of employment.
 - (2) Subject to subsection (3), the highest average salary of a member who is entitled to a pension is the average of 1/12th of the annual salary that the member earned, or is deemed to have earned, in each calendar year
 - (a) during the 5 years of service in which the member received, or is deemed to have received, his or her highest salary before the date on which the member begins receiving a pension, or
 - (b) during the member’s actual period of pensionable service, if the member’s period of pensionable service is less than 5 years.
 - (3) If a member does not terminate employment at the end of a calendar year, and if the annualized salary for that partial year is equal to or higher than the annual salaries received, or deemed to have been received, in each of the 5 full years of highest annual salary as determined under subsection (2), the partial year may be combined as required with a portion of the salary of the lowest of the 5 years in order to calculate a highest annual salary for the combined year, and the combined year can be used in place of the lowest of the 5 years, but in no case can the total of the 2 portions exceed one year of salary.

Calculation of highest average salary – less than full time service

- 98**
- (1) This section only applies to a member whose service was less than full time during the 60 months immediately preceding termination of employment.
 - (2) The highest average salary of a member who is entitled to a pension is the greater of
 - (a) the average of 1/12th of the annual salary that the member earned, or is deemed to have earned, in each calendar year during the 5 years of service

immediately before the date on which the member begins receiving a pension, adjusted in each of those years by an additional amount which is calculated by using salary from a year or multiple years of previous service, to compensate for those periods in a year that the member was not working, multiplied by the ratio that the pension index for the calendar year before the year of adjustment bears to the pension index for the calendar year of previous service, and

- (b) subject to subsection (3), the average of 1/12th of the annual salary that the member earned, or is deemed to have earned, in each calendar year
 - (i) during the equivalent of 5 full time years of service in which the member received, or is deemed to have received, his or her highest salary before the date on which the member begins receiving a pension, or
 - (ii) during the member's actual period of pensionable service, if the member's period of pensionable service is less than the equivalent of 5 full time years,
 adjusted to its full time equivalent.

- (3) For the purpose of calculating the highest average salary in subsection (2) (b), if a member does not terminate employment at the end of a calendar year, and if the annualized full time equivalent of the salary for that partial year as determined under subsection (2) (b) is equal to or higher than the annual salaries received, or deemed to have been received, in each of the equivalent of 5 full time years of highest annual salary as determined under subsection (2) (b), the partial year may be combined as required with a portion of the salary of the lowest of the equivalent of 5 full time years in order to calculate a highest annual salary for the combined year, and the combined year can be used in place of the lowest of the 5 years, but in no case can the total of the 2 portions exceed one year of full time equivalent salary.

Adjustment to highest average salary – group disability plan service

- 99** (1) This section only applies to a member who terminates employment or becomes a retired member immediately following cessation of benefits from a group disability plan.
- (2) The plan administrative agent must adjust the highest average salary of the member, as determined under section 97 or 98, by the ratio that the pension index for the calendar year immediately before the calendar year in which the pension is granted bears to the pension index for the calendar year in which the member last began to receive a monthly income benefit under the group disability plan.

Adjustment to highest average salary – deferred pension

- 100** (1) This section only applies to an inactive member who is entitled to and applies for a deferred pension when the member reaches earliest retirement age or later.
- (2) In this section, “**percentage increase granted to pensions**” means the percentage increase in a deferred pension that results from the granting on January 1 in each year of a cost of living benefit under section 73.

- (3) If an inactive member, whose employment terminated before January 1, 1981, is entitled to and applies to receive a deferred pension under this Plan, the plan administrative agent must adjust the highest average salary of the member, as determined under section 97 or 98,
 - (a) by the ratio that the pension index of the year ending December 31, 1980 bears to the pension index of the calendar year in which the member terminated employment, and
 - (b) by the method set out in subsection (5) from January 1, 1981 to the end of the month immediately preceding the month in which the pension is to be granted.
- (4) If an inactive member, whose employment terminated on or after January 1, 1981, is entitled to and applies to receive a pension under this Plan, the plan administrative agent must adjust the highest average salary of the member, as determined under section 97 or 98, by the method set out in subsection (5) from the first of the month following the month in which termination of employment occurred to the end of the month immediately preceding the month in which the pension is to be granted.
- (5) The inactive member's highest average salary is increased in each calendar year during the period referred to in subsections (3) and (4) by the percentage, for each of those calendar years, as follows:
 - (a) if the member's pension is granted in the same calendar year as the year in which termination of employment occurred, the proration, for the number of complete months from the date of termination of employment to the end of the month immediately preceding the effective date of the pension benefit, of the percentage increase granted to pensions on January 1 of the calendar year of termination;
 - (b) if the member's pension is granted in a calendar year other than that referred to in paragraph (a),
 - (i) the proration, for the number of complete months from the date of termination of employment to the end of the calendar year, of the percentage increase granted to pensions on January 1 of the calendar year following termination,
 - (ii) for each complete year between the years referred to in subparagraphs (i) and (iii), the percentage increase granted to pensions on each January 1 following the calendar year following termination until January 1 of the year that the pension is granted, and
 - (iii) the proration, for the number of complete months from January 1 of the year the pension is granted to the end of the month immediately preceding the effective date of the pension benefit, of the percentage increase granted to pensions on January 1 of that calendar year.

Limitation on calculation of highest average salary

- 101** (1) For the purpose of this Division, only salary paid to a member after the date on which this Plan first applies to the member must be counted in calculating the member's highest average salary.

- (2) For the purpose of this Division, salary paid to a member while the member is receiving a benefit from a group disability plan must not be counted in calculating the member's highest average salary.

102 [Section Not Used]

PART 14 – TRANSITIONAL

Transitional Definitions

103 In this part:

“predecessor board” means the Teachers' Pension Board continued under section 37 of the former Act.

Appeals begun under the former Act or the Act

- 104
- (1) An appeal received before April 1, 2000 but not dealt with by the predecessor board under section 40 of the former Act is continued before the former board as if made under section 7 of Schedule D to the Act, and the provisions of the former Act continue to apply to the appeal despite the repeal of the former Act.
 - (2) If an appeal made before April 1, 2000 was dealt with by the predecessor board under section 40 of the former Act but no decision was made, the appeal is to be treated for all purposes as a new appeal before the former board as if made under section 7 of Schedule D to the Act, and the provisions of the former Act continue to apply to the appeal despite the repeal of the former Act.
 - (3) An appeal received before the effective date but not dealt with by the former board under section 7 of Schedule D to the Act, including an appeal referred to in subsections (1) or (2), is to be continued before the board as if made under Section 8.3 of the Teachers' Pension Plan Joint Trust Agreement, and, as applicable, the provisions of the former Act, the *Teachers' Pension Plan Regulation*, BC Regulation 115/2000 and Part 1 of Schedule D to the Act continue to apply to the appeal despite the repeal of the former Act, the Regulation and Part 1 of Schedule D to the Act.
 - (4) If an appeal made before the effective date was dealt with by the former board under section 7 of Schedule D to the Act but no decision was made, including an appeal referred to in subsections (1) or (2), the appeal is to be treated for all purposes as a new appeal before the board as if made under Section 8.3 of the Teachers' Pension Plan Joint Trust Agreement, and, as applicable, the provisions of the former Act, the *Teachers' Pension Plan Regulation*, BC Regulation 115/2000 and Part 1 of Schedule D to the Act continue to apply to the appeal despite the repeal of the former Act, the Regulation and Part 1 of Schedule D to the Act.

105 [Section Not Used]

Determination by chief executive officer

- 106 For the purpose of section 34 (d) of the former Act, any amount payable may be dealt with for the benefit of the plan member or of the spouse or children of the plan member in a manner the chief executive officer determines.