

These Rules are Current to June 28, 2021***TEACHERS' PENSION PLAN RULES***

Effective April 1, 2000

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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and section 1 of the Act is amended pursuant to section 115 of the Act, and Part 1 of Schedule D to the Act is repealed pursuant to section 122 of the Act, the joint management agreement and the pension plan rules made under that agreement will govern the Teachers’ Pension Plan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) the use of the word "individual" refers to a natural person and the use of the word "person" refers to a natural person, a corporation, partnership or party;
 - (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 education 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 (other than a person who is considered a retired member solely because the person is receiving a pension or monthly benefit following the death of a member).
- (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) 8.17% of the member's salary,
 - (b) [Repealed]
 - (c) 2.0% of the member's salary, and
 - (d) 1.0% of the member's salary.

- (2) Member contributions must stop on the member reaching latest retirement age, in which case the member is deemed to have terminated employment for the purposes of this Plan.
 - (a) [Repealed]
 - (b) [Repealed]
- (3) If prior to January 1, 2018, a member ceased to make contributions pursuant to subsection (1) because the member had accrued 35 years of pensionable service, and on January 1, 2018, that member is an active member, contributions pursuant to subsection (1) must resume as of January 1, 2018. If such a member is not an active member on January 1, 2018, but again becomes an active member after that date, contributions pursuant to subsection (1) must resume as of the date the member again becomes an active member.

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) 8.17% of the member's salary,
 - (b) [Repealed]
 - (c) 2.13% of the member's salary, and
 - (d) 1.0% of the member's 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) 30 days after the date of termination of employment.
- (2.1) If an active member applies to purchase enrollment arrears under subsection (2) but does not pay the amount required under subsection (4) at the time and in the manner specified by the plan administrative agent, the active member is

ineligible to purchase those enrollment arrears unless the active member makes a further application under subsection (2) on or before the earlier of the dates referred to in subsection (2) (a) and (b).

- (3) [Repealed]
- (4) For the purposes of subsection (2), 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,
 - (a) the member 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) 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) at the time of making an election under subsection (2)
 - (i) is an active member, or
 - (ii) was an active member within the preceding 30 days.
 - (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 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 under another registered pension plan with respect to the previous employment and
 - (i) left the contributions made to the other registered pension plan with respect to the entire period of service preceding the child rearing period on deposit with that other registered pension plan,
 - (ii) reinstated in accordance with the terms of the other registered pension plan the entire period of service preceding the child rearing period, or
 - (iii) transferred the entire period of service preceding the child rearing period to this Plan under a portability agreement made under the authority of this Plan.

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 under *Employment Standards Act*

16 If an active member is or was absent from service by reason of

- (a) required attendance at court as a juror;
- (b) a leave under any of the following sections of the *Employment Standards Act*:
 - (i) section 49.1 [*illness or injury leave*];
 - (ii) section 50 [*maternity leave*];
 - (iii) section 51 [*parental leave*];
 - (iv) section 52 [*family responsibility leave*];
 - (v) section 52.1 [*compassionate care leave*];
 - (vi) section 52.11 [*critical illness or injury leave*];
 - (vii) section 52.12 [*COVID-19-related leave*];
 - (viii) section 52.3 [*leave respecting disappearance of child*];
 - (ix) section 52.4 [*leave respecting death of child*];

- (x) section 52.5 [*leave respecting domestic or sexual violence*];
 - (xi) section 53 [*bereavement leave*]; or
 - (c) any other circumstance in which subsection 56 (2) of the *Employment Standards Act* obligates an employer to make contributions to a pension plan in respect of a period of absence if the employee pays the employee's contributions to the plan in respect of that period of absence,
- the active member may apply to purchase that leave of absence in accordance with section 19 or 19.1.

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 who employed the member during the leave of absence 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 date which is 30 days after the date of termination of employment.
- (5.1) If an active member applies to purchase a leave of absence under section 16 or 18 but does not pay the amount required under subsection (1) or (3) of this section at the time and in the manner specified by the plan administrative agent, the active member is ineligible to purchase the leave of absence unless the active member makes a further application under section 16 or 18 on or before the earlier of the dates referred to in subsection (5) (a) and (b) of this section.
- (6) [Repealed]

Payment and conditions for contributions while on leaves of absence regulated under *Employment Standards Act*

- 19.1** (1) Despite section 19, a member may elect to purchase a period of leave of absence under section 16 by electing no later than 30 days after the commencement of that period of leave of absence in the manner specified by the plan administrative agent to continue to contribute to the pension fund in accordance with this section 19.1.
- (2) A member who elects under subsection (1) to continue to contribute to the pension fund during a period of leave of absence must in respect of each payroll period during that period of leave of absence pay to the pension fund, at the time and in the manner specified by the plan administrative agent, an amount determined in accordance with subsection 5 (1) using
- (a) what would have been the member's full time equivalent salary for that payroll period had the member not been on a leave of absence, and
 - (b) the contribution rates in effect under subsection 5 (1) during that payroll period.
- (3) If the member pays the amount required by subsection (2) in respect of a payroll period, the employer who would have employed the member during that payroll period must pay to the pension fund, at the time and in the manner specified by the plan administrative agent, an amount determined in accordance with subsection 6 (1) using
- (a) what would have been the member's full time equivalent salary for that payroll period had the member not been on a leave of absence, and
 - (b) the contribution rates in effect under subsection 6 (1) during that payroll period.

- (4) If payment is made in accordance with subsections (2) and (3),
 - (a) the payment is considered to be contributions made by the member under subsection 5 (1) and by the employer under subsection 6 (1), and
 - (b) the payroll period to which the payment relates is contributory and pensionable service of the member.
- (5) If a member who elects under subsection (1) to continue to contribute to the pension fund during a period of leave of absence fails to make timely payment of a contribution in respect of a payroll period in accordance with subsection (2), that individual is thereafter ineligible to purchase that payroll period or any subsequent payroll period during that period of leave of absence pursuant to this section 19.1.
- (6) A member to whom subsection (5) applies may purchase pursuant to section 19 the portion of the period of leave of absence not purchased pursuant to this section 19.1.
- (7) An election under subsection (1) can only be made in respect of a period of leave of absence that commences after April 30, 2020.

Division 4 – Reinstatement of Service

20- 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 date which is 30 days after the date of termination of employment.
- (1.1) If an active member applies to purchase service under subsection (1) but does not pay the amount required under section 28 at the time and in the manner specified by the plan administrative agent, the active member is ineligible to purchase that service unless the active member makes a further application under subsection (1) on or before the earlier of the dates referred to in subsection (1) (a) and (b).
- (2) [Repealed]

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) [Repealed]

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 be purchased under this Part provided that
 - (a) the benefits for the period of leave are retroactively provided after April 30 of the year immediately following the year in which the member returns to work, and
 - (b) Canada Revenue Agency certifies the past service pension adjustment associated with the purchase.
- (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 being recognized in respect of time periods before 2018.
- (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 lifetime retirement 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, or such greater amount as is permitted by subsection 8504(6) of the *Income Tax Regulations* made under the *Income Tax Act*.
- (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) [Repealed]

- (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 September 30, 2015, is eligible to receive one of the following:
- (a) [Repealed]
 - (b) a deferred retirement benefit under section 45(1) or;
 - (c) a commuted value under section 46 if 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) A member is not eligible to receive a commuted value under subsection (1) if the member again becomes an employee, in respect of whom an employer is required to deduct contributions under section 5, within six months of termination of employment.
- (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*.
- (6) A member who has taken any of the following with respect to a period of service is not entitled to any other benefit under this Plan in respect of that period of service:
- (a) a refund calculated in accordance with section 44;
 - (b) a commuted value under section 46;
 - (c) a payment under section 48.
- (7) If a member to whom subsection (6) applies again becomes an active member, the member is deemed to be a new active member from the date on which the member again becomes a contributor to the pension fund.

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) If a member who is eligible for a termination benefit in accordance with section 42 elects an option as provided for in the termination benefits statement and returns the completed election to the plan administrative agent, the plan administrative agent must make the payment, if applicable, in accordance with this Part.

Calculation of a refund of member's contributions

- 44**
- (1) If a member is eligible, on application, to receive a refund payment in the amount of the member's contributions including interest, the interest will be 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.
 - (5) If under this Part a refund is payable to a member, the payment may be transferred to an RRSP.

Calculation of deferred retirement 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 retirement benefit,will receive a retirement benefit under Part 5 on meeting the eligibility requirements of sections 50 (1) and 50 (2), 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 retirement benefit 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 retirement benefit,is entitled to receive that retirement benefit in accordance with the rules in force at the date of termination of employment.
 - (3) Despite subsection (2), if an inactive member terminated employment before April 1, 2000 and is entitled to a reduced retirement benefit, with an effective date on or after April 1, 2000, the retirement benefit 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 payment in accordance with the rules in force at the date of termination of employment.
- (1.2) Despite subsection (1.1), if an individual described in subsection (1.1) is entitled to a reduced retirement benefit with an 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) a locked-in retirement account,
 - (c) a life 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 voluntary contributions in the retirement annuity account is entitled to a refund of the voluntary contributions, including interest at fund interest rates on those contributions.

Lump sum payment instead of small deferred retirement benefit

- 48** (1) Despite section 42 and sections 45 to 47, a member may elect to receive, instead of a deferred retirement benefit, a payment equal to the commuted value of the

retirement benefit if the commuted value is not greater than 20% of the year's maximum pensionable earnings for the calendar year in which the most recent calculation of the commuted value was made.

- (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, at refund interest rates, 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 benefit

- 50** (1) An active member who, on or after September 30, 2015, terminates employment is, on application, entitled to an unreduced pension
- (a) for service accrued before January 1, 2018, calculated under section 54 (1) (a) to (c) if the member has reached
- (i) earliest retirement age and the sum of the member's age plus years of contributory service is at least 90 years,
- (ii) pensionable age and has completed at least 2 years contributory service, or
- (iii) normal retirement age.
- (b) for service accrued after December 31, 2017, calculated under section 54 (1) (d) if the member has reached
- (i) earliest retirement age and has completed 35 years of contributory service, or
- (ii) age 61 and has completed 2 years of contributory service, or
- (iii) normal retirement age.
- (2) An active member who, on or after September 30, 2015, terminates employment is, on application, entitled to a reduced retirement benefit
- (a) for service accrued before January 1, 2018, calculated under section 55 (1) if the member has reached earliest retirement age is less than pensionable age, has completed at least two years of contributory service and the sum of the member's age and contributory service is less than 90 years;
- (b) for service accrued before January 1, 2018, calculated under section 55 (2), if the member has reached earliest retirement age is less than normal retirement age and has not completed two years of contributory service;

- (c) for service accrued after December 31, 2017, calculated under section 55 (3) if the member has reached earliest retirement age is less than age 61, has completed at least two years of contributory service but has not completed 35 years of contributory service, and
- (d) for service accrued after December 31, 2017, calculated under section 55 (4), if the member has reached earliest retirement age is less than normal retirement age and has not completed two years of contributory service.

Eligibility for retirement benefit – reduced benefit

51 [Repealed]

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 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 retirement benefit 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 retirement benefit 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 retirement benefit 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 retirement benefit,
- whichever is latest.
- (2) Despite subsection (1) (b), if a member fails to apply for a retirement benefit on or before its eligibility date 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,
- the plan administrative agent may grant a retirement benefit effective the date the member would have, but for the failure to apply, begun receiving it.
- (3) Commencement of the payment of benefits must not be delayed beyond latest retirement age.

Calculation of unreduced retirement benefits

- 54** (1) Subject to subsection (1.1), a member referred to in section 50 (1) is to the extent specified in subsection 50 (1) entitled to receive an unreduced pension, calculated on the basis of the single life with a guaranteed term certain of 10 years option under paragraph 56 (1) (b), 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 retirement benefit payable to the member,multiplied by the number of years of pensionable service accrued after December 31, 1965 and before January 1, 2018, not exceeding 35 years,
 - (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 after December 31, 1965 and before January 1, 2018, not exceeding 35 years, and
 - (d) 1.9% of the member's highest average salary multiplied by the number of years of pensionable service accrued after December 31, 2017.
- (1.1) Despite subsection (1), if a member terminates employment before January 1, 2019, the unreduced pension determined under subsection (1) will be calculated on the basis of the single life with no guaranteed period option under paragraph 56 (1) (a), and on the basis that the reference to "1.9%" in paragraph 1 (d) is a reference to "1.85%".
- (2) A member entitled to a pension under subsection (1) is also entitled to a monthly bridge benefit, payable until the earlier of the death of the member and 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 retirement benefit payable to the member,multiplied by
 - (b) the number of years of pensionable service accrued after December 31, 1965 and before January 1, 2018, not exceeding 35 years.
- (3) A member who is entitled to a benefit under this section and who has voluntary contributions in the retirement annuity account is entitled to
- (a) a benefit in an amount obtained by converting to a pension the balance in that account, including interest at fund interest rates, or
 - (b) a refund of the balance in that account, including interest at fund interest rates.

Calculation of reduced retirement benefits

- 55** (1) A member referred to in section 50 (2) (a) is entitled to receive a reduced retirement benefit 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 50 (2) (b) is entitled to receive a reduced retirement benefit 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) In addition to the retirement benefit payable under section 54 (1) (a) to (c) or subsection (1) or (2), if any, a member referred to in section 50 (2) (c) is entitled to receive a reduced pension that is the amount determined under section 54 (1) (d), reduced by 4.5% for each year of age by which the member's age is less than age 61, and the percentage must be pro-rated for fractions of years.
- (4) In addition to the retirement benefit payable under subsection (2), if any, a member referred to in section 50 (2) (d) is entitled to receive a reduced pension that is the amount determined under section 54 (1) (d), reduced by 4.5% for each year of age by which the member's age is less than normal retirement age and the percentage must be pro-rated for fractions of years.
- (5) Despite subsection (1) and subject to subsection (6), 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%.

- (6) Subsection (5) does not apply if
 - (a) the member previously received a reduced retirement benefit under subsection (1), or was entitled to receive a reduced retirement benefit calculated under subsection (1),
 - (b) subsection (5) did not apply to the calculation of the reduced retirement benefit under subsection (1), or would not have applied to the calculation of the reduced retirement benefit under subsection (1) which the member was entitled to receive, and
 - (c) after satisfying the conditions in paragraphs (a) and (b), the member again became an employee to whom this Plan applies.
- (7) A member who is entitled to a benefit under this section and who has voluntary contributions in the retirement annuity account is entitled to
 - (a) a benefit in an amount obtained by converting to a pension the balance in that account, including interest at fund interest rates, or
 - (b) a refund of the balance in that account, including interest at fund interest rates.
- (8) A reduced pension under this Part must have an actuarial present value that is at least equal to the actuarial present value of the pension payable at normal retirement age.

Options and conditions at retirement

- 56** (1) A pension calculated in accordance with sections 54 and 55 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 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

- (a) on the single life with no guaranteed period option under paragraph (1) (a), if the member terminates employment before January 1, 2019, or
 - (b) on the single life with a guaranteed term certain of 10 years option under paragraph (1) (b), if the member terminates employment on or after January 1, 2019.
- (2.1) A temporary 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 Law Act* with the same effect.
- (4) If a retirement benefit does not include an amount payable under subsection (1) (a) and payment of the retirement benefit 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 retirement benefit payments made under this Plan.
- (5) If the pension granted to a member includes the single life guaranteed option under subsection (1) (b), and the member dies before the expiration of the term certain, the payments for the remainder of the term must be made to the beneficiary as determined by section 81, in the form of
- (a) a choice of a monthly payment or lump sum if the beneficiary is a spouse, or is designated under section 81 (2) (a) (i) or is one or more trustees designated by the member in respect of a minor beneficiary; or
 - (b) a lump sum for any other beneficiary including, without limitation, a beneficiary designated under section 81 (2) (a) (ii) or (iii) and a trustee not referred to in subsection (a) including a trustee of a family or charitable purpose trust.
- (6) [Repealed]
- (7) If the pension granted to a member includes the single life guaranteed option under subsection (1) (b) and the member dies before the expiration of the term certain, and a beneficiary designated by the member under section 81 (2) (a) (i) dies after the member dies but before the expiration of the term certain
- (a) where the beneficiary that died was the only beneficiary designated by the member under section 81 (2) (a) (i) the commuted value of the remaining payments must be made to that beneficiary's estate,
 - (b) where the member designated more than one beneficiary under section 81 (2) (a) (i) the commuted value of the remaining payments otherwise payable to the deceased beneficiary must be paid to that beneficiary's estate.

- (7.1) If the pension granted to a member includes a joint life guaranteed option under subsection 1 (c) and if
- (a) the spouse or former spouse and the member die before the expiration of the term certain but the spouse or former spouse survives the member, the commuted value of the remaining payments must be paid to the estate of the spouse or former spouse;
 - (b) the spouse or former spouse and the member die before the expiration of the term certain but the member survives the spouse or former spouse, a choice of a monthly benefit or the commuted value of the remaining payments must be paid to the beneficiary designated by the member under section 81.
- (8) Within 60 days after the date on the letter notifying a member that a retirement benefit 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 retirement benefit, a payment equal to the commuted value of the retirement benefit if the commuted value is not greater than 20% of the year's maximum pensionable earnings for the calendar year in which the most recent calculation of the commuted value was made.
- (10) A member who reaches age 61 and who is receiving a disability benefit under Part 6 is not entitled to benefits under this Part.
- (11) If under this Part a refund is payable to a member, the payment may be transferred to an RRSP.

Special retirement incentive plan

- 57** (1) The employer may, by resolution, request that the plan administrative agent waive or alter any of the reduction factors provided for in section 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 retirement benefit 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 reduction factor(s) is or are 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 benefit determined in accordance with section 63 if the member
- (a) has terminated employment,
 - (b) has completed at least 2 years of contributory service, but has not completed 35 years of contributory service,
 - (c) is, on or after July 15, 1999, totally and permanently disabled before reaching age 61, 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 benefit under this Part.
- (3) The disability benefit 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 benefit, the plan administrative agent must arrange a medical examination of the member, not more often than once in each year, until the member reaches age 61.
- (6) If the medical examination required by subsection (5) shows that the member is no longer totally and permanently disabled, the disability 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 disability benefit 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 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 benefit is filed with the plan administrative agent, whichever is later.
- (2) Despite subsection (1) (b), if a member fails to apply for a disability benefit on or before its eligibility date 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,the plan administrative agent may grant a disability benefit effective the date the member would have, but for the failure to apply, begun receiving it.

Calculation of disability benefits

- 63** (1) A member who is eligible for a disability benefit under section 60 and who terminated employment on or after July 1, 1994 is entitled to receive that benefit calculated on the basis set out in section 54 (1) without any adjustment under section 55.
- (2) A member who is entitled to a disability benefit under this Part and who has voluntary contributions in the retirement annuity account is entitled to
 - (a) a benefit in an amount obtained by converting to a pension the balance in that account, including interest at fund interest rates or

- (b) a refund of the balance in that account, including interest at fund interest rates.
- (3) If under this Part a refund is payable to a member, the payment may be transferred to an RRSP.

Options and conditions at retirement

- 64** (1) The disability benefit 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 benefit under this Part and who reaches age 61 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 6.1 – SHORTENED LIFE EXPECTANCY BENEFITS**Election to convert locked-in benefits in the event of shortened life expectancy**

- 65.1** (1) If a member, other than a retired member in receipt of a benefit under this Plan, who is entitled to receive a benefit from this Plan has an illness or a disability that is certified by a medical practitioner to be terminal or to likely shorten the member's life considerably, that member may, subject to and in accordance with the Pension Benefits Standards Regulations,
- (a) elect to convert all or part of the benefit to a series of payments for a fixed term to that member, or
 - (b) elect to withdraw as a lump sum an amount equal to the commuted value of the benefit or any lesser amount that the member may select.
- (2) If a member who wishes to make an election under subsection (1) has a spouse, the member is not eligible to make an election under subsection (1) unless a valid spousal waiver has been filed with the plan administrative agent.
- (3) If a payment is made to a member pursuant to subsection (1), any subsequent payments made in respect of that member will be reduced by an actuarially equivalent value to reflect any payments made under subsection (1).

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.

Pre-retirement 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 pre-retirement 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) [Repealed]
- (2) If a member dies 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) a 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 as determined by section 81 or 81.1.
- For greater clarity, if a valid spousal waiver has been filed with the plan administrative agent, in no case is the surviving spouse entitled to receive the benefit as a designated beneficiary under sections 81 or 81.1.
- (2.1) If a member who dies is not entitled at the date of death to an immediate pension in accordance with section 50, 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 for the life of the spouse.
- (3) If a member who dies is entitled at the date of death to an immediate pension in accordance with section 50 and there is a surviving spouse who has not filed a valid spousal waiver with the plan administrative agent, the spouse is entitled to an immediate pension that is actuarially equivalent to 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 immediately before death, payable for the life of the spouse.

- (3.1) If a surviving spouse dies prior to making an election under subsection (2.1), or prior to receiving an immediate pension under subsection (3), the greater of the commuted value of the pension the spouse was entitled to and a refund calculated in accordance with subparagraph (2.1) (a) (i) is payable to the surviving spouse's estate.
- (4) [Repealed]
- (5) A surviving spouse may elect to receive, instead of a benefit calculated under subsections (2.1) or (3), a payment equal to the commuted value of the pension if the commuted value is not greater than 20% of the year's maximum pensionable earnings for the calendar year in which the most recent calculation of the commuted value was made.
- (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) a locked-in retirement account,
 - (c) a life 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 voluntary contributions in the retirement annuity account is entitled to
- (a) a benefit in an amount obtained by converting to a pension the balance in that account, including interest at fund interest rates or
 - (b) a refund of the balance in that account, including interest at fund interest rates.
- (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 retirement benefit or a commuted value at the time of termination of employment, then the entitlement to a pre-retirement death benefit is a refund calculated in accordance with section 44,
 - (b) was entitled to a deferred retirement benefit at the time of termination of employment and was not entitled to an immediate retirement benefit 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 retirement benefit at the time of termination of employment or was entitled to a deferred retirement benefit at the time of termination of employment and to an immediate retirement benefit at the time of death, then the entitlement to a pre-retirement death benefit is
 - (i) the pension 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 (2) if there is no surviving spouse or a valid spousal waiver has been filed with the plan administrative agent.
- (10) If under this Part a refund is payable, the payment may be transferred to an RRSP to the extent permitted by the *Income Tax Act* (Canada).

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 Law 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

Source of payments

- 72** The pensions, bridge benefits, temporary annuities, monthly benefits and disability benefits 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 benefit ends.

Cost of living benefits

- 73** (1) Cost of living benefits to retired members who receive an indexable benefit under this Plan are funded from the inflation adjustment account.

- (2) On January 1 of each year, the board must grant cost of living benefits to retired members in accordance with this section. If, on the day a cost of living benefit is granted, the indexable benefit 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 indexable benefit was paid.
- (2.1) [Repealed]
- (2.2) [Repealed]
- (3) The portion of a retired member's indexable benefit eligible for adjustment is the total amount of the indexable benefit, including any previous cost of living benefits, less
 - (a) any pension provided under sections 54 (3), 55 (7), 63 (2) and 69 (8).
 - (b) [Repealed]
- (4) The amount of a cost of living benefit granted to a retired member 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 retired member's indexable benefit eligible for adjustment on that January 1.
- (4.1) In determining the percentage change in the value of the consumer price index for the purposes of subsection (4) (a), the value of the consumer price index on any September 30 is deemed to be the greater of
 - (a) the actual value of the consumer price index on that date, or
 - (b) the highest value of the consumer price index on any preceding September 30.
- (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 all retired members a uniform percentage increase in the portions of their indexable benefits 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 retired member's indexable benefit 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 would otherwise apply, the retired member must continue to receive a retirement benefit. For greater clarity, the retired member is not eligible to make contributions and accrue service in respect of the re-employment.
- (2) This section does not apply to a person who is considered a retired member solely because the person is receiving a pension or monthly benefit following the death of a member.
- (3) Despite subsections (1) and (2), if prior to October 1, 2015 a re-employed retired member elected to become an active member and began making contributions with respect to a period of re-employment pursuant to subsection 74 (1) (b) as it read immediately prior to October 1, 2015, the retirement benefit payable to that member on termination of that period of re-employment must be determined in accordance with the terms of subsection 74 (4) as it read immediately prior to October 1, 2015. If after commencing such a retirement benefit that individual again becomes an employee to whom this Plan would otherwise apply, subsection (1) applies to that individual.

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. For greater certainty, the rate stabilization account described in subsection (2.1) is a notional account within the basic account.
- (2.1) The rate stabilization account consists of
- (a) the active member's contributions made under section 5 (1) (d),
 - (b) the employer's contributions made under section 6 (1) (d),
 - (c) net investment income notionally earned on the account,
- all as notionally allocated from the basic account, and
- (d) any other amounts notionally allocated from the basic account in accordance with the Teachers' Pension Plan Joint Trust Agreement,
- less
- (e) amounts notionally allocated back to the basic account in accordance with the Teachers' Pension Plan Joint Trust Agreement, and
 - (f) amounts transferred to the inflation adjustment account in accordance with the Teachers' Pension Plan Joint Trust Agreement.

- (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,
 - (d) subject to the prior approval of the board, all or such lesser part as the board designates of the 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 indexable benefits 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, and
 - (d.1) amounts transferred from the rate stabilization account within the basic account in accordance with subsection (2.1) (f),
- 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),
 - (h) amounts transferred to the basic account that are equal to the capitalized value of the increase in a member's retirement benefit 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 59 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** Benefits payable under the Plan must 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 benefit 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 Law 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 benefit
- (a) other than a pension granted under Part 7, or
 - (b) except as required by the *Family Law 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 the member's or person's 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 an individual from service.

Beneficiary designation

- 81** (1) Despite the member's designation of one or more beneficiaries pursuant to subsection (2) and despite subsection (5):
- (a) if a member has a spouse at the time that the member elects a pension option under section 56, the spouse will be the member's beneficiary;
 - (b) if a member has a spouse at the time that the member dies before commencing a retirement benefit, the spouse will be the member's beneficiary.
- (2) If a member does not have a spouse at the relevant time or a valid spousal waiver has been filed with the plan administrative agent, the member's beneficiary will be determined in accordance with the following:
- (a) the member may designate as the member's primary beneficiary, any one of or a combination of the following:
 - (i) one or more individuals,
 - (ii) one or more corporations, partnerships, societies, associations or any other entities that are acceptable to the plan administrative agent,
 - (iii) the personal representative of the estate of the member in a representative capacity,

- (iv) one or more trustees including, without limitation, trustees of a family trust, trustees of a minor designated by the member as a beneficiary or trustees of a charitable purpose trust;
 - (b) for any primary beneficiary designated pursuant to subsection (a) the member may designate an alternate beneficiary that will only receive the applicable share of the benefit if the primary designated beneficiary dies, winds-up or terminates (as is applicable) before the member's death;
 - (c) the member may designate the percentage of the benefit to be paid to each of the beneficiaries designated pursuant to subsections (a) and (b). If the member does not specify how the benefit will be shared between or among the beneficiaries designated pursuant to subsections (a) and (b), the beneficiaries will receive an equal share of the payment;
 - (d) if the member does not designate an alternate beneficiary and the primary beneficiary dies, winds-up or terminates (as is applicable) before the member's death, the share that would have been paid to the primary designated beneficiary will be payable:
 - (i) to the surviving designated beneficiary,
 - (ii) among the surviving designated beneficiaries in equal shares if there is more than one surviving designated beneficiary, or
 - (iii) to the member's estate if there are no surviving designated beneficiaries.
- (3) A person granted power over an adult's financial affairs under
- (a) Part 2 of the *Power of Attorney Act*, or
 - (b) the *Patients Property Act*
- may make, alter or revoke a designation under this section only if expressly authorized to do so by the court and the designation is not made in a will.
- (4) Subject to subsection (7), any designation, alteration or revocation of a beneficiary designation made pursuant to subsection (2) or (3) must be
- (a) in writing,
 - (b) signed by the person making it, or by another person in the presence of the person making it and by the direction of the person making it and the signature may be in the name of the person making it or the person signing by the direction of the person making it, and
 - (c) in a form acceptable to the plan administrative agent.
- (5) A member may make any beneficiary designation made pursuant to this section an irrevocable designation of beneficiary to which subsection (7) applies if
- (a) the member completes the form approved by the plan administrative agent for that purpose in order to irrevocably designate a beneficiary, and
 - (b) the irrevocable beneficiary designation form referred to in subsection (a) is filed with the plan administrative agent before the member's death.
- (6) For greater clarity, a member's irrevocable beneficiary designation that does not comply with subsection (5) including, without limitation, because the irrevocable beneficiary designation is made in a will or because the member does not file the form referred to in subsection (5) (a) with the plan

administrative agent before the member's death, the designation will be subject to the normal alteration and revocation rules as set out in subsection (4).

- (7) If a member makes an irrevocable beneficiary designation in accordance with subsection (5), despite subsection (4):
- (a) the member may only alter or revoke that designation during the lifetime of the beneficiary that is the subject of the irrevocable designation with that beneficiary's express consent and using the form approved by the plan administrative agent for that purpose, and
 - (b) the benefit about which the irrevocable beneficiary designation has been made does not form part of the member's estate upon the member's death and is not subject to the control of the member or of the member's creditors.

Beneficiary designation in a member's will

- 81.1** (1) Subject to section 81 (5), a member's beneficiary designation may be made in the member's will.
- (2) If a member designates a beneficiary in the member's will:
- (a) such designation is only effective if the designation relates expressly to the plan either generally or specifically,
 - (b) the member may alter or revoke that designation by:
 - (i) altering or revoking the designation in a subsequent will provided that alteration or revocation complies with subsection (a), or
 - (ii) completing a form acceptable to the plan administrative agent for the purpose of altering or revoking a beneficiary designation and by filing that form with the plan administrative agent before the member's death,
 - (c) revocation of the member's will also revokes any beneficiary designations made in the will,
 - (d) revocation of that beneficiary designation does not revive an earlier designation of beneficiary.

Discharge of liability

- 81.2** (1) If a payment is made to a designated beneficiary, the board and the plan administrative agent are discharged in respect of that benefit even if the plan administrative agent later receives notice of a change of designated beneficiary.
- (2) Any payment to a trustee including, without limitation, payment to a trustee for a minor designated as a beneficiary or a trustee of a family or charitable purpose trust, discharges the board and the plan administrative agent in respect of that payment.
- (3) In the event of a payment referred to in subsection (1) or (2), the board and the plan administrative agent may set up any defence that would have been available had a claim to enforce payment been brought by the member or the member's personal representative.

Benefit payable to a minor

- 82** (1) 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.
- (2) Subsection (1) does not apply if the member has designated a trustee in respect of the minor under subsection 81 (2) (a) (iv).

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) a beneficiary of the member if there is no spouse or a valid spousal waiver has been filed with the plan administrative agent,
- the amount is not subject to the control of the creditors of the deceased member and does not form part of the member's estate.
- (c) [Repealed]
 - (d) [Repealed]
- (2) If, on the death of a member, a benefit becomes payable and no spouse or beneficiary exists who qualifies to receive the benefit under subsection (1), the benefit is payable to the estate of the member and 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 an indexable benefit, and
 - (b) be provided in the same manner as a cost of living benefit provided with respect to an indexable benefit.

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 retirement account, 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 retirement benefit also apply to the supplemental benefits.

PART 12 – – POST RETIREMENT GROUP BENEFITS

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) [Repealed]
 - (d) receiving a benefit under this Plan as the spouse or beneficiary of a member,
- but does not include an employee who has terminated employment or who is receiving a retirement benefit under this Plan that arises as a result of providing service to an employer;
- “**actuarial interest rate**” means the investment rate assumed by the actuary in the most recent valuation of this Plan;
- “**age 61**” means the end of the calendar month in which a member reaches age 61;

“associated professional” or **“certified professional”** means an individual 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 one or more of the following as permitted by the application of section 81:

- (a) the member’s spouse,
- (b) one or more individuals,
- (c) one or more corporations, partnerships, societies, associations or any other entities that are acceptable to the plan administrative agent,
- (d) the personal representative of the estate of the member in a representative capacity,
- (e) one or more trustees including, without limitation, trustees of a family trust, trustees of a minor designated by the member as a beneficiary or trustees of a charitable purpose trust;

“benefit” means a commuted value, pension, refund, bridge benefit, temporary annuity, monthly benefit 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;

“bridge benefit” means a monthly payment payable pursuant to subsection 54(2);

“capitalized value” means, in relation to a retirement benefit or indexable benefit or part of a retirement benefit or indexable benefit, its actuarial present value 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 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 with respect to the member;

“dependant” [Definition Repealed]

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

“effective date” means April 1, 2000, the date ss. 115 and 122 of the *Act* came 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) an individual designated as an employee under section 3 (1) (b) by an employer referred to in section 2 (d);
- (e) an individual designated as an employee by any other employer with the approval of the board;

“employer” means a person or organization, whether incorporated or not, described in section 2 from whom an employee receives or received salary;

“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 an individual, 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 an individual 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;

“indexable benefit” means a pension, bridge benefit, temporary annuity or monthly benefit payable to a retired member;

“insurance company” means a corporation authorized to carry on life insurance business in Canada;

“Interplan Pension Transfer Agreement” [definition repealed];

“latest retirement age” means, in respect of a member, November 30th of the calendar year in which the member attains the age prescribed under section 8502(e) of the Income Tax Regulations under the *Income Tax Act* (Canada) for the latest commencement of retirement benefits under a registered pension plan;

“life income fund” has the same meaning as defined in the *Pension Benefits Standards Act*;

“locked-in” means that the pension plan funds must be used to provide a lifetime benefit;

“locked-in retirement account” has the same meaning as defined in the *Pension Benefits Standards Act*;

“member” means

- (a) an active member,
- (b) a former member,
- (c) an inactive member, or
- (d) a retired member;

“minor” means an individual under the age of majority;

“monthly benefit” means a monthly payment payable pursuant to Part 5 for the balance of a guarantee period after the death of a member;

“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 lifetime payment payable pursuant to Parts 4, 5 or 7;

“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 benefits payable to a member under this Plan, 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,
- (c) for periods on or after January 1, 2004, and before October 1, 2019, 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, and
- (d) for periods on or after October 1, 2019, the rates of interest calculated on the basis of the average yields of the 5 year personal fixed term chartered bank deposit rates, determined by reference to CANSIM Series V80691336, or its future equivalent, published by the Bank of Canada, using the value of the last weekly series for each month;

“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” 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 retirement benefit from the pension fund,

and includes a person who receives a pension or monthly benefit following the death of the member;

“retirement benefit” means a pension and, if applicable, a bridge benefit payable pursuant to Part 5;

“salary” means the base salary received by a member, and includes 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;

“spouse” individuals are spouses for the purposes of the *Pension Benefits Standards Act* and this Plan on any date on which one of the following applies:

(a) they

(i) are married to each other, and

(ii) have not been living separate and apart from each other for a continuous period longer than 2 years;

(b) they have been living with each other in a marriage-like relationship for a period of at least 2 years immediately preceding the date;

“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*;

“temporary annuity” means a monthly payment payable pursuant to paragraph 56(1)(d);

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

(a) in the case of a member who is 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, provided that if at that time the member has seniority rights under a collective agreement, the member will not be considered to have terminated employment until the earlier of

(i) the date that is six months after 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 date the member ceases to have 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” [Definition Repealed]

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

(2) [Repealed]

(3) [Repealed]

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 retirement benefit 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, the member’s highest salary before the date on which the member begins receiving a retirement benefit, 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 retirement benefit 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 retirement benefit, 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, the member's highest salary before the date on which the member begins receiving a retirement benefit, 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 retirement benefit 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 retirement benefit

- 100** (1) This section only applies to an inactive member who is entitled to and applies for a deferred retirement benefit when the member reaches earliest retirement age or later.
- (2) In this section, “**percentage increase granted to retirement benefits**” means the percentage increase in a deferred retirement benefit 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 retirement benefit 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 retirement benefit 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 retirement benefit 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 retirement benefit 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 retirement benefit 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 retirement benefit, of the percentage increase granted to retirement benefits on January 1 of the calendar year of termination;
 - (b) if the member's retirement benefit 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 retirement benefits 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 retirement benefits on each January 1 following the calendar year following termination until January 1 of the year that the retirement benefit is granted, and
 - (iii) the proration, for the number of complete months from January 1 of the year the retirement benefit is granted to the end of the month immediately preceding the effective date of the retirement benefit, of the percentage increase granted to retirement benefits 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.