

ONTARIO PUBLIC SERVICE EMPLOYEES' UNION PENSION PLAN

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Ontario Public Service Employee's Union Pension Act, 1994

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ARTICLE 1 INTRODUCTION

The *Public Service Superannuation Act* was enacted in 1920 to provide pension benefits for public service employees. The Plan was contributory with the employer matching employee contributions into the Plan fund.

The *Superannuation Adjustment Benefits Act* was enacted in 1976 to provide automatic escalation to contributors to the Public Service Superannuation Fund. It was separate from the *Public Service Superannuation Act* and yet was administered jointly as a benefit under the *Public Service Superannuation Act*. It was contributory with both employees and employer making equal contributions. It was funded on a partial pay-as-you-go.

On December 31, 1989, the Province of Ontario enacted *The Public Service Pension Act*, governing the pension plans for civil servants of the Province. The *Public Service Pension Act* repealed the *Public Service Superannuation Act*, as amended, and the pension plan which had been established thereunder was continued under the new legislation. Inflation protection under the *Superannuation Adjustment Benefits Act* was incorporated directly into the new pension legislation. Effective January 1, 1990, all of the assets and liabilities of the Public Service Superannuation Fund and of the Public Service Superannuation Adjustment Fund maintained in the Consolidated Revenue Fund were transferred to the Public Service Pension Plan.

Pursuant to a Sponsorship Agreement dated April 18, 1994, the Crown in right of Ontario and the Ontario Public Service Employees Union agreed to establish a separate pension plan for members of the public service pension plan who are members of OPSEU and certain other designated bargaining units. Pursuant to the Sponsorship Agreement, assets and liabilities in respect of members of the Public Service Pension Plan who became members of the OPSEU pension plan were transferred from the Public Service Pension Plan to the Plan.

ARTICLE 2 DEFINITIONS

In this document,

"actuary" means the person or firm appointed as such from time to time by the Board and who is, or one of whose employees is, a Fellow of the Canadian Institute of Actuaries;

"annual salary rate" means the hourly, weekly or other rate at which a person's salary is paid expressed as an annual salary according to such consistently applied formula as the Board considers appropriate having regard to the hours regularly worked by a full-time employee in the position occupied by the person for whom the annual salary rate is determined or in a comparable position;

"average annual salary" means the average of the member's annual salary rate in each month of the period of sixty consecutive months of membership:

(a) in the Plan; or

- (b) in respect of members whose prior credit was transferred into the Plan from another registered pension plan, in the Plan and the member's prior plan,

that produces the highest average, provided that:

- (c) if the member does not have a period of sixty consecutive months of membership in the Plan or in combination with another plan referred to in (b), then 'average annual salary' means the average of the member's annual salary rate in each month of the member's longest period of consecutive months of membership in the Plan and any other plan referred to in (b); and
- (d) if the member transferred into the Plan from another plan referred to in (b) prior to July 1, 1998, then "average annual salary" has the same meaning as it had on the day before this amendment was made. [Amendment No. 1 - June 25, 1998]

"average year's maximum pensionable earnings", with respect to any member or former member, means the average of the Year's Maximum Pensionable Earnings under the *Canada Pension Plan* for the year in which the member or former member ceases or ceased to be a member of the Plan and for each of the four preceding years; [Amendment No. 5 – November 26, 1999]

"Board" means the Board of Trustees established by the Trust Agreement;

"Board actuary" means an actuary employed or engaged by the Board;

"bridging benefit" means a benefit under a collective agreement applying to an employer in the Plan whereby a member who receives a notice of layoff is entitled to take one or more leaves of absence for the purpose of bridging to a date on which the member can retire on an actuarially unreduced pension. [Amendment No. 6 - December 23, 1999]

"business day" means a day, other than a Saturday or Sunday, on which banks in Ontario are generally open for the transaction of normal banking business;

"Central Collective Agreement" means the collective agreement in force between OPSEU and the Crown in respect of the members of the Ontario Public Service, as amended from time to time. [Amendment No. 6 - December 23, 1999]

"child" is a child within the meaning of the *Family Law Act* who is dependent on the member or the spouse of a member and who is

- Under the age of 18 years; or
- If over 18 years, continuously in full time attendance at a secondary school or, immediately following secondary school, for up to five years continuously in full time attendance at a post-secondary educational institution. [Amendment No. 11 – April 22, 2004]

"commuted value" means the present value of a pension benefit determined on the basis of assumptions adopted by the Board on the advice of the actuary and which conforms to the requirements of the *Pension Benefits Act* and the *Income Tax Act* (Canada);

"continuous", in relation to employment, membership or service, means without regard to periods of temporary suspension of the employment, membership or service, and without regard to periods of lay-off from employment;

"credit", when used in reference to credit in the Plan, means the total period of time, calculated in years of full-time employment, for which contributions are made to the Fund on behalf of the member or for which a member is employed and for which contributions to the Fund have been made, and where the member's employment is less than full-time employment, credit shall be given on the basis of the proportion of full-time employment represented by the member's employment for which contributions are made to the Fund and:

- a. credit shall include periods of service purchased by a member in accordance with section 7.4 or pursuant to a reciprocal arrangement; and
- b. for persons who were members of the Plan on January 1, 1993, credit shall include the period of time for which contributions were made to the PSPF or a predecessor plan, provided such contributions have been transferred to the Fund;

"Crown" means the Crown in right of Ontario;

"Crown Agency" means an agency of the Crown that employs Crown Employees;

"Crown Employee" has the same meaning as set out in the *Crown Employees Collective Bargaining Act*, 1993, S.O. 1993, c.38;

"divested operation", in relation to section 3.4 means:

- (i) a psychiatric hospital operated by the Ministry of Health; or
- (ii) the property assessment division of the Ministry of Finance. [Amendment No. 7 - December 23, 1999]

"employee" means a person who is employed by an employer referred to in section 3.1, 3.2 or 3.3;

"employer" means the employer (including a receiving employer) of a member. [Amendment No. 7 - December 23, 1999]

"Factor 80 benefits" means the early retirement benefits described under Article 17 of this Plan;

"former member" means a person who has ceased to hold a position, office or designation that entitles the person to be a member of the Plan, and who,

- (a) is entitled, either immediately or at a future time, to payment of a pension benefit under the Plan, or
- (b) is entitled to receive any other payment under the Plan;

"Fund" means the OPSEU Pension Fund;

"illness" means a physical or mental impairment that prevents an individual from performing the duties of employment in which the individual was engaged before the onset of the impairment;

"maximum contributory salary rate" for the year is the annual salary rate for which the member's contributions calculated under Article 4 of the Plan would equal the maximum contribution limit for the year as specified under the *Income Tax Act* (Canada) or the Regulations under that Act. [Amendment No. 3 – December 16, 1998]

"member" means a person,

- (a) who is required to join the Plan, or
- (b) who is not required to join the Plan, but is entitled to join the Plan and has elected to do so,

but does not include a former member;

"notice of layoff" means a notice declaring that the member's position is surplus to requirements or other like notice made under a collective agreement governing the terms and conditions of a member's employment. In the case of members governed by the Central Collective Agreement, "notice of layoff" means a notice of layoff under Article 20 of the Central Collective Agreement made March 27, 1999, or its successor provisions. For the purposes of sections 7.1A and 17.2A of the Plan, a member governed by the Central Collective Agreement is deemed to have received a notice of layoff where:

- (a) he or she has been declared surplus in accordance with sections 5.2 or 6C.2 of Appendix 9 to the Central Collective Agreement made March 27, 1999 or its successor provisions; or
- (b) in the case where the member, having attained prior to April 1, 1996 credit in the plan that when added to the member's age equalled eighty years, declines an offer of employment with another employer pursuant to section 3 of Appendix 9 to the Central Collective Agreement made March 27, 1999 or its successor provisions. [Amendment No. 6 - December 23, 1999]

"OPSEU" means the Ontario Public Service Employees Union;

"OPSEU Pension Act" means the *Ontario Public Service Employees' Union Pension Act*;

"payment date" means the last business day in each month;

"pension" means a pension benefit that is being paid to a person under the Plan;

"pension benefit" means the aggregate monthly, annual or other periodic amounts, if any, to which a member will become entitled under the Plan on or after ceasing to be a member or to which any other person will become entitled under the Plan upon the death of a member or former member;

"Pension Benefits Act" means the *Pension Benefits Act*, R.S.O. 1990 and the regulations thereto, as amended from time to time;

"Plan" means the OPSEU Pension Plan set out in this document;

"Plan Year" means the calendar year;

"PSPF" means the Public Service Pension Fund of the Public Service Pension Plan under the *Public Service Pension Act*;

"PSPP" means the Public Service Pension Plan under the *Public Service Pension Act*;

"receiving employer" means any public or private sector employer who has been designated in legislation or selected in another manner by the Crown to deliver services formerly provided by civil servants. [Amendment No. 7 - December 23, 1999]

"salary", in relation to a member, means the amount of money payable to a member and computed by reference to the hours, days, weeks or other specific periods of time for which the member is employed, but does not include overtime pay or any payment to the member in lieu of a benefit provided by the employer or any payment determined by the Board not to be part of a member's salary;

"sponsors" means the Crown and OPSEU, and the singular refers to either;

"Sponsorship Agreement" means the agreement dated April 18, 1994, between the Crown and OPSEU, providing for the establishment of the Plan;

"spouse" means either one individual or another, whether of the same or opposite sex who,

- (a) are married to each other, or
- (b) are not married to each other and are living together in a conjugal relationship,
 - (i) continuously for a period of not less than three years, or
 - (ii) in a relationship of some permanence, if they are the natural or adoptive parents, as defined in the *Family Law Act*, of a child;

provided that if the definition of "spouse" in the *Pension Benefits Act* is amended to include same-sex partners, then "spouse" means an individual who is a "spouse" as defined in the *Pension Benefits Act*. [Amendment No. 4 – February 15, 1999]

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

"transfer value" means:

- (a) in respect of a transfer under the Multi-Lateral Portability Agreement (MOPPs), the actuarial present value of the transferring member's credit in the Plan calculated as required under Article 4 of MOPPs and in accordance with the provisions of the Plan as of the date of the member's termination of Plan membership;
- (b) in respect of a transfer under a reciprocal transfer agreement other than OPPs, the transfer value of the transferring member's credit in the Plan calculated as required under the [applicable transfer agreement](#) entered into pursuant to section 15.2 of the Plan in accordance with the provisions of the Plan as of the date of the member's termination of Plan membership; or

- (c) in respect of transfers under the provisions of the Plan between the Plan and the Public Service Pension Plan, the actuarial present value of the transferring member's credit in the Plan calculated as required under the applicable provisions of this Plan as of the date of the member's termination of Plan membership. [Amendment No. 11 – April 22, 2004]

"Transferred Initial Unfunded Liability" means that portion of the initial unfunded liability determined under section 10 of the *Public Service Pension Act* which is transferred to the Fund pursuant to the Sponsorship Agreement;

"Trust Agreement" means the agreement made October 25, 1994 between the Crown and OPSEU.

ARTICLE 3 PLAN MEMBERSHIP

3.1 Mandatory Membership

The following persons who have not attained sixty-five years of age shall become members of the Plan the later of January 1, 1993 and the date of the person's commencement of employment in accordance with this subsection:

- (a) Persons who are civil servants within the meaning of the *Public Service Act* and who are employed in a designated bargaining unit represented by OPSEU.
- (b) Persons in a bargaining unit that is represented by OPSEU who are employed by any agency, board, commission, foundation or organization that is established under an Act of the Legislature and that was designated by order of the Lieutenant Governor in Council as one whose employees in that class were required to be members of the PSPP at any time up to and including December 31, 1992 or in a class that would have been required to be members of the PSPP at any time up to and including December 31, 1994, had the OPSEU Plan not been created and established.
- (c) Persons who are Crown Employees and employed in a bargaining unit represented by OPSEU, if the sponsors have agreed in writing that such employees shall become members of the Plan.
- (d) Persons who are employed by the Toronto Area Transit Operating Authority, and in a bargaining unit represented by the Amalgamated Transit Union ("ATU") Local 1587.
- (e) Persons who are employed by the Liquor Control Board of Ontario, (or the Liquor Licence Board of Ontario), and in a bargaining unit represented by the Ontario Liquor Board Employees Union ("OLBEU").
- (f) Persons who are employed by housing authorities created pursuant to the *Housing Development Act*, and in a bargaining unit represented by CUPE Local 3096.
- (g) Persons who are employees of the Board, whether or not such persons are employed in a bargaining unit represented by OPSEU.
- (h) persons employed by a receiving employer in accordance with an agreement described in section 3.4(2). [Amendment No. 7 - December 23, 1999]

3.2 Elective Membership

Persons to whom section 3.1 does not apply, who are employed,

- (a) by the Crown under the *Public Service Act*;
- (b) by an agency, board, commission, foundation or organization designated by order of the Lieutenant Governor in Council as one whose employees in a designated class were members of the PSPP at any time up to and including December 31, 1992 or would have been members of the PSPP between January 1, 1993 and December 31, 1994, had the OPSEU Plan not been created and established;
- (c) as Crown Employees if the sponsors have agreed in writing that such employees shall become members of the Plan; or
- (d) by an agency, board, commission, foundation or organization the permanent and full-time probationary staff of which are required by any Act to be members of the PSPP,

in a bargaining unit that was represented on January 1, 1993 or at any time thereafter by OPSEU are entitled to become members of the Plan upon filing with the Board a written election to be a member. Persons who otherwise are eligible to become members of the Plan pursuant to this section 3.2 and who had elected to become members of the PSPP prior to January 1, 1993 are members of the Plan effective January 1, 1993.

3.3 Future Membership

- (1) Except as provided in subsection (4), (5) and (6), in the event that OPSEU acquires bargaining rights in any manner with respect to any Crown Employees and OPSEU or the Crown Agency which employs such employees requests in writing that it become an employer in the Plan, the sponsors may agree in writing to such employees becoming members of the Plan.
- (2) Where a request is made under subsection (1), the Crown shall exercise its discretion to agree or not to agree, acting reasonably, after considering the following factors:
 - (a) the financial position of the Crown Agency and its capacity to meet contribution obligations;
 - (b) the adequacy of information regarding the proposed new Plan members and the liabilities associated with them;
 - (c) the adequacy of existing pension arrangements for the prospective Plan members;
 - (d) the willingness of the Crown Agency to co-operate with the Board in meeting its employer obligations under the Plan;
 - (e) the willingness of the Crown Agency to execute a participation agreement in a form set by the Board;
 - (f) the extent to which the Crown Agency is or is not controlled by the Crown through legislation or agreement; and
 - (g) whether pension benefits are covered by the collective agreement between OPSEU and the employer of the Crown Employees or whether they would be covered by a collective agreement if the Crown agrees to the Crown Employees becoming members of the Plan.

(3) If the Crown does not agree to the Crown Employees becoming members of the Plan, after consideration of the factors in subsection (2) of this section 3.3, the Crown shall respond to OPSEU and the Crown Agency, in writing, setting out its reasons in relation to the factors.

(4) Despite subsection (1), in the event that OPSEU acquires bargaining rights with respect to any Crown Employees that are employed in a Crown Agency that is created after January 1, 1995 and such Agency is a successor employer to the Crown or Crown Agency within the meaning of the *Labour Relations Act*, as modified by Section 10 of the *Crown Employees Collective Bargaining Act, 1993*, S.O. 1993, c.38, and the Crown Employees were members of the Plan immediately prior to the creation of such Crown Agency, OPSEU may notify the Crown that the employees in the bargaining unit shall continue as members of the Plan as of the date specified, and:

- (a) the Crown shall cause the Crown Agency to execute a participation agreement in a form set by the Board; and
- (b) the Board shall cause the employees to become members of the Plan as of the specified date.

(5) Despite subsection (1), in the event that OPSEU acquires bargaining rights with respect to any employees that are employed by an employer within the meaning of the PSPP, OPSEU may notify the Crown that the employees in that bargaining unit shall become members of the Plan as of the date specified by OPSEU, and:

- (a) the Crown shall cause the employees to cease being members of the PSPP as of the specified date; and
- (b) the Board shall cause the employees to become members of the Plan as of the specified date.

(6) Despite subsection (1), in the event that OPSEU has bargaining rights with respect to employees of an organization that is not a Crown Agency and such organization is a successor employer to the Crown or a Crown Agency within the meaning of the *Labour Relations Act*, as modified by section 10 of the *Crown Employees Collective Bargaining Act, 1993* and the employees were members of the Plan immediately prior to their transfer to the successor employer and the transfer to the successor employer occurred on or after January 1, 1995, OPSEU may notify the Crown that the employees in the bargaining unit shall continue as members of the OPSEU Plan until the expiry of the Collective Agreement which governed such employees as employees of the Crown or Crown Agency or the substitution of a new Collective Agreement between the successor employer and OPSEU, whichever occurs first, and:

- (a) the Crown shall use its best effort to have the successor employer execute a participation agreement in a form set by the Board for a period which shall terminate on the expiry or substitution of the Collective Agreement or on the date which is agreed to by OPSEU and the successor employer, whichever occurs first; and
- (b) the Board shall cause the employees to cease being members of the Plan on the expiry or substitution of the Collective Agreement or on the date which is agreed to by OPSEU and the successor employer, whichever occurs first.

(7) In the event that CUPE Local 3096, the ATU or the OLBEU acquire bargaining rights with respect to Housing Authorities established under the *Housing Development Act*, The Toronto Area Transit Operating Authority, the Liquor Control Board of Ontario respectively, they may request membership in the Plan for the affected employees as of a specified date and if the sponsors agree in writing, then:

- (a) the Crown shall cause the employees to cease being members of the PSPP as of the specified date, if the employees were members of the PSPP; and
- (b) the Board shall cause the employees to become members of the OPSEU Plan as of the specified date.

(8) In the event that a bargaining unit consisting of 50 or more members of the Plan commences participation in the PSPP, whether by cessation of representation by a bargaining agent or otherwise, any transfer of assets from the Plan to the PSPP in respect of such transferring members shall be made in accordance with the *Pension Benefits Act*, provided, however, that any such transfer shall be exempt from the application of subsection 19(7) of the Regulations to the *Pension Benefits Act*.

(9) Subject only to subsection (8), all transfers of assets from the Plan, whether to another pension plan as a result of cessation of participation in the Plan, or by reason of the termination, death or retirement of a member or members of the Plan, shall be made in accordance with the *Pension Benefits Act*.

3.4 Termination of Membership

(1) A member ceases to be a member of the Plan upon termination by death or otherwise of the employment or circumstances that required or entitled him or her to be a member of the Plan or on the date under the *Income Tax Act* (Canada) and Regulations at which retirement benefits must commence to be paid. [Amendment No. 11 – January 1, 1993]

(2) Notwithstanding (1), but subject to (3), a person's membership in the Plan shall continue if:

- (a) the member was employed at a divested operation immediately prior to the termination of his or her public service employment;
- (b) the exit of the member from the public service occurred as the result of the transfer of a divested operation;
- (c) the member was a former public servant in one of the six public service bargaining units represented by OPSEU under the *Crown Employees Collective Bargaining Act, 1993*, immediately prior to the termination of his or her public service employment;
- (d) the former public servant does not become a member of a bargaining unit covered by another pension plan or retirement arrangement;
- (e) the receiving employer employs the member, in the provision of the transferred operations; and
- (f) the receiving employer has agreed, prior to signing a first collective agreement with OPSEU after the transfer of the divested operation, to become a participating employer in the Plan, in respect of some or all of the class of members to which subparagraph 3.4(2)(e) applies.

(3) The membership in this Plan of a person described in subsection (2) terminates if the person ceases to be an employee of an employer under this Plan, as a result of a subsequent transfer to another employer that is not the Crown.

(4) Subsections 3.4(2) and (3) are effective from January 1, 1998. [Amendment No. 7 - December 23, 1999]

3.5 Termination of Membership for Terminally Ill Employees Despite sections 3.1 and 3.2, a member may cease to be a member of the Plan upon satisfying the Board, on the basis of medical evidence presented, that he or she has a life expectancy of less than twenty-four months.

3.6 Persons Not Entitled to be Members A person is not entitled to be a member of the Plan after the date under the *Income Tax Act* (Canada) and Regulations at which retirement benefits must commence to be paid. [Amendment No. 11 – January 1, 1993].

**ARTICLE 4
CONTRIBUTIONS**

4.1 Contributions to and Payments From Fund Contributions required to be made under this Plan by an employer or by any member, including interest required to be paid to the Fund, shall be paid into the Fund, and any payment required by the Plan to be made to any person shall be made out of the Fund, and all moneys not required to be paid out shall be invested to meet the obligations and liabilities of the Plan.

4.2 Contributions by Members Subject to sections 4.3, 4.3.1, 4.3.2, 4.5 and 4.5.1, every member shall contribute to the Fund from the salary paid to the member for the calendar year,

- (a) 6.4 per cent of the amount of salary that does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and
- (b) 8 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*. [Amendment No. 11 – April 1, 2004]

4.3 Contributions by Members From April 1, 1994 to March 31, 1997 Notwithstanding section 4.2, subject to section 4.6, for the period from April 1, 1994 to March 31, 1997 every member shall contribute to the Fund from the salary paid to the member for the calendar year,

- (a) 7 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*;
- (b) 5.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and
- (c) 7 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.

4.3.1 Contributions by Members from December 1, 1999 to November 30, 2002 Notwithstanding section 4.2, and subject to section 4.6, beginning with the pay period that includes December 1, 1999, and ending with the pay period immediately prior to the pay period that includes December 1, 2002, every member shall contribute to the Fund from the salary paid to the member for the calendar year,

- (a) 4 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*;

- (b) 2.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and
- (c) 4 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*. [Amendment No. 5 - November 26, 1999]

**4.3.2 Contributions by
Members from
December 1, 2002 to
November 30, 2005**

Notwithstanding section 4.2, and subject to section 4.6, every member shall contribute to the Fund from the salary paid to the member for the applicable calendar year as follows:

- (a) beginning with the pay period that includes December 1, 2002, and ending with the pay period immediately prior to the pay period that includes December 1, 2003,
 - (i) 5 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*;
 - (ii) 3.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and
 - (iii) 5 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.
- (b) beginning with the pay period that includes December 1, 2003, and ending with the pay period immediately prior to the pay period that includes December 1, 2004,
 - (i) 6 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*;
 - (ii) 4.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and
 - (iii) 6 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.
- (c) beginning with the pay period that includes December 1, 2004, and ending with the pay period immediately prior to the pay period that includes January 1, 2005,
 - (i) 7 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*;
 - (ii) 5.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and
 - (iii) 7 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*. [Amendment No. 11 – April 1, 2004]

- 4.4 Deduction of Contributions** The contributions to be made by a member to the Fund shall be deducted from the member's salary by the person who pays the member's salary, and shall be paid to the credit of the Fund within fifteen days from the date the contribution was deducted or within such longer time as the Board authorizes in writing.
- 4.5 When No Contribution Required** A member may cease to contribute to the Fund on or after attaining sixty-five years of age.
- 4.5.1** For greater certainty,
 (a) the contributions specified under sections 4.2, 4.3, 4.3.1 and 4.3.2 and deducted from the member's salary under section 4.4 shall not exceed the annual limit set out in the *Income Tax Act (Canada)* and Regulations for the calendar year, and [Amendment No. 9 – December 1, 2002]
 (b) where the member accrues credits in the Plan for less than a calendar year, the annual limit referred to under clause (a) shall be adjusted for the period during the year that the member earns credits. [Amendment No. 3 – December 16, 1998]
- 4.6 Contributions by Employer** Subject to section 4.7, section 4.8 and Article 6, on each payment date, the employer shall pay into the Fund an amount equal to the aggregate amount of all contributions deducted from the members under section 4.2, or that would have been deducted under section 4.2 but for the application of sections 4.3, 4.3.1, or 4.3.2 in the month ended next before the month in which the payment date occurs, or made by or on behalf of members in respect of the month ended next before the month in which the payment date occurs. [Amendment No. 9 – December 1, 2002]
- 4.7 Contributions by Employer from April 1, 1994 to March 31, 1995** For the purposes of section 4.6 and subject to section 4.8, during the period from April 1, 1994 to March 31, 1995, the aggregate amount of all contributions deducted from members referred to in section 4.6 shall be computed pursuant to section 4.3.
- 4.8 Threshold Salary Rate** (1) In this section, “threshold salary rate” for the year is the annual salary rate which if,
 (a) the member had attained age 65 and qualified for a pension,
 (b) the member's average annual salary equalled the threshold salary rate, and
 (c) the member's average year's maximum pensionable earnings was the Year's Maximum Pensionable Earnings under the *Canada Pension Plan*, then the pension computed under subsection 10.9(1), less the reduction under subsection 10.9(4), would equal the defined benefit limit for the year as defined in Part LXXXV of the Regulations under the *Income Tax Act (Canada)*. [Amendment No. 3- December 16, 1998]
 “maximum contribution reduction amount” for the year is two times the amount by which the maximum permissible contributions under the *Income Tax Act (Canada)* for the period during the year that the member earns service credits exceeds the amount that a member paid at the threshold salary rate would contribute to the Plan in a similar period of a year.

(2) Despite section 4.6, when a member's salary rate in any pay period, commencing with the first pay date in January 1995, exceeds the threshold salary rate for the year, the employer's contribution under 4.6 shall be reduced by two times the member's contribution under section 4.2, and under sections 4.3, 4.3.1, and 4.3.2 where applicable, on the annual salary rate in excess of the threshold salary rate for the year, however the total reduction in any year shall not exceed the maximum contribution reduction amount defined in section 4.8(1). [Amendment No. 9 – December 1, 2002]

(3) The Board shall make a payment from the Fund to the Minister of Finance for Ontario of an amount which in the opinion of the Board, is a reasonable estimate of the sum total of contributions made to the Fund in the years 1993 and 1994 by employers under the Plan that would not have been made if the contribution reduction under subsection (2) of this section 4.8 has been in effect commencing with the month of January, 1993.

4.9 Special Funds If the salary of members who are contributing to the Fund is paid by a board, commission, foundation, agency, branch or division that has a special fund or appropriation designated or granted by the Lieutenant Governor in Council or the Assembly for the payment of the employer's contributions under the Plan, contributions required to be made by the employer shall be made from that fund or appropriation in accordance with such formula as may be determined by the Board for the purpose.

4.10 For greater certainty, the contributions made by the employer under sections 4.6 and 4.7, as modified by subsection 4.8(2), shall comply with the conditions applicable to eligible contributions under section 147.2(2) of the *Income Tax Act* (Canada). [Amendment No. 11 – April 22, 2004]

**ARTICLE 5
INTEREST**

5.1 Interest on Member Contributions Interest on members' accumulated contributions, including interest previously credited to the member, shall be credited, as to the frequency and rate of interest, as determined by the Board from time to time, provided that, in any event, such interest shall be calculated not less frequently and at a rate not less than as prescribed by the *Pension Benefits Act*.

5.2 Interest on Lump Sum Payments Interest on a lump sum amount payable to the member, his or her beneficiary, payment or refund recipient as a result of the termination, retirement, death of a member or pursuant to section 15.4 shall accrue at the rate used in Section 5.1 from the date the lump sum payment is due until the beginning of the month payment is made from the Fund. [Amendment No. 1 - June 25, 1998]

5.3 Interest on Transfer Amounts In the event that an election is made pursuant to section 10.8, interest shall accrue on the commuted value of the pension from the date of termination or death, as applicable, to the beginning of the month of payment at a rate of interest determined by the Board from time to time, provided that, in any event, such interest shall be calculated at a rate not less than as prescribed by the *Pension Benefits Act*.

ARTICLE 6 FUNDING

6.1 Interim Funding

(1) For the period beginning on April 1, 1994 and ending with March 31, 1997, no payment shall be made by any employer to the Fund with respect to any of the following disclosed by a going concern or a solvency valuation of the Plan made at any time after December 31, 1992:

(a) any going concern unfunded liability, including the additional unfunded liability for the benefits referred to subsection (6).

(b) any actuarial loss.

(c) any solvency deficiency.

(2) Employer contributions, special payments or any other payments required to be made by an employer to the Fund by any statute or otherwise at law shall be reduced for the period April 1, 1994 to March 31, 1997 pursuant to and in accordance with subsections 15(2) and 15(3) of the *OPSEU Pension Act*.

(3) Member contributions shall be reduced for the period April 1, 1994 to March 31, 1997 in accordance with section 4.3.

(4) Employer contributions shall be reduced for the period April 1, 1994 to March 31, 1995 in accordance with section 4.7.

(5) The total amount of reductions set out in subsection (2) shall be applied:

(a) first, to eliminate the special payments otherwise payable by an employer for that period;

(b) second, to reduce the employer contributions otherwise payable for that period after the application of section 4.7;

(c) third, to reduce any other payment by an employer to the Fund otherwise payable for that period;

(6) The cost of Factor 80 benefits shall be borne by the Fund from June 1, 1993, to and including March 31, 2000.

6.2 Future Funding

Subject to Section 18 of the *OPSEU Pension Act* regarding the application of actuarial gains and losses, from April 1, 1997 forward, the Plan shall be funded in accordance with the *Pension Benefits Act*, the *Income Tax Act* (Canada) and such other legislation as may be applicable to the Plan from time to time.

6.3 Actuarial Gains and Losses

(1) Any net actuarial gains remaining as at December 31, 1995, as determined by an actuarial valuation as of that date, after recognizing the reductions in employer and member contributions, special payments or any other payments described in section 6.1 (the "Interim Funding Reductions") such net actuarial gains to be accumulated with interest at the valuation rate of interest to March 31, 1997, will be applied to reduce the remaining amount of the Transferred Initial Unfunded Liability as of March 31, 1997. The Crown's special contribution requirements will be restated over the period April 1, 1997 through December 1, 2029, in order to liquidate the resulting balance of the Transferred Initial Unfunded Liability over that period.

(2) Any net actuarial losses remaining as at December 31, 1995, as determined by an actuarial valuation as of that date, after recognizing the Interim Funding Reductions, such net actuarial losses to be accumulated with interest at the valuation rate of interest to March 31, 1997, will be liquidated through future additional contributions from employers and the members as collectively bargained by the Crown and OPSEU.

(3) Any net actuarial gains remaining as at December 31, 1995, as determined by an actuarial valuation as of that date, after recognizing the Interim Funding Reductions and the effect of subsection 6.3(1) and any actuarial gains disclosed under an actuarial valuation prepared as of December 31, 1996, all such actuarial gains to be accumulated with interest at the valuation rate of interest to March 31, 1997, and any actuarial gains disclosed under an actuarial valuation prepared as of a date after March 31, 1997, will be utilized in the following order:

- (a) until the Transferred Initial Unfunded Liability is fully liquidated:
 - (i) 50% of the gain shall be used to reduce the remaining Transferred Initial Unfunded Liability and the period of amortization over which the Transferred Initial Unfunded Liability is to be fully liquidated shall be adjusted to reflect the reduction; and
 - (ii) 50% of the gain shall be used for the benefit of Plan members;
- (b) after the Transferred Initial Unfunded Liability is fully liquidated, 100% of the remaining gains shall be used for the benefit of the Plan members subject to the *Pension Benefits Act* until the aggregate gains so utilized equal the amount utilized under subsection 6.3(1);
- (c) thereafter, the remaining gains shall be used equally for the benefit of employers and OPSEU subject to the following:
 - (i) 50% of the gain or such other amount as may be collectively bargained shall be used for the benefit of employers, to be applied against any special payments required to be made by any employers and thereafter to reduce employers' normal costs; and
 - (ii) 50% of the gain or such other amount as may be collectively bargained shall be used for the benefit of Plan members.

(4) Subject to the *Income Tax Act* (Canada) and the regulations thereto, actuarial gains may be used to establish rate stabilization funds. Actuarial gains for the benefit of Plan members under subsection 6.3(3) may be used to establish a rate stabilization fund for the benefit of the Plan members. Actuarial gains for the benefit of employers under clause 6.3(3)(c)(i) may be used to establish a rate stabilization fund for the benefit of employers.

(5) In the event of any actuarial loss or solvency deficiency, contributions by members and employers shall be increased in equal amounts to liquidate the actuarial loss or solvency deficiency in accordance with the *Pension Benefits Act*. The contribution increase will be automatic, and effective as of the first day of January of the year after the actuarial valuation is filed, or such earlier date as may be required by the *Pension Benefits Act*; provided that no contribution increase will be provided for any actuarial loss or solvency deficiency prior to April 1, 1997, and provided further that the members and employers may provide for their payments in respect of such actuarial loss or solvency deficiency from their rate stabilization funds, at their option.

- 6.4 **Surplus** No surplus shall be paid out of the Fund to any employer.
- 6.5 **[Transfer Payment from OPSEU Same Sex Spouse Benefits Account]** The Board shall accept from the Minister of Finance a payment in an amount requested by the Board which is equivalent to the actuarial value of the liability under the Plan for the pension payments payable under the Plan to persons specified under subsection 10.18. [Amendment No. 4 – February 15, 1999]

**ARTICLE 7
LEAVES OF ABSENCE**

- 7.1 **Leave of Absence With Pay** If a member has been granted a leave of absence from employment and continues to receive a part or all of his or her salary during the leave, the member shall make the contributions required by sections 4.2, 4.3, 4.3.1, or 4.3.2. [Amendment No. 9 – December 1, 2002]
- 7.1A **Leave of Absence for Bridging Purposes and following Notice of Layoff**
 - (1) Where a member has been granted a leave of absence with pay pursuant to a bridging benefit in the member's collective agreement, and provided that the member satisfies any conditions in the member's collective agreement for the granting of such leave, section 7.1 shall apply to such leave and the member shall accrue credit during the leave of absence.
 - (2) Where a member who has received a notice of layoff is entitled under his or her collective agreement to continue to accrue pension credits for a period represented by his or her termination payments (whether or not pursuant to a bridging benefit), and provided that the member satisfies any conditions in the member's collective agreement for the accrual of such credits, for the purposes of the Plan the member shall be considered to be on paid leave for that period and the termination payments shall be deemed to be salary. Section 7.1 shall apply and the member shall accrue credit during that period.
 - (3) Notwithstanding s.7.2 but subject to subsection 7.2(8), where a member has been granted a leave of absence without pay pursuant to a bridging benefit in the member's collective agreement, and provided that the member satisfies any conditions in the member's collective agreement for the granting of such leave,
 - (a) the contributions set out in sections 4.2, 4.3, 4.3.1 or 4.3.2, as applicable shall continue to be made by or on behalf of the member, in accordance with the member's collective agreement, based on the annual salary of the member immediately prior to the commencement of the leave of absence;

- (b) the employer's liability under section 4.6 shall be calculated using the aggregate amount of contributions deducted from the members under section 4.2 or that would have been deducted under section 4.2 but for the application of sections 4.3, 4.3.1 or 4.3.2 whether or not such contributions were actually deducted from the member. [Amendment No. 9 – December 1, 2002]
- (c) the member shall accrue credit during the leave of absence.
- (4) Where a collective agreement other than the Central Collective Agreement provides for bridging benefits that are greater than benefits provided under the Central Collective Agreement, the additional liability of such benefits to the Plan shall be calculated for each member on a basis approved by the Plan's actuary and paid to the Plan by the member's employer within 30 days of request by the Plan. [Amendment No. 6 - December 23, 1999]

7.2 Leave of Absence Without Pay

- (1) If a member is granted a leave of absence from employment for more than one month and receives no salary during the leave and does not elect to make contributions to the Fund during the leave, no credit shall be given to the member in the Plan for the period of the leave of absence unless:
 - (a) the member makes payments to the Fund in accordance with section 7.4;or
 - (b) in the case of an unpaid leave immediately preceding a termination of employment, the member
 - (i) elects, prior to the end of the leave, to make contributions to the Fund; and
 - (ii) contributes to the Fund on or after termination of the leave an amount equal to the contributions the member would have been required to make during the leave.

In determining contributions to be made under this sub-paragraph, the contribution amount shall be based on the annual salary rate of the member on the date of the member's termination of employment and shall be adjusted in each year subsequent to the year in which the member terminated employment by the same percentage as that by which an adjusted pension is increased in that year under Article 11 to adjust for inflation. [Amendment No. 1 - June 25, 1998]

- (2) A member who is granted a leave of absence of more than one month without pay because of illness, pregnancy or the adoption of a child may elect to make contributions to the Fund during the leave, in which case the member shall contribute an amount equal to the amount the member would have contributed if the leave had not been granted.
- (3) A member who is granted a leave of absence of more than one month without pay for special or educational purposes may elect to make contributions to the Fund during the leave, in which case the member shall contribute twice the amount the member would have contributed to the Fund if the leave had not been granted.

(4) In calculating the amount a member is required to contribute under subsections (2) and (3), the amount shall be based on the annual salary of the member immediately prior to the commencement of the leave of absence.

(5) In determining contributions to be made under this section, the annual salary rate on which contributions under this section are based shall be increased in each year subsequent to the year in which the leave of absence commenced by the same percentage as that by which an adjusted pension is increased in that year under Article 11 to adjust for inflation.

(5.1) Notwithstanding subsections (6) and (7), the annual salary rate in any year on which the members contribution are based shall not exceed the maximum contributory salary rate for that year. [Amendment No. 3 – December 16, 1998]

(6) If a member is granted a leave of absence for less than one month and receives no salary during the leave, the member shall make contributions to the Fund during the leave or after the end of the leave, and shall contribute, in accordance with sections 4.2, 4.3, 4.3.1 and 4.3.2, an amount equal to the amount the member would have contributed if the leave had not been granted. [Amendment No. 9 – December 1, 2002]

(7) The annual salary rate on which contributions are based under this section shall be included in the computation of the average annual salary of a member.

(7.1) Notwithstanding subsection (7), the computation of the average annual salary of a member shall be based on the member's annual salary rate without the limit specified in subsection (5.1). [Amendment No. 3 – December 16, 1998]

(8) Subject to subsection (9), the combined credit obtained by a member with respect to periods after 1990 under subsections (1), (2), (3) and (6), clause 7.1A and section 12 shall not exceed a total of five years. [Amendment No. 11 – April 22, 2004]

(9) Where a member is granted a leave of absence for pregnancy or the adoption of a child, the five year limit on the member's combined credit specified in subsection (8) shall be increased by the total of such periods of leave, or by three years, whichever is less.

7.3 Disability

(1) In this section, "long term income protection plan" means the Long Term Income Protection Plan from time to time applicable to members who are public servants, as defined in the *Public Service Act*, to mitigate the loss of income resulting from a lengthy disability, and includes any plan that applies to members who are not public servants if the Board considers the plan to be substantially similar to the Long Term Income Protection Plan applicable to public servants.

(2) If a member qualifies for a benefit under a long term income protection plan as a result of a disability incurred on or after the 1st day of July, 1974, the employer that employed the member on the date when the member qualified for the benefit shall, subject to subsection (7), contribute to the Fund on behalf of the member the amounts set out in subsections (3), (4) and (5) while the member continues to qualify for the benefit.

(3) Subject to subsection (4), the contributions mentioned in subsection (2) shall be calculated in accordance with Article 4 and paid on the annual salary rate of the member immediately before the disability was incurred in respect of which he or she qualifies for a benefit.

(4) If the member mentioned in subsection (2) was, in the opinion of the Board, employed on a part-time basis in the month before the disability was incurred, the contributions mentioned in subsection (2) shall be calculated in accordance with Article 4 and paid only for that part of each month in which the member continues to qualify for the benefit that is equal to the ratio that, in the twelve months ending on the last day of the month immediately preceding the month when the disability was incurred, the member's part-time employment is of full-time employment in the position occupied by the member or in a comparable position.

(5) In determining contributions to be made under this section, the annual salary rate on which contributions under this section are based shall be increased in each year subsequent to the year the disability was incurred by the same percentage as that by which an adjusted pension is increased in that year under Article 11 to adjust for inflation.

(5.1) Notwithstanding subsections (3) and (5), the annual salary rate in any year on which the contributions by an employer are based shall not exceed the maximum contributory salary rate for that year. [Amendment No. 3 – December 16, 1998]

(6) In applying Article 11 to calculate the increase of the annual salary rate of a member in accordance with subsection (5), the value of the variable E in the formulas mentioned in Article 11 is the number of full months in the year when the member ceased employment as a result of a disability that are in the period beginning with the effective date of the last salary increase received by the member before the cessation of employment and ending with the 31st day of December in the year when the member ceased employment as a result of a disability.

(7) Subsections (2), (3), (4), (5) and (6) continue to apply whether or not the member is in receipt of the benefit under the Long Term Income Protection Plan, but those subsections cease to apply when the member ceases to be a member or attains sixty-five years of age, whichever first occurs.

(8) A person on whose behalf contributions are made under subsection (2) continues to be a member of the Plan and to accrue credit in the Plan for the time in respect of which contributions are made on his or her behalf under this section.

(9) The annual salary rate on which contributions pursuant to subsection (2) are based shall be included in the computation of the average annual salary of a member.

(10) Notwithstanding subsection (9), the computation of the average annual salary of a member shall be based on the member's annual salary rate without the limit specified in subsection (5.1). [Amendment No. 3 – December 16, 1998]

7.4 Purchase of Prior Service

(1) On such terms and conditions as are fixed by the Board and provided that credit shall not be purchased in respect of any period of time for which credit in the Plan has been previously purchased or otherwise provided, a member may purchase credit in the Plan,

(a) for a period of active service during World War II or the Korean War in His or Her Majesty's naval, army or air forces, in the Canadian or British merchant marine, or in any naval, army or air force that was allied with His or Her Majesty's forces and that is approved by the Board;

- (b) for a period of service with an employer who contributed to the Fund, the Public Service Pension Fund, or a predecessor fund throughout the period, and for which the member has no credit in the Plan or the Public Service Pension Plan, and no claim for pension benefits from the Plan or the Public Service Pension Plan. [Amendment No. 2 – December 16, 1998]
 - (c) for a period of employment prior to January 1, 1992 with a person who did not contribute to the Fund or a predecessor fund for the period, if the period is before the member became a member and if,
 - (i) the member has credit for that period of employment in a pension plan that was a registered pension plan under the *Income Tax Act* (Canada) and was provided by the person to employees, and
 - (ii) the member's credit in the plan referred to in subclause (i) is reduced by the period for which credit is purchased in the Plan, and a payment is made to the Fund by the plan referred to in subclause (i) of the amount that represents the member's entitlement in that plan for the period for which credit is purchased in the Plan;
 - (d) for a period of employment after December 31, 1991 with a person who did not contribute to the Fund or a predecessor fund for the period, if the period is before the member became a member and if,
 - (i) the member has or had credit for that period of employment in a pension plan that is or was a plan registered under the *Income Tax Act* (Canada) and was provided by the person to employees,
 - (ii) the member ceased to be a member of the plan referred to in subclause (i), and
 - (iii) any approval required by Her Majesty in right of Canada for the purchase of credit in the Plan has been obtained;
 - (e) for a leave of absence without pay for more than one month for special or educational purposes; or
 - (f) for a leave of absence without pay for more than one month because of illness, pregnancy or adoption of a child.
 - (g) for a period of service for which the member has an entitlement to a deferred pension in the Public Service Pension Plan. [Amendment No. 2 – December 16, 1998]
- (2) To purchase credit referred to in clause (1)(c) or (d), a member shall pay to the Fund the amount determined by the Board on the recommendation of the Board actuary to be equal to the actuarial value of the additional expected benefits to which the member will become entitled because of obtaining the credit, less the amount transferred from the plan referred to in subsection 1(c).
- (3) To purchase the credit referred to in clause (1)(b) or (f), a member shall pay to the Fund an amount equal to the product of,
- (a) the annual salary rate of the member on the date when the member's written application containing all information required by the Board for the purchase of the credit is received by the Board;

- (b) the following contribution rate:
 - (i) for service prior to January 1, 1990, the Member's contribution rate as determined under the **Public Service Superannuation Act**, as amended, and under the **Superannuation Benefits Act**, as amended, or any predecessor Acts; and
 - (ii) for periods of prior service between January 1, 1990 and March 31, 1994, and between April 1, 1997 and November 30, 1999, and for any period of prior service on or after December 1, 2005, the Member's contribution rate specified in section 4.2; and
 - (iii) for periods of prior service between April 1, 1994 and March 31, 1997, and between December 1, 1999 and November 30, 2002, the Member's contribution rate in effect during these periods; and
 - (iv) for periods of prior service between December 1, 2002 and November 30, 2005, the Member's contribution rates in effect during this period. [Amendment No. 9 – December 1, 2002]
- (c) the length in years of the period of prior service for which credit is purchased.

(3.1) The annual salary rate referred to in this article shall not exceed the maximum contributory salary rate for that year. [Amendment No. 3 – December 16, 1998]

(4) Despite subsection (3), if any payment has been made from the Fund, the Public Service Pension Fund or a predecessor fund in respect of the service for which credit is being purchased under clause (1)(b), and if the total amount paid, plus interest thereon from the payment date at such rate as the Board determines, exceeds the amount determined under subsection (3) for the purchase of that credit in the Plan, the member making the purchase shall pay the higher amount. [Amendment No. 2 – December 16, 1998]

(5) To purchase credit referred to in clause (1)(a) or (e), a member shall pay to the Fund an amount equal to the product of,

- (a) the annual salary rate of the member on the date when the member's written application containing all information required by the Board for the purchase of the credit is received by the Board;
- (b) the following contribution rate:
 - (i) for service prior to January 1, 1990, twice the Member's contribution rate as determined under the **Public Service Superannuation Act**, as amended, and under the **Superannuation Benefits Act**, as amended, or any predecessor Acts; and
 - (ii) for periods of prior service between January 1, 1990 and March 31, 1994, and between April 1, 1997 and November 30, 1999, and for any period of prior service on or after December 1, 2005, twice the Member's contribution rate specified in section 4.2; and
 - (iii) for periods of prior service between April 1, 1994 and March 31, 1997, twice the Member's contribution rate in effect during that period; and

- (iv) for periods of prior service between December 1, 1999 and November 30, 2002, the sum of the respective employer's and Member's contribution rates in effect during that period; and
 - (v) for periods of prior service between December 1, 2002 and November 30, 2005, the sum of the respective employer's and Member's contribution rates in effect during this period. [Amendment No. 9 – December 1, 2002]
- (c) the length in years of the period of prior service for which credit is purchased.

(5.1)

- (a) Upon receiving an application from a member to purchase credit under clause (1)(g), the Board shall:
- (i) calculate a required transfer amount consisting of,
 - 1. the Actuarial Present Value of the entitlement that the member would have had in the Plan on the date the member terminated his or her membership in the Public Service Pension Plan, if the member's credit in the Public Service Pension Plan were credit in the Plan, less
 - 2. the refund of excess contributions, if any, paid or payable to the member or with respect to him or her by the administrator of the Public Service Pension Plan as required by subsections 39(1) and (4) of the *Pension Benefits Act*, as amended from time to time, in respect of the service for which the member has an entitlement to the deferred pension, plus
 - 3. interest on the amount under 1, after reduction under 2, calculated from the date that the member terminated his or her membership in the Public Service Pension Plan to the end of the month preceding the date that the Request for Transfer Amount is issued to the administrator of the Public Service Pension Plan at the rate of interest specified in the Schedule of Actuarial Assumptions under the Multilateral Portability Agreement, and
 - (ii) issue a Request for Transfer Amount to the administrator of the Public Service Pension Plan for the amount calculated under subclause (i).
- (b) To establish the credit referred to in clause (1)(g), the member shall:
- (i) pay to the Fund:
 - 1. the amount, if any, by which the amount requested in subsection (5.1)(a), exceeds the amount paid by the Public Service Pension Plan, excluding any interest paid under subsection 15.6(2), in response to the Request for Transfer Amount issued under subclause (a)(ii), and

2. the amount, if any, under paragraph (5.1)(a)(i) 2, plus interest calculated from the date that the member terminated his or her membership in the Public Service Pension Plan to the end of the month preceding the date that the Request for Transfer Amount is issued to the administrator of the Public Service Pension Plan at the rate of interest specified in the Schedule of Actuarial Assumptions under the Multilateral Portability Agreement, plus
 3. interest on the amounts under 1 and 2 at such rate as the Board determines, and
 - (ii) forfeit the deferred pension in the Public Service Pension Plan.
- (c) Where the member does not pay the full amount required under clause (b), credit shall only be given to the member for the proportion of the credit in the Public Service Pension Plan that the amounts paid to the Fund by both the administrator of the Public Service Pension Plan in response to the Request for Transfer Amount under subclause (a)(ii), excluding any interest paid under subsection 15.6(2), and by the member under clause (b), excluding any interest at the rate under paragraph (b)(i) 3, bear to the Actuarial Present Value referred to under paragraph (a)(i) 1, plus interest on that amount as calculated under paragraph (a)(i) 3. [Amendment No. 2 – December 16, 1998]
- (6) Any credit referred to in subsection (1), and any credit transferred from another pension plan that is not paid for by the amount transferred to the Plan under sections 7.4(5.1) and Article 15, may be purchased only if application therefor is made to the Board in writing within twenty-four months after the latest of,
- (a) the earlier of the day on which the member for whom credit is to be purchased first became, and continuously remained, a member of the Plan or the PSPP;
 - (b) the last day of the most recent continuous period for which credit is being purchased; and
 - (c) in the case of credits referred to under clause (1)(g), the first day of membership in the Plan. [Amendment No. 11 – January 1, 1993]
- (7) If the amount payable by a member to purchase credit under this section exceeds \$500, the amount may be paid in such number of instalments of principal and interest over a period of not more than ten years as the Board permits in accordance with terms and conditions established for instalment payments and for the completion of payment on the death or retirement from employment of the member.
- (8) The employer is not required to pay to the Fund an amount equal to a payment made by any person under subsection (2), (5) or Article 15.
- (9) The period for which a member may purchase credit under this section is limited to that permitted in the *Income Tax Act* (Canada) and the Regulations.
- (10) Credit for service prior to 1992 given after 1991 pursuant to this section is limited to a maximum of two years of accumulated credit for leaves of absence for special or educational purposes.

(11) Where a member who was a member of the Public Service Pension Plan immediately prior to becoming a member of the Plan,

- (a) has been given credit in the Plan under subsection 15.5 (1),
- (b) had prior to her or his last date of membership in the Public Service Pension Plan:
 - (i) elected to purchase credit for prior service in that plan, and
 - (ii) agreed to pay the required amount in instalments, and,
- (c) had not completed making the required instalment payments,

the Board shall accept the outstanding payments from the member and the member's credit in the plan shall be increased as the instalment payments are received by the Board. [Amendment No. 2 – December 16, 1998]

7.5 Contribution, salary and service record

The Board shall cause a record to be kept of each member's contributions to the Fund, of the total period of service for which a member has credit in the Plan, and of the annual salary rates of each member while a member and of all other information necessary for the administrative, actuarial and financial requirements of the Plan.

**ARTICLE 8
TERMINATION AND DEATH BENEFITS**

8.1 Refunds Before Twenty-Four Months' Membership

A member who has not attained sixty-five years of age and who ceases to be a member of the Plan before completing a continuous period of twenty-four months of membership and with credit in the Plan of less than two years is entitled to the refund provided by either or both of sections 8.9 and 8.10, as the case requires.

8.2 Refund Before Pre-1987 Vesting

A member who has not attained sixty-five years of age and who ceases to be a member of the Plan after completing a continuous period of twenty-four months of membership or with two or more years of credit in the Plan and:

- (a) with less than ten years of continuous membership;
- (b) with credit in the Plan for less than ten years; and
- (c) with less than ten years of continuous employment or with ten or more years continuous employment but prior to attaining age forty-five,

is entitled to the refund provided by Section 8.9. [Amendment No. 1 - June 25, 1998]

8.3 Refund Before Age Forty-five

A member who, for reasons other than the member's death or disability, ceases to be a member of the Plan before attaining forty-five years of age and after completing a continuous period of ten or more years of membership or with ten or more years of credit in the Plan is entitled to the refund provided by section 8.9 if the member does not elect a deferred pension in respect of his or her credit in the Plan for service or membership prior to the 1st day of January, 1987.

8.4 Refund After Age Sixty-five

(1) A member who has attained sixty-five years of age and who ceases to be a member of the Plan before completing a continuous period of twenty-four months of membership and with credit in the Plan of less than two years is entitled to the refund provided by either or both of section 8.9 and 8.10, as the case requires, and to the payment provided by section 8.11.

(2) A member who has attained sixty-five years of age and who ceases to be a member of the Plan

(i) after completing a continuous period of twenty-four months of membership in the Plan; or

(ii) with two or more years of credit in the Plan;

and before completing

(iii) ten years of continuous membership in the Plan, with credit in the Plan for less than ten years, and

(iv) ten years of continuous employment

is entitled to the refund provided by section 8.9 and to the payment provided by Section 8.11. [Amendment No. 1 - June 25, 1998]

8.5 Refund on Death Where No Survivor

(1) When the cessation of membership referred to in section 8.1, 8.2 or 8.4 occurs because of the death of the member, and the member is not survived by a child or children under eighteen years of age or by a spouse from whom the member is not living separate and apart at the member's death, the refund mentioned in those sections, but not a payment described in section 8.11, shall be paid to a person designated by the member in accordance with this section or, if no such refund recipient is designated, to the member's estate.

(2) If a member dies while a member of the Plan and after completing a continuous period of ten or more years of membership or with ten or more years of credit in the Plan and, if the member is not survived by a child or children under eighteen years of age or by a spouse from whom the member is not living separate and apart at the member's death, the refund provided by section 8.9 shall be paid to a person designated by the member in accordance with this Article 8 or, if no such refund recipient is designated, to the member's estate.

8.6 Refund on Death to Survivor

Despite sections 8.1, 8.2 and 8.4, if the cessation of membership referred to in those subsections occurs because of the death of the member, and the member is survived by a child or children under eighteen years of age or by a spouse from whom the member is not living separate and apart, the spouse, or if there is no such spouse surviving, the child or children under eighteen years of age is or are, as the case requires, entitled,

(a) if the death is a cessation of membership referred to in sections 8.1 or 8.4(1), to the refund provided by either or both of sections 8.9 or 8.10 and to the payment provided by section 8.11; or

(b) if the death is a cessation of membership referred to in section 8.2 or 8.4(2), to the refund provided by section 8.9 and to the payment provided by section 8.11.

- 8.7 Refund When Contributions Exceed Pension**
- (1) The amount, if any, by which the total of contributions made to the Fund by or on behalf of a member and the interest credited to the member to the date of payment under Article 5 exceeds the total payments made from the Fund to the member as a former member and as a survivor pension to the former member's spouse or child or children as a result of the former member's death shall be paid to a person designated by the member in accordance with this section or, if no such payment recipient is designated, to the former member's estate.
- (2) Despite subsection (1), if a former member who is in receipt of a pension dies and is survived by a child or children under eighteen years of age or by a spouse from whom the former member is not living separate and apart, and if none of them is entitled to a survivor pension under the Plan as a result of the death of the former member, the amount, if any, by which the aggregate of such of the amounts mentioned in sections 8.9 and 8.10 as are applicable and of the additional amount mentioned in section 8.11 exceeds the total payments made from the Fund to the former member shall be paid to the surviving spouse, or if there is no surviving spouse, to the child or children, if any, of the former member under eighteen years of age at the former member's death.
- 8.8 Refund for Disabled Member**
- Despite sections 8.1, 8.2 and 8.4, a member with credit in the Plan for less than ten years and with less than ten years of continuous membership in the Plan who ceases to be a member because of an illness which the Board finds to have caused him or her to be totally and permanently disabled is entitled, upon application to the Board, to be paid from the Fund the amount, if any, by which,
- (a) the aggregate of such of the amounts mentioned in sections 8.9 and 8.10 as are applicable and of the additional amount mentioned in section 8.11, exceeds,
- (b) the aggregate of the amount of the commuted value of any pension benefit for which the member is eligible and the amount of any refund to which the member is entitled under section 8.12.
- 8.9 Pre-1987 Service Refund**
- A person entitled to a refund provided by this subsection is entitled to be paid from the Fund an amount equal to the total of the contributions made to a predecessor fund by the member, or on behalf of the member pursuant to section 21(2) of the *Public Service Superannuation Act* or section 10(2) of the PSPP, in respect of employment or service for any period before the 1st day of January, 1987, together with the interest credited in the Fund or a predecessor fund to the member.
- 8.10 Post-1986 Service Refund**
- A person entitled to a refund provided by this subsection is entitled to be paid from the Fund an amount equal to the total of the contributions made to the Fund or a predecessor fund by a member, or on behalf of the member pursuant to section 21(2) of the *Public Service Superannuation Act*, section 10(2) of the PSPP or subsection 7.3(2) of the Plan, in respect of employment or service for any period after the 31st day of December, 1986, together with interest credited in the Fund or the predecessor fund to the member.
- 8.11 Additional Payment**
- A person entitled to a payment provided by this subsection is entitled to be paid from the Fund an additional amount equal to,
- (a) the amount of a refund to which the person is also entitled under either or both of sections 8.9 and 8.10, less

- (b) any portion of the amount of the refund that is attributable to a payment made by the person under subsections 7.4(2) or 7.4(5) or Article 15 and interest credited to the member in respect thereof.

8.12 50 Per Cent Rule

The amount by which the total of the contributions, other than any contributions made under subsections 7.4(2) or 7.4(5), any top-up payments under sections 7.4(5.1) (b), or Article 15 of the Plan, or subsections 11(2) or 11(4) of the PSPP or top-up payments made under section 36 of the PSPP, made to the Fund and any predecessor fund by or on behalf of a member in respect of employment or service for any period after the 31st day of December, 1986 and the interest credited to the member in the Fund or the predecessor fund on those contributions exceeds one-half of the commuted value, excluding credit in the Plan for contributions made under subsections 7.4(2) or 7.4(5), any credit related to any top-up payments under sections 7.4(5.1) (b), or Article 15 of the Plan, or subsections 11(2) or 11(4) of the PSPP or credit related to any top-up payments made under section 36 of the PSPP, in respect of employment or service after the 31st day of December, 1986, of the pension or deferred pension in respect of that employment or service to which the member is entitled on ceasing to be a member, shall be refunded to the former member. [Amendment No. 11 – April 22, 2004]

8.12.1

Where a member was, prior to becoming a member of the Plan, a member of the Public Service Pension Plan, and the member's credits in that plan were transferred to the Plan under section 15.5 or purchased under clause 7.4(1)(g), the contributions included in the calculation under 8.12 shall include contributions made by the member to the Public Service Pension Plan, other than contributions made to that Plan that are comparable to those excluded under section 8.12. [Amendment No. 2 - December 16, 1998]

8.13 Excess Past Service Payments Refunded

The amount by which the total of the payment to the Fund and any predecessor fund made under subsections 7.4(2) or 7.4(5) or Article 15 of the Plan, or subsections 11(2) or 11(4) or section 36 of the PSPP, and the interest credited to the member on that payment in accordance with the *Pension Benefits Act* exceeds the commuted value of the credit in the Plan that was purchased with that payment and that is included in a deferred pension that the member has elected to transfer under subsection 10.8(1) shall be refunded to the former member.

8.14 Lump Sum Payments

A payment or refund to be made under this section shall be paid in a lump sum payment.

8.15 Credit Reduced

A refund made under this section, other than sections 8.12 and 8.13, reduces the member's or former member's credit in the Plan by the period of time in respect of which the refund is calculated.

8.16 Child

For the purpose of sections 8.5, 8.6 and 8.7, a child shall be deemed not to have attained eighteen years of age if the child would, for the purpose of section 10.17, be deemed not to have attained that age.

8.17 Return of Unauthorized Contributions

Where in the opinion of the Board, a payment made to the Fund by a person in purported reliance on Articles 4 or 7 is found to have been made without proper authority, the Board shall return to the person the unauthorized payment, together with interest as if the unauthorized payment were a refund under sections 8.9 or 8.10, as the case may be.

- 8.18 Designation of Recipient** The designation by a member of a refund or payment recipient for the purposes of this section shall be made and delivered to the Board in such form and manner as the Board may require.

Article 8 of the OPSEU Pension Plan is amended by deleting subsection 8.19 [Amendment No. 4 – February 15, 1999]

ARTICLE 9 DISABILITY BENEFITS

- 9.1 Disability pension**
- (1) Subject to subsection (2), where a member with ten or more years of credit or with ten or more years of continuous membership in the Plan applies to the Board and is found by the Board to be totally and permanently disabled, upon resigning from employment, the member is entitled to a disability pension under this section and calculated in accordance with Article 10.
- (2) The Board may at any time review the case of any former member to whom a pension is being paid under this section and,
- (a) if the former member applied for the disability pension after December 31, 1991 and, in the opinion of the Board, is no longer totally and permanently disabled, the payment of the disability pension shall cease; or
- (b) if the former member applied for the disability pension before January 1, 1992 and has, in the opinion of the Board, recovered sufficiently to perform his or her duties, or to perform other duties in the public service, the Board shall report the case to the former employer of the member or to such person designated by the former employer of the member, and to the ministry, agency or other organizational unit where the former member was employed immediately before his or her disability, whereupon the former member shall be considered for re-employment and, in the event re-employment is offered, payment of the disability pension shall cease whether or not the offer of re-employment is accepted.
- 9.2 Other Pension Entitlement Not Affected** The termination of the payment of a pension under this section in accordance with clause 9.1(2)(b) does not affect a former member's right to apply for a pension for which he or she is eligible under any other provision of the Plan.
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ARTICLE 10 RETIREMENT AND OTHER VESTED BENEFITS

- 10.1 Pension at Age Sixty-five** Every member who has twenty-four or more months of continuous membership in the Plan or who has two or more years of credit in the Plan and who ceases to be a member of the Plan on or after attaining sixty-five years of age is entitled to a pension computed in accordance with the Plan, except that, if the member has less than ten years of continuous membership, has credit in the Plan for less than ten years, and has less than ten years of continuous employment, the pension shall be computed only on his or her credit in the Plan for employment or service after the 31st day of December, 1986. [Amendment No. 1 - June 25, 1998]

- 10.2 Pension at Age Sixty** Every member who has at least twenty years of credit in the Plan and who ceases to be a member of the Plan on or after attaining sixty years of age is entitled to a pension computed in accordance with the Plan.
- 10.3 Ninety-year Rule** Every member who has credit in the Plan for a period of time that, when added to the member's age on the date the member ceases to be a member of the Plan, totals at least ninety years is entitled to a pension computed in accordance with the Plan.
- 10.3A Bridging to Factor 80** A member is entitled to a pension computed in accordance with the Plan, but without any reduction required either by subsections 10.9(5) or 10.9(6) of the Plan, if by taking one or more leaves of absence described in section 7.1A and satisfying the conditions in that section, he or she attains, prior to January 1, 2009, credit in the Plan, that when added to that member's age totals eighty years. [Amendment No. 13 – January 1, 2005]
- 10.4 Commencement of Pension** Payment of a pension to which a member is entitled under this section shall commence in the month following the month when the member ceases to be a member of the Plan.
- 10.5 Deferred Pension**
- (1) A person who ceases to be a member of the Plan and is neither in receipt of a pension provided for in Article 9, nor entitled to a pension provided for in sections 10.1, 10.2 or 10.3 and:
- (a) has twenty-four or more months of continuous membership in the Plan or two or more years of credit in the Plan, is entitled to a pension computed in accordance with the Plan in respect of employment or service accrued after the 31st day of December, 1986; and
- (b) has either:
- (i) ten years of continuous membership in the Plan;
- (ii) ten years credit in the Plan; or
- (iii) ten years of continuous employment and is at least age forty-five on the date the person ceases to be a member of the Plan,
- is entitled, in addition to the pension provided for in subparagraph (a), to a pension computed in accordance with the Plan in respect of employment or service accrued prior to the 1st day of January, 1987. [Amendment No. 1- June 25, 1998]
- (2) Payment of the pension provided for in subsection (1) shall commence in the month following the month when the former member will attain sixty-five years of age, or if the former member so elects in writing to the Board, payment of the pension shall, subject to the reductions mentioned in section 10.9, commence in the month following any month that is not earlier than the month when the former member will attain fifty-five years of age or later than the month when the former member will attain sixty-five years of age.
- 10.6 Pre-1966 Credit**
- (1) Every member who, on ceasing to be a member, has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the member ceases to be a member, and who is neither in receipt of a pension provided for in Article 9 nor entitled to a pension provided for in sections 10.1, 10.2 or 10.3, is entitled to a pension computed in accordance with the Plan.

(2) Payment of the pension provided for in subsection (1) shall commence in the month following the month when the former member will attain sixty years of age, or if the former member so elects in writing to the Board, payment of the pension shall, subject to the reductions mentioned in section 10.9, commence in the month following any month that is not earlier than the month when the former member will attain fifty years of age or later than the month when the former member will attain sixty years of age.

10.7 Revocation of Election

An election made under subsection 10.5(2) or 10.6(2) may, with the approval of the Board, be revoked by the member or former member, and a new election in writing to the Board may be made if the commencement of payment therein provided for is neither earlier than the month following the month when the new election is delivered to the Board nor earlier than is permitted by subsection 10.5(2) or 10.6(2), whichever is applicable, and is not later than the latest month permitted by subsection 10.5(2) or 10.6(2), whichever is applicable, but no election may be revoked after payment of the pension is due to commence.

10.8 Transfer of Commuted Value of Pension

(1) A former member who is entitled to a pension under sections 10.5 or 10.6 and who has not attained fifty-five years of age in the case of a pension mentioned in section 10.5 or has not attained fifty years of age in the case of a pension mentioned in section 10.6 may require the commuted value of the pension to be paid, subject to section 42 of the *Pension Benefits Act* or, may at any later time elect, provided that the former member has not attained fifty-five years of age or has not attained fifty years of age in the case of a pension mentioned in section 10.6 when making such a later election,

- (a) to the pension fund of another pension plan that agrees to accept the payment;
- (b) into a retirement savings arrangement or other retirement vehicle prescribed under the *Pension Benefits Act*; or
- (c) for the purchase for the former member of a deferred life annuity under which payments will not commence before the former member attains fifty-five years of age, if the pension the commuted value of which is paid is mentioned in section 10.5, or fifty years of age, if the pension the commuted value of which is paid is mentioned in section 10.6, and if the contract to purchase the annuity meets the requirements prescribed under the *Pension Benefits Act*.
[Amendment No. 11 – December 1, 1996]

(1.1)

- (a) Where a former member who is entitled to a pension under subsection 10.5(1) or 10.6(1) has become a member of the Public Service Pension Plan and the Board has received from the administrator of that plan a Request for Transfer Amount in respect of credit for which the former member has an entitlement under subsections 10.5(1) or 10.6(1), the Board shall pay to the administrator of the Public Service Pension Plan not later than 90 days from the date of issue of the Request for Transfer Amount, the lesser of the requested amount, and:
 - (i) the Actuarial Present Value of the members credit in the Plan, less
 - (ii) the refund of excess contributions with respect to the former member's credit in the Plan, if any, paid or payable to the former member by the Plan under sections 8.12 and 8.13, plus

- (iii) interest on the amount under clause (i), calculated after reduction under clause (ii) from the date that the member terminated membership in the Plan to the end of the month preceding the date that an Request for Transfer Amount was issued by the administrator of the Public Service Pension Plan at the rate of interest specified in the Schedule of Actuarial Assumptions under the Multilateral Portability Agreement;

and shall provide the administrator of the Public Service Pension Plan with the record of the former member's contributions and any other information required to calculate the Actuarial Present Value.

- (b) Upon payment of the amount specified in clause (a), the Board, Plan and Fund are discharged of any further claims by the former member and administrator of the Public Service Pension Plan. [Amendment No. 2 - December 16, 1998]

(2) Despite subsection (1) and subject to subsections (4), (5) and (7), the Board will pay the commuted value referred to in subsection (1) in a lump sum to a former member who applies to the Board for the payment and who is determined by the Board, on the basis of medical evidence presented, to have a life expectancy of less than twenty-four months.

(3) Subject to subsections (4) and (6), payment of amounts out of a retirement savings arrangement prescribed under the *Pension Benefits Act* into which the commuted value of the pension had been previously paid pursuant to subsection (1) will be permitted for any former member who applies to the financial institution that is the trustee of the registered savings arrangement for consent to the payment and who is found by the trustee, on the basis of medical evidence, to have a life expectancy of less than twenty-four months.

(4) Any payments under subsection (2) and (3) will be subject to the provisions of a domestic contract as defined in Part IV of the *Family Law Act* and to any order under Part I of that Act, to the extent permitted by the *Pension Benefits Act*.

(5) Where the former member had a spouse at the time of the application in subsection (2), no payment shall be made by the Board unless the person who was the spouse at the time of the application files with the Board a waiver of all further claims against the Plan, the Fund and the Board that is substantially the same as Form 4 under the *Pension Benefits Act*.

(6) Where the former member had designated the same person as the beneficiary under subsection 10.16(5) as the refund recipient under section 8.5 and as the payment recipient under subsection 8.7(1) of the Plan and those designations of that person are effective at the time of the application in subsection 10.8(2), no payment shall be made by the Board unless the person who was so designated files with the Board a waiver of all further claims against the Plan, the Fund and the Board.

(7) Where the former member had a spouse at the time of the application in subsection (3), no payment shall be made by the financial institution that is the trustee of the registered savings arrangement unless the person who was the spouse at the time of the application files with the trustee a waiver of all further claims against the trustee that is substantially the same as Form 4 under the *Pension Benefits Act*.

(8) Where the former member had designated the same person as the beneficiary under subsection 10.16(5) as the refund recipient under section 8.5 and as the payment recipient under subsection 8.7(1) of the Plan and those designations of that person are effective at the time of the application in subsection 10.8(3), no payment shall be made by the financial institution that is the trustee of the registered savings arrangement unless the person who was so designated files with the trustee a waiver of all further claims against the trustee.

(9) A payment under subsection (2) or (3) discharges and releases the Board, the Plan and the Fund or the financial institution as the case may be from all claims.

10.9 Computation of Pension

(1) Subject to section 10.1, subsection 10.5(1) and the other subsections of this section 10.9, the annual amount of every pension payable to a former member is 2 per cent of the former member's average annual salary multiplied by the former member's years of credit in the Plan, including any fraction of a year.

(2) The credit used in computing the pension in subsection (1) shall not exceed thirty-five years with respect to service prior to 1992.

(3) The annual amount of pension payable to a former member who, on ceasing to be a member, has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the member ceases to be a member, who has not attained sixty-five years of age, shall be computed in accordance with subsection (1) as though the reference to sixty consecutive months in determining the former member's average annual salary were a reference to thirty-six consecutive months and shall be paid, subject to the reduction required by subsection (6), until the former member attains sixty-five years of age, and upon the occurrence of this event, the former member's pension shall be recomputed in accordance with subsection (1) without reference to this subsection. [Amendment No. 5 - November 26, 1999]

(4) When a former member,

(a) who is in receipt of a pension attains sixty-five years of age; or

(b) who is not in receipt of a pension commences to receive a pension on or after attaining sixty-five years of age,

the annual amount of pension computed under subsection (1) shall be reduced by the product of:

(c) 0.655 per cent of the lesser of,

(i) the former member's average annual salary, and

(ii) the former member's average year's maximum pensionable earnings; and

the number of years, including any fraction of a year, of the former member's credit in the Plan for service on or after the 1st day of January, 1966 to a maximum of thirty-five years. [Amendment No. 10 – December 1, 2002]

(5) The annual amount of every pension provided for in subsection (1) shall, after computation in accordance with subsection (1), be reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension is to commence and ending with the last day of the month when the former member will attain sixty-five years of age, and when the reduction required by subsection (4) is calculated, the reduction required by this subsection applies only to the annual amount of pension payable after giving effect to the reduction required by subsection (4) and shall, if applicable, be recalculated on that basis. [Amendment No. 10 – December 1, 2002.]

(5.1) Notwithstanding subsection (5), for every former member who ceases membership in the Plan on or after attaining fifty-five years of age, and who commences to receive a pension during the period from December 1, 1999 to December 31, 2005, the annual amount of pension provided for in subsection (1) shall, after computation in accordance with subsection (1), be reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension is to commence and ending with the last day of the month of the earliest of the following dates:

- (a) the date the member would attain sixty-five years of age,
- (b) the date that the former member would have met the requirements of section 10.2 if the former member had been a member of the Plan after the date of cessation of Plan membership,
- (c) the date that the former member would have met the requirements of section 10.3 if the former member had been a member of the Plan after the date of cessation of Plan membership,

and when the reduction required by subsection (4) is calculated, the reduction required by this subsection applies only to the annual amount of pension payable after giving effect to the reduction required by subsection (4) and shall, if applicable, be recalculated on that basis. [Amendment No. 10 – December 1, 2002]

(5.2) For the purpose of subsection 5.1, in determining the date that the member would have met the requirements of paragraph (b) or (c), the former member's age at the date of pension commencement and the former member's credit in the Plan at the date of cessation of Plan membership shall be used. [Amendment No. 10 - December 1, 2002]

(6) The annual amount of every pension provided for in subsection (3) shall, after computation in accordance with subsection (3), be reduced as required by the *Public Service Superannuation Act*, as it read on the 31st day of December, 1965, and the reduction shall continue until the former member attains sixty-five years of age, and upon the occurrence of this event, the former member's pension shall be recomputed in accordance with subsection (1) and reduced as required by subsection (4), and the annual amount of pension payable after that reduction shall be further reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension commenced and ending with the last day of the month when the former member attained sixty years of age. [Amendment No. 10 – December 1, 2002]

(7) If the annual amount of pension computed in accordance with subsection (1),

- (a) less the reduction required by subsection (4) and, if applicable, subsection (6); and [Amendment No. 10 – December 1, 2002]
- (b) plus the annual amount of pension that the former member would have received from the *Canada Pension Plan* if that pension commenced only on the former member's attaining sixty-five years of age, other than the part of that pension derived from contributions made to the *Canada Pension Plan* after the former member ceased to be a member of the Plan,

that is payable to a former member who,

- (c) has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the former member ceased to be a member of the Plan; and
- (d) has attained sixty-five years of age,

is less than the annuity or annual amount of allowance that would be payable to the former member under the *Public Service Superannuation Act*, as it read on the 31st day of December, 1965, in respect of the former member's credit in the Plan, the amount of the difference shall be added to the annual amount of the pension computed in accordance with subsection (1) that is payable after making the reductions required by subsection (4) and, if applicable, subsection (6). [Amendment No. 5 - November 26, 1999]

(8) There shall be excluded from the period of time mentioned in section 10.6 and subsections (3) and (7) any period of time for which a former member has credit in the Plan and for which the former member was employed by a person who did not, during or after that period of time, contribute to the Fund or a predecessor fund under the Plan or the *Public Service Superannuation Act*.

(9) Subsection (8) does not apply to a former member who established in accordance with subsection 14(8a) of the *Public Service Superannuation Act* as it read on the 31st day of December 1989, a date of commencement of service that is on or before the 31st day of December, 1965.

(10) If, on the first day of the month when payment of the pension to a former member is to commence, the former member has a spouse from whom the former member is not living separate and apart, and that spouse was not the spouse of the former member when the former member ceased to be a member of the Plan, the annual amount of the former member's pension computed in accordance with this section, other than this subsection, shall be reduced in such manner as the Board approves to reflect the following rules:

1. Determine the present value of the pension payable to the former member on the assumption that no survivor pension is payable to the spouse.
2. Determine the reduction in the amount of the former member's annual amount of pension computed in accordance with this section, other than this subsection, that is required in order to provide to the spouse of the former member, at the present value determined under paragraph 1, the survivor pension provided by subsection 10.13(1).

3. Reduce the annual amount of the former member's pension computed in accordance with this section, other than this subsection, by the amount of the reduction determined under paragraph 2. [Amendment No. 5 - November 26, 1999]

(11) If a computation under this section involves a part of a year, the part shall be determined on the basis of full months, and,

(a) any part of a month that is less than fifteen days shall be disregarded; and

(b) any part of a month that is fifteen days or more shall be deemed to be a month.

(12) If, on December 1, 1999, a former member, or surviving spouse or child of the former member, is in receipt of a pension under the Plan, the annual amount of pension payable as of December 1, 1999, shall be recalculated, effective on that day, in accordance with the definition of "average year's maximum pensionable earnings" in Article 2, this section 10.9, and sections 10.13, 10.14, 10.16 and 10.17, whichever are applicable, as these provisions read on December 1, 1999. [Amendment No. 5 - November 26, 1999]

(12.1) If, on December 1, 2002, a former member, or surviving spouse or child of a former member, is in receipt of a pension calculated with reference to subsection 10.9(4) as it read on November 30, 2002, the annual amount of pension payable as of December 1, 2002, shall be recalculated, effective on that day, in accordance with this section 10.9, and sections 10.13, 10.14, 10.15, 10.16 and 10.17, whichever are applicable, as these provisions read on December 1, 2002. [Amendment No. 10 - December 1, 2002]

10.10 Application for pension

The Board is not required to commence payment of a pension to which a person is entitled under the Plan until a written application is delivered to the Board setting out such information as is prescribed and such information as is, in the opinion of the Board, necessary to establish the person's entitlement to the pension and the amount thereof.

10.11 Payment of Pension

Unless otherwise expressly provided in this Plan, a pension,

(a) is payable in monthly instalments for life; and

(b) ceases to be payable after the month when the person in receipt of the pension dies or entitlement to payment of the pension ceases.

10.12 Commutation of Pension

If a person is entitled to be paid a pension the annual amount of which, before the reductions mentioned in subsections 10.9(5), (5.1) and (6), is not more than,

(a) 2 per cent of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; or

(b) such greater amount as is permitted by the *Pension Benefits Act*,

in the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, the Board may pay the commuted value of the pension to the person. [Amendment No. 5 - November 26, 1999]

10.13 Pension to Surviving Spouse

(1) Subject to subsections (2) and (3), if, on the first day of the month in which payment of a pension to a former member is to commence, the former member has a spouse from whom the former member is not living separate and apart, the spouse is, if he or she survives the death of the former member, entitled to be paid for his or her lifetime an annual amount of pension equal to 60 per cent of the annual amount of pension that the former member is entitled to receive in the month when the former member dies, and payment thereof shall commence in the month following the month when the former member dies.

(2) If a survivor pension under subsection (1), subsection 10.14(1), or subsection 10.15(1) is payable as the result of the death of a former member before such deceased former member attained sixty-five years of age, the annual amount of pension on which the survivor pension is based shall be reduced in accordance with subsection 10.9(4) as of the month following the month during which the deceased former member would have attained sixty-five years of age. [Amendment No. 10 – December 1, 2002]

(3) Despite subsection (1), a member or former member and the spouse of the member or former member from whom the member or former member is not living separate and apart, may waive the spouse's entitlement to a survivor pension under subsection (1), by delivering to the Board within twelve months prior to the month when payment of the pension to the member or former member is to commence a written direction in the form approved by the Board and signed by both of them or a certified copy of a domestic contract, within the meaning of Part IV of the *Family Law Act*, containing the election or waiver. [Amendment No. 5 - November 26, 1999]

(4) Persons who have delivered a waiver or election under subsection (3) may jointly cancel the waiver or election by written notice of cancellation signed by them and delivered to the Board before the month when the pension is to commence to be paid to the member or former member.

(5) The reduction required by subsection 10.9(10) shall not be made if an election or waiver made as permitted by subsection (3) is in force in the month when the pension is to commence to be paid to the member or former member.

(6)

(a) When the spouse of a former member to whom a survivor pension is paid under this section, section 10.14 or 10.17 dies, or when a member or former member who has been predeceased by a spouse to whom a survivor pension would have been paid under this section, section 10.14 or 10.17, dies, an annual amount of pension equal to that survivor pension, shall be paid to or among such of the child or children of the former member on whose death the survivor pension became payable as are, at the death of the person, under eighteen years of age until each child attains that age or dies under that age, and the share of the children who attain that age or die under that age accrues to the child or children, if any, remaining under that age.

- (b) Subject to clause (c), where a member or former member dies, and the member or former member had no spouse who is entitled to a pension under this plan on the date of his or her death, and the former member was not predeceased by a spouse to whom a survivor pension would have been paid under this section, section 10.14 or 10.17, an annual amount of pension equal to 60 percent of the annual pension that the member or former member is or would be entitled to receive in the month when the former member died, shall be paid to or among such of the child or children of the former member on whose death the survivor pension became payable as are, at the death of the member or former member, under eighteen years of age until each child attains that age or dies under that age, and the share of the children who attain that age or die under that age accrues to the child or children, if any remaining under that age. [Amendment No. 5 - November 26, 1999]
- (c) Where the member or former member died before attaining sixty-five years of age, the annual amount of pension on which the survivor pension in clause (b) is based shall be reduced in accordance with subsection 10.9(4) effective as of the month following the month during which the deceased former member would have attained age sixty-five years of age. [Amendment No. 10 – December 1, 2002]

10.14 Increased Survivor Pension

(1) The amount of the survivor pension payable under section 10.13 may be increased to 65 per cent, 70 per cent or 75 per cent of the pension of the former member, after taking into account the reduction required by subsection (4), by a written direction signed by the member or former member on whose pension the survivor pension is based specifying the percentage to which the survivor pension is to be increased, and the direction shall be delivered to the Board at least two years prior to the month when payment of the pension to the member or former member is to commence.

(1.1) For the purposes of section 10.14(1), where the former member dies before attaining sixty-five years of age, the annual amount of pension of the former member on which the survivor pension is based shall be calculated in accordance with section 10.13(2). [Amendment No. 10 – December 1, 2002]

(2) The Board shall accept a direction mentioned in subsection (1) that is delivered to the Board after the time mentioned in that subsection and before the month when the pension is to commence to be paid to the member or former member if the Board is satisfied that the member or former member is in good health having regard to his or her age.

(3) A direction delivered in accordance with subsection (1) or accepted in accordance with subsection (2) is of no effect if the member who gives it dies while a member of the Plan.

(4) The annual amount of pension computed in accordance with section 10.9 payable to a former member who has given a valid direction delivered in accordance with subsection (1) or accepted in accordance with subsection (2) shall be actuarially reduced in a manner approved by the Board to reflect the increased survivor pension specified in the direction, and the increased survivor pension shall be paid in lieu of that provided for in section 10.13.

(5) A person who gives a direction mentioned in subsection (1) or (2) may revoke the direction by a written revocation delivered to the Board before the month when payment of the person's pension is to commence.

10.15 Post-retirement Marriage

- (1) Subject to subsection 10.13(2), a former member who, after commencing to receive a pension and when the former member has no spouse entitled to a survivor pension under section 10.13, becomes the spouse of a person who would not be entitled on the death of the former member to a survivor pension under section 10.13 may in writing direct the Board to pay to the person, if he or she survives the death of the former member, a survivor pension for life of 50 per cent, 55 per cent, 60 per cent, 65 per cent, 70 per cent or 75 per cent of the pension received by the former member immediately before his or her death.
- (2) A direction mentioned in subsection (1) must be delivered to the Board,
 - (a) within ninety days after the date on which the former member became the spouse of the person to whom the survivor pension is directed to be paid; or
 - (b) if immediately before the person becomes the spouse of the former member there is a child of the former member who would be entitled on the former member's death to receive a pension, within ninety days after the date the child ceases to be entitled to receive the pension.
- (3) The Board may accept a direction mentioned in subsection (1) and delivered after the time mentioned in subsection (2) if the Board is satisfied that the former member giving the direction is in good health having regard to his or her age.
- (4) The annual amount of pension payable to a former member who has given a valid direction in accordance with this section shall be actuarially reduced in a manner approved by the Board to reflect the survivor pension directed to be paid and, subject to subsection (5), the survivor pension shall be paid in the percentage specified in the direction to the spouse if he or she survives the death of the former member.
- (5) A survivor pension under this section shall not be paid while there is a child of the deceased former member entitled to receive a pension as a result of the death of the former member.

10.16 Survivor Pension on Death Before Payment of Pension

- (1) If a member who has twenty-four or more months of continuous membership or two or more years of credit in the Plan,
 - (a) dies while a member of the Plan; or
 - (b) dies after ceasing to be a member of the Plan and before the beginning of the month when payment of his or her pension is to commence,

the commuted value of the member's or former member's pension benefit determined immediately prior to his or her death and on the basis only of his or her credit in the Plan for employment or service after 1986 is payable,

 - (c) to the spouse of the member or former member from whom the member or former member is not living separate and apart;
 - (d) if no payment under clause (c) can be made, or if the member or former member has no spouse who survives the date of death of the member or former member, to the beneficiary designated in accordance with this section by the member or former member; or
 - (e) if no payment can be made under clause (c) or (d), to the estate of the member or former member.

(2) Subject to subsection (3), the commuted value payable under subsection (1) to the spouse of a member or former member shall be paid in the form of an immediate pension for the lifetime of the spouse, and the commuted value of the pension so payable shall be equal to the commuted value payable under subsection (1), and payment thereof shall commence in the month following the month when the member or former member dies.

(3) The spouse to whom an immediate pension is payable under subsection (2) may, in writing in the approved form delivered to the Board in the time fixed by the Board, elect to receive the commuted value payable under subsection (1) in the form of,

- (a) a single lump sum payment equal to the commuted value payable under subsection (1); or
- (b) a deferred pension the commuted value of which is equal to the commuted value payable under subsection (1).

(4) A member or former member and his or her spouse may, by written waiver in the approved form delivered to the Board in the time fixed by the Board, waive the spouse's entitlement under subsection (1) and, while the waiver is in effect, that subsection shall be applied as if the member or former member does not have a spouse on the date of the death of the member or former member.

(5) The designation of a beneficiary for the purpose of this section shall be made and delivered to the Board in such form and manner as the Board requires.

10.17 Survivor Pension For Pre-1987 Credit

(1) If a member who has ten or more years of credit in the Plan or has ten or more years of continuous membership in the Plan dies while a member of the Plan, or dies after ceasing to be a member of the Plan and before the beginning of the month when payment of his or her pension is to commence, an annual amount of pension equal to sixty percent of the member's or former member's pension computed in accordance with section 10.9 as though the member or former member had attained sixty-five years of age and on the basis only of his or her credit in the Plan for employment or services before 1987 is payable,

- (a) to the spouse of the member or former member from whom the member or former member, at his or her death and at the cessation of his or her membership in the Plan, was not living separate and apart; or
- (b) if no payment under clause (a) can be made, to or among such of the child or children of the member or former member as are, at the death of the member or former member, under eighteen years of age until each child attains that age or dies under that age, and the share of each of the children who attains that age or dies under that age accrues to the child or children, if any, remaining under that age. [Amendment No. 5 - November 26, 1999]

(2) Payment of a survivor pension under this section shall commence in the month following the month in which the member or former member dies, and the survivor pension payable to a spouse under this section is payable for the life of the spouse.

(3) For the purpose of this section and subsection 10.13(6), a child who has attained eighteen years of age shall be deemed not to have attained that age if, since attaining that age, the child has been, in the opinion of the Board, continuously in full-time attendance at either or both of,

- (a) a secondary school; or
- (b) for five years following secondary school, a post-secondary educational institution that is recognized as such by the Board.

10.18 [Same Sex Spouse Payments From Plan]

A person who was on December 31, 1998 in receipt of, or who was entitled to, a periodic benefit from the OPSEU Same Sex Spouse Benefits Account established by Order in Council 2778/94 is entitled to a pension from the Plan commencing in January 1999 calculated as if the periodic benefit from the Account was on the date it commenced a pension under the Plan. [Amendment No. 4 – February 15, 1999]

**ARTICLE 11
INFLATION ADJUSTMENT**

11.1 Formulas

In the formulas in this section,

- "A" is the carry forward determined for the immediately preceding year,
- "B" is the basic ratio for the year,
- "C" is the adjustment ratio for the year,
- "D" is the basic ratio for the year next following the year when the member for whose credit in the Plan the pension in respect of which the formula is applied is payable ceased to be a member of the Plan, and shall be calculated to a maximum of 1.080 or to a minimum of 1.000, and
- "E" is the number of full months in the year that are after the month in the year when the member for whose credit in the Plan the pension in respect of which the formula is applied is payable ceased to be a member of the Plan.

11.2 Definitions

In this section,

"accumulated adjustment ratio", for the pension of a person, means the product of the multiplication of all adjustment ratios for the years in the period commencing with the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and ending with the year for which the accumulated adjustment ratio is being determined;

"adjustment ratio", for the pension of a person, means,

- (a) for the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, 1.000,
- (b) for the year next following the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, the ratio determined by the formula

"[(D - 1.000) x E / 12] + 1.000", and

- (c) for the second year after the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and for any subsequent year, the ratio determined by the formula "A + B" calculated to a maximum of 1.080 or to a minimum of 1.000;

"basic ratio", for a year, means the ratio expressed to three decimal places that the average for the Consumer Price Index over the last twelve months of the twenty-four-month period ending with the 30th day of September in the immediately preceding year bears to the average for the Consumer Price Index over the first twelve months of that period;

"carry forward", with respect to the pension of a person, means,

- (a) for the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and for the year next following that year, nil, and
- (b) for the second year following the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and for any subsequent year, the positive or negative number determined by the formula "A + B - C";

"Consumer Price Index" means the Consumer Price Index for Canada as published by Statistics Canada under the authority of the *Statistics Act* (Canada);

"pension" for the purposes of this Article only means a pension to which a person is entitled from the Plan, other than the adjustment for inflation provided by this Article.

11.3 Payment of Inflation Adjustment

The annual amount of pension benefit payable to a person from the Fund shall, commencing with the year when payment of the pension benefit is to commence and in each subsequent year that the pension continues to be payable, be adjusted for inflation by multiplying the annual amount of the pension by the accumulated adjustment ratio for the pension of the person for that year, and the amount by which the pension thus adjusted exceeds the annual amount of pension before the adjustment in each year shall be paid to the person entitled to receive the pension for which it is calculated at the same times, in the same manner and subject to the same terms and conditions as apply to the pension in respect of which it is paid.

**ARTICLE 12
PRE-RETIREMENT PART-TIME EMPLOYMENT**

12.1 Part-time Employee

A full-time employee who is permitted to continue the duties of his or her position as a part-time employee in accordance with this section for the final years of his or her employment in the public service is entitled to have his or her pension determined in accordance with this section if the employee meets all of the conditions set out in section 12.2 and gives the notice of election required by section 12.3.

12.2 Conditions

The conditions referred to in section 12.1 are,

- (a) that the employee's part-time employment must be and continue to be,
 - (i) in a position that requires regular employment for at least fourteen hours per week or nine full days in each four weeks, or

- (ii) full-time employment in a classified position in the civil service for at least one-third of each twelve-month period or part thereof following the giving of the notice required by section 12.3 and before the employee's retirement on the date provided for in the notice;
- (b) that the employee must not be employed as a regular full-time employee in the public service at any time after giving the notice required by section 12.3 and before receiving a pension under the Plan;
- (c) that during the period of part-time employment specified by the employee in the notice given in accordance with section 12.3, contributions are made to the Fund by the employee and the employer on the basis of the salary payable for full-time employment in the position held by the employee immediately before the giving of the notice; and
- (d) that the employee's deputy minister must approve in writing the change from full-time to part-time employment proposed by the employee.

12.3 Notice

A full-time employee who wishes to contribute to the Fund on the basis provided for in this section shall give to his or her deputy minister a written notice signed by the employee stating,

- (a) that the employee intends to retire from employment in the public service not later than five years after the day on which the notice is given;
- (b) that the employee wishes to perform the duties of his or her position on a part-time basis until retirement from employment; and
- (c) that the employee wishes to continue to contribute to the Fund on the basis of his or her salary as a full-time employee in the position.

12.4 Contributions

Despite the definition of "annual salary rate" and "credit", while an employee continues to comply with the conditions described in section 12.2,

- (a) contributions shall be made to the Fund by the employee and the employer on the basis of the salary payable for full-time employment in the position held by the employee immediately before the giving of the notice;
- (b) the employee's annual salary rate shall be that on which contributions to the Fund are paid; and
- (c) the employee shall be given credit in the Plan on the basis of full-time employment in the position in which the employee is employed part-time.

12.5 Resumption of Full-time Employment

If an employee who contributes to the Fund in accordance with this section resumes full-time employment in the public service after giving the notice required by section 12.3 and before receiving his or her pension, the employee's contributions to the Fund and credit in the Plan shall be recomputed without reference to section 12.4.

12.6 Refund of Contributions

Contributions to the Fund under this section in excess of those required after the application of section 12.5 shall be refunded to the person who paid them.

12.7 Public Service

In this section, "public service" has the same meaning as in the *Public Service Act*.

**ARTICLE 13
RE-EMPLOYMENT**

**13.1 Reduction and
Recomputation**

(1) If a former member who is receiving a pension is, in the opinion of the Board, re-employed or engaged in any capacity by an employer who contributes to the Fund, any pension that the former member is entitled to receive during the re-employment or engagement shall, for any period of three months commencing on the 1st day of January, April, July or October in any year during which the former member is so re-employed or engaged, be reduced by the amount by which the sum of,

- (a) three times the monthly salary paid to the former member in that period of three months; and
- (b) the pension payable to the former member in that period of three months if this section were not applicable to the former member, exceeds the product of three times the monthly salary payable to the former member for the last full month of employment before he or she ceased to be a member of the Plan.

(2) If a former member referred to in subsection (1) becomes a member of the Plan, the pension of the former member shall cease to be paid as long as he or she remains a member.

(3) Any period of re-employment or engagement referred to in subsection (1) for which a person may and does contribute to the Fund shall be added to the person's credit in the Plan. On termination of the re-employment or engagement, the pension payable shall be recalculated with reference to the additional credit accrued during the period of re-employment or re-engagement, provided that if the pension paid, prior to re-employment or re-engagement, was a reduced pension under subsection 10.5(2) or 10.6(2), then the pension payable shall be actuarially reduced to account for any pension payments earlier received. [Amendment No. 1 - June 25, 1998]

13.2 Reduction Not to Apply

Despite subsection 13.1(1), the pension of a person who is appointed by the Lieutenant Governor in Council for a period not exceeding six months at a time to provide to the Crown the professional, expert or technical knowledge of the person in a special capacity required by the Crown shall not be reduced if the appointment so provides.

**ARTICLE 14
ADMINISTRATION**

14.1 Board

The Plan and the Fund shall be administered by the Ontario Pension Board in accordance with Section 42 of the Sponsorship Agreement and thereafter by the Board. The duties, powers and responsibilities of the Board are as set out in the Trust Agreement made between the Crown and OPSEU on October 27, 1994.

14.2 Expenses

The expenses of the operation of the Board, the administration of the Plan and the administration and investment of the Fund shall be paid out of the Fund.

14.3 Information

(1) The Board shall provide each member and each eligible employee under the *Pension Benefits Act* with a written explanation of the terms and conditions of the Plan applicable to the member or eligible employee, together with an explanation of the rights and duties of the member or eligible employee with reference to the benefits available to the member or eligible employee under the terms of the Plan.

(2) The Board shall provide a notice of written explanation of an amendment to the Plan to each member, or any other person entitled to payment from the Fund, who is affected by the amendment, within the applicable time period prescribed under the *Pension Benefits Act*.

(3) The Board shall provide a written statement to each member containing the information prescribed under the *Pension Benefits Act* in respect of the member's benefits under the Plan.

(4) When a member of the Plan terminates employment or otherwise ceases to be a member, the Board shall give to the member or to any other person who becomes entitled to a benefit under the Fund, written statements setting out the information prescribed under the *Pension Benefits Act* in respect of the benefits of the member or other person.

(5) The Board shall make available for inspection by eligible individuals the documents and information concerning the Plan and the Fund as prescribed under the *Pension Benefits Act*.

**ARTICLE 15
TRANSFERS**

15.1 Transfer to Plan of Credit in Other Plans

If the Board enters into a written agreement with an employer to whom the Plan does not extend for the transfer to the Plan of credit for a person's service with that employer, the person shall, on becoming a member and requesting a transfer of credit to the Plan in accordance with the agreement, pay or cause to be paid into the Fund the amount provided for in the agreement for the purchase of the credit that is being transferred.

15.2 Transfer to Other Plan of Credit in Plan

If the Board enters into a written agreement for the transfer from the Plan to another pension plan registered under the *Income Tax Act* (Canada) of credit in the Plan in respect of members who become members of the other plan, the Board shall, at the request of a member transferring credit from the Plan in accordance with the agreement, pay from the Fund to the plan to which the member's credit is being transferred the amount provided for in the agreement for the purchase of credit for the member in the other plan.

15.3 Transfer Agreements Prevail

Sections 15.1 and 15.2 apply despite section 7.4 or Article 8.

15.4 Payment of Excess Amounts

If under the terms of a transfer agreement referred to in section 15.2 or in respect of transfers under the provisions of the Plan between the Plan and the Public Service Pension Plan, the amount of the commuted value of the member's credit determined as of the date of the member's termination of Plan membership exceeds the amount paid to the importing plan, the excess amount with interest shall be paid to the transferring member. [Amendment No. 11 – July 1, 2004]

15.5 [OPSEU Pension Plan and Public Service Pension Plan Transfers]

(1) Where a member with no break or termination of employment who immediately prior to becoming a member of the Plan was a member of the Public Service Pension Plan, the Board shall request the administrator of the Public Service Pension Plan to transfer an amount equal to:

(i) the Actuarial Present Value in the Plan of the period of the member's credit in the Public Service Pension Plan, plus

(ii) interest on the amount under clause (i), calculated from the date that the member ceased to be a member of the Public Service Pension Plan, to the end of the month preceding the date when the Request for Transfer Amount was issued to the administrator of the Public Service Pension Plan, at the rate of interest specified in the Schedule of Actuarial Assumptions under the Multilateral Protability Agreement.

(2) Upon receipt of the requested amount under subsection (1), credit shall be given in the Plan to the member for the period of service in the Public Service Pension Plan.

(3) Where the amount received by the Board from the administrator of the Public Service Pension Plan, excluding any interest paid under subsection 15.6(2) is less than the amount requested in subsection (1), the credit given to the member shall only be for the part of the credit in the Public Service Pension Plan which is directly proportional to the amount received by the Board excluding any interest paid under subsection 15.6(2) over the amount indicated in subsection (1).

(4) The member may contribute all or part of the deficiency between the amount received by the Board, excluding any interest paid under subsection 15.6(2), and the amount specified in subsection (1), plus interest on the contribution at such rate as the Board determines. Upon payment of such contribution plus interest the member will receive additional credit in the Plan in the amount which is directly proportional to the additional amount contributed, excluding interest, over the amount indicated in subsection (1).

(5) Notwithstanding article 8 and article 10 of the Plan, where a member terminated membership in the Plan and immediately, with no break or termination of employment, became a member of the Public Service Pension Plan, the member is not entitled to the refund under sections 8.1, 8.2, 8.3 and 8.4, to the pension under articles 10.5 or 10.6, or to transfer or receive payment of the commuted value thereof under section 10.8.

(6) Where a former member has, because of subsection (5), no entitlements under articles 8 or 10, the Board shall,

(a) before the 90th day after a Request for Transfer Amount has been issued by the administrator of the Public Service Pension Plan, pay to the administrator:

(i) the lesser of:

A. the Actuarial Present Value of the former member's credits in the Plan, and

B. the amount requested by the administrator of the Public Service Pension Plan;

plus

- (ii) interest on the amount under clause (i) from the date that the member ceased to be a member of the Plan, to the end of the month preceding the date of the Request for Transfer Amount at the rate of interest specified in the Schedule of Actuarial Assumptions under the Multilateral Portability Agreement

and

- (b) provide the administrator of the Public Service Pension Plan with the record of the former member's contributions and any other information required to calculate the Actuarial Present Value.
- (7) Upon payment of the amount specified under subsection (6), the Board, Plan and Fund are discharged of any further liability to or obligation for claims by the former member.
- (8) Credit in the Public Service Pension Plan referred to in subsections (1) and (3) excludes any credit for which the member had not paid prior to termination of Public Service Pension Plan membership.
- (9) The former member's credit in the Plan referred to in subsection (6) excludes any credit for which the member had not paid prior to termination of membership in the Plan.
- (10) In this article, and articles 7.4, 10 and 15.6

"Actuarial Present Value" means the present value of the pension which shall be based on the accrued benefit actuarial cost method, with projection of salary, determined in accordance with the following rules:

- (i) the actuarial assumptions set out in the Schedule of Actuarial Assumptions under the Multilateral Portability Agreement as at the date of the person's termination of employment or membership from the exporting plan; and
- (ii) the provisions of the plan for which the Actuarial Present Value is being determined, as at the date of termination of employment, or membership

calculated as of the person's date of termination of membership with the exporting plan, and using the person's salary rate as at the same date for the projection of salary rates, and it shall include:

- (iii) the present value of the person's entitlement, if any, from the plan for which the Actuarial Present Value is being determined under subsections 39 (1) and (4) of the *Pension Benefits Act* as amended from time to time based on the actuarial assumptions in subclause (i) and calculated as if the person were to terminate at the age assumed in the aforementioned actuarial assumptions.

but it shall not include either

- (iv) the value of any pension benefits in the exporting plan in respect of an earlier period of service, where the exporting plan treats this earlier period of service as separate and distinct from the most recent period of service; or
- (v) the value of any pension benefit which exceeds the limits imposed by regulations under the *Income Tax Act* (Canada) as those regulations apply to credit on or after January 1, 1992.

“exporting plan” to which “Actuarial Present Value” refers means :

- (i) the Plan in article 10.8, and in subsection (6) and
- (ii) the Public Service Pension Plan in article 7.4, and in subsections (1) and (3).

“importing plan” to which “Actuarial Present Value” refers means:

- (i) the Public Service Pension Plan in article 10.8, and in subsection (6), and
- (ii) the Plan in article 7.4, and in subsections (1) and (3).

“Multilateral Portability Agreement” is the agreement the Board entered into with administrators of Major Ontario Pension Plans (MOPPS) for the transfer of credit between the Plan and the pension plans they administer.

“Request for Transfer Amount” is a document in a form agreed to by the Board and the administrator of the Public Service Pension Plan that is issued by the importing plan to the exporting plan, specifying the transfer amount payable by the exporting plan to the importing plan with respect to a member who applied to purchase credit for prior service under clause 7.4(1)(g), or whose prior credits are transferrable under subsection 15.5(1), or under the corresponding provisions of the Public Service Pension Plan.

15.6 [Administrative Agreement]

- (1) Sections 8.12.1 and 15.5 and subsections 7.4(1)(g), 7.4(5.1), 7.4(11) and 10.8(1.1) are only effective if,
 - (a) corresponding provisions are included in the Public Service Pension Plan, and
 - (b) the Board has reached an agreement with the administrator of the Public Service Pension Plan regarding administrative processes pertaining to the implementation of these provisions, and the agreement is in force.
- (2) Where an amount payable by the administrator of the Public Service Pension Plan under subsections 7.4(5.1) or 15.5(1) has not been received 90 days after the Board issued a Request for Transfer Amount to the administrator of the Public Service Pension Plan, interest on the amount shall be charged from the date the Request for Transfer Amount was issued to the end of the month preceding the date the money is received by the Board at the interest rate calculated as the average of the twelve monthly rates of CANSIM series B14045 for the preceding calendar year of payment, plus 3 percent.

(3) Where an amount payable to the administrator of the Public Service Pension Plan under clause 10.8(1.1)(a) or subsection 15.5(5) has not been paid 90 days after the administrator of the Public Service Pension Plan issued the Request for Transfer Amount to the Board, interest on the amount shall be paid from the date the Request for Transfer Amount was issued to the end of the month preceding the date the money is paid by the Board at the interest rate calculated as the average of the twelve monthly rates of CANSIM series B14045 for the preceding calendar year of payment, plus 3 percent.

(4) The Board may agree with the administrator of the Public Service Pension Plan to amend the interest or other rates, and to vary any other term or arrangements specified under subsections (2) and (3) in order to facilitate the administration of clause 7.4(1)(g), subsection 10.8(1.1) and section 15.5.

(5) Section 15.5 shall apply with respect to any member or former member specified in subsections 15.5(1) or (5) who became a member of the Plan, or ceased to be a member of the Plan on or after January 1, 1995.

(6) Despite subsections 15.5(1) and 15.5(5), where a member or former member specified in these subsections became a member of the Plan, or ceased to be a member of the Plan on or after January 1, 1995 and before January 1, 1997, the rate of interest payable under clauses 15.5(1)(ii) and 15.5(6)(a)(ii) shall be calculated according to Part E of the Restated Schedule 1 to A Sponsorship Amendment and Asset Transfer Agreement made as of June 13, 1997.

(7) Despite section 15.5, where in the opinion of the Board or the administrator of the Public Service Pension Plan, a member or former member became a member of the Plan, or terminated membership in the Plan, as described under sections 80 or 81 of the *Pension Benefits Act*, as amended from time to time, section 15.5 shall not apply. [Amendment No. 2 - December 16, 1998]

ARTICLE 16 INCOME TAX ACT

16.1 Application of Income Tax Act

(1) All provisions of the Plan shall be interpreted, read and administered so as to comply with with the *Income Tax Act* (Canada) and Regulations for all credit accruing in the Plan and all contributions to the Plan after December 31, 1991.

(2) Without limiting the generality of subsection (1), and for the purpose of reading, interpreting and administering the Plan in compliance with the *Income Tax Act* (Canada) and Regulations for all credit accruing in the Plan and all contributions to the Plan after December 31, 1991,

(a) the total amount of contributions by a member in Article 4 cannot exceed the limit set out in the *Income Tax Act* (Canada) and Regulations;

(b) the computation of a pension under section 10.9 is subject to those provisions of the *Income Tax Act* (Canada) and Regulations that limit the lifetime retirement benefits and the amount of bridging benefits, as defined in the Regulations to the *Income Tax Act* (Canada), that may be paid to a member;

(c) the adjustment of a pension under Article 11 for all credits accrued in the Plan after December 31, 1991 is limited to the extent permitted in the *Income Tax Act* (Canada) and Regulations; and

- (d) the period or periods of part time employment for which a member is eligible for determination of his or her pension in accordance with Article 12 is limited to that permitted in the *Income Tax Act* (Canada) and Regulations.
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ARTICLE 17 FACTOR 80 WINDOW

17.1 Application

This Article applies to the Niagara Parks Commission, the Ontario Lottery Corporation, the Teachers' Pension Plan Board and the Toronto Area Transit Operating Authority effective June 23, 1994 and to any other employer as of the later of June 1, 1993 and the date that such employer commences participation in the Plan.

17.2 Pension Benefit

- (1) Subject to subsections (2) and (3), every member who,
 - (a) on or before March 31, 2005, attains credit in the Plan for a period of time that when added to the member's age on that date totals eighty years;
 - (b) not later than ninety-two calendar days from the last day of the month during which the member attained the credit set out in clause (a) delivers a written notice of resignation to his or her Deputy Minister or other person to whom he or she reports which specifies an effective date of resignation that is not later than,
 - (i) ninety-two calendar days from the last day that the notice under this clause could be delivered, or
 - (ii) the last day of a leave of absence which has been approved or to which the member is entitled and which commenced not later than ninety-two calendar days from the last day that the notice under this clause could be delivered; and
 - (c) resigns from employment not later than,
 - (i) ninety-two calendar days after the last day the notice mentioned in clause (b) or subsection (2), as applicable, could be delivered, or
 - (ii) the last day of the leave of absence mentioned in subclause (b)(ii),is entitled to a pension computed in accordance with the Plan, but without any reduction required by subsections 10.9(5), 10.9(5.1) or 10.9(6) of the Plan.
- (2) Despite subsection 1(b), where after March 31, 2002 and before May 1, 2002, a member satisfies the criteria outlined in subsection (1)(a), the last day that the notice may be delivered under subsection (b) shall be August 31, 2002.
- (3) Subsection (1) does not apply to the following persons:
 - (a) a member who
 - (i) has been given notice of release from employment because his or her employer or Deputy Minister has considered it necessary by reason of shortage of work or funds or the abolition of a position or other material change in organization, and

- (ii) has not waived all entitlement to benefits, payments, opportunities for assignments to other positions or other considerations resulting from the notice of release from employment; and
- (b) a person who would otherwise be eligible for a pension under subsection (1) on or before March 31, 2005, but who, on or after November 1, 2002, transferred to the Plan credit for their service with an employer to whom the Plan does not extend, in accordance with section 15.1, unless the person pays to the Board such amount, as is determined by the Board, on such terms and conditions as are fixed by the Board, in respect of the difference between the actuarial value of a pension determined under this Section and the actuarial value of the pension to which the member is otherwise entitled under this Plan. [Amendment No. 9 – November 1, 2002]

17.2A Factor 80 Extension

- (1) A member is entitled to a pension under subsection (2) if he or she satisfies the following conditions:
 - (a) the member receives a notice of lay-off prior to January 1, 2009; [Amendment No. 13 – January 1, 2005]
 - (b) on the date that the employment of the member is terminated in accordance with the notice of lay-off, the member has credit in the Plan that when added to the member's age equals at least eighty years;
 - (c) the date when the member attains eighty years in age and credit under (b) is prior to January 1, 2009; [Amendment No. 13 – January 1, 2005]
 - (d) within 92 days of the later of
 - (i) the last day of the month in which the member received the notice of layoff and
 - (ii) the effective date of this section,he or she delivers a written notice of election to the member's employer, in the case of an employer under the Plan, or otherwise to the Board, electing to take a pension under subsection (2);
 - (e) the employment of the member by the employer is terminated in accordance with the notice of lay-off.
- (2) A member who satisfies the conditions in subsection (1) is entitled to a pension computed in accordance with the Plan, but without any reduction required either by subsections 10.9(5) or 10.9(6) of the Plan.
- (3) Sections 17.3, 17.5 and 17.6 apply, with necessary modifications, to a pension under subsection (2).
- (4) The restriction set out in clause 17.2(3)(a) on entitlement to a pension under Article 17 does not apply to a pension under subsection (2). [Amendment No. 11 – April 22, 2004]

(5) The parties to a collective agreement applying to an employer in the Plan, other than the Central Collective Agreement, may negotiate terms and conditions for entitlement to the benefits under this section which differ from those set out in this section. Where such terms and conditions provide for benefits that

- (a) exceed the value of the benefits under this section, or
- (b) remain in effect for employees receiving a notice of layoff, or equivalent, after December 31, 2008. [Amendment No. 13 – January 1, 2005]

the additional liability incurred by the Plan with regard to each member shall be calculated on a basis approved by the Plan's actuary and paid to the Plan by the member's employer within 30 days of request by the Plan. [Amendment No. 6 - December 23, 1999]

- 17.3 Commencement** Payment of a pension to which a member is entitled under this section shall commence in the month following the month in which the member resigned from employment.
- 17.4 No Refund** An employer shall not be entitled to any payment or refund in respect of any payment made by such employer prior to May 1, 1994 for any benefits provided to any member under this section.
- 17.5 Re-employment** If a former member who is receiving a pension under this section is, in the opinion of the Board, re-employed or engaged in any capacity by an employer who contributes to the Fund, payment of the pension that the former member is receiving shall be subject to all of the provisions of Article 13 of the Plan.
- 17.6 No other pension** A member who is eligible for a pension under this section is not also eligible for a pension under Article 9 or sections 10.1, 10.2, 10.3, 10.5 or 10.6.

**ARTICLE 18
AMENDMENT AND TERMINATION**

- 18.1 Amendments to the Plan**
 - (1) The Plan shall be amended only by agreement in writing between the sponsors.
 - (2) No amendment shall operate to reduce the pension benefits which have accrued to any member in respect of employment before the effective date of such amendment, except to the extent to which such reductions are specifically authorized by section 19.10.
 - (3) No amendment shall authorize or permit the return of any contributions or any other assets of the Fund, including surplus, to an employer unless required by law or as permitted by the *Pension Benefits Act*, in the case of an overpayment.
- 18.2 Termination of the Plan** If the Plan is wound up in whole or in part, the assets in the Fund shall first be allocated for the provision of benefits in accordance with terms of the Plan, the *Pension Benefits Act*, the *Income Tax Act* (Canada) and any other applicable legislation or agreement between the sponsors.

- 18.3 Surplus** If after provision for benefits payable to or in respect of members of the wind up, in whole or in part, of the Plan, assets remain in the Fund or the part of the Fund affected by a partial windup, such assets shall be applied as determined by OPSEU subject to the *Pension Benefits Act* and the *Income Tax Act* (Canada) for the exclusive benefit of the members and former members, their beneficiaries and dependents.

**ARTICLE 19
GENERAL**

- 19.1 Void transactions** Every transaction that purports to assign, charge, anticipate, surrender or give as security the interest, or any part thereof, of any person in the Fund or in any pension or other sum payable out of the Fund is void.
- 19.2 Exemption from seizure** The interest of any person in the Fund or in any pension or other sum payable out of the Fund is exempt from execution, seizure or attachment.
- 19.3 Order or separation** Subject to section 51 of the *Pension Benefits Act*, sections 19.1 and 19.2 do not apply to prevent the operation of any order under the *Family Law Act* or the provisions of a domestic contract, as defined in Part IV of that Act.
- 19.4 Order for support or maintenance** Subsections 19.1 and 19.2 do not apply to prevent execution, seizure or attachment in satisfaction of an order for support or maintenance enforceable in Ontario to a maximum of one-half of the interest of any person in the Fund or in any pension or other sum payable out of the Fund.
- 19.5 Application of Section 19.4** Section 19.4 applies to orders of support or maintenance enforceable in Ontario whether made before or after the 31st day of December, 1992.
- 19.6 Payment into other funds** Despite sections 19.1 and 19.2, if a person entitled to a refund or a lump-sum payment from the Fund requests the Board in writing to have the refund or payment paid,
- (a) into another registered pension plan;
 - (b) into a registered retirement savings plan or a registered retirement income fund that meets the requirements of the *Income Tax Act* (Canada);
 - (c) to an insurance company to purchase an immediate or deferred life annuity;
or
 - (d) into a pension plan approved by the Board,
- the refund or payment shall be so paid.
- 19.7 Payment to estate** A payment to be made under the Plan to a member's estate may be made to the executor or administrator of the member's estate or to the person or persons who appear to the Board to be properly acting in the administration or distribution of the member's estate or, if no executor or administrator or other person acting in the administration or distribution of the member's estate can be ascertained to the satisfaction of the Board, the payment may be paid into the Supreme Court of Ontario to the credit of the member's estate.

- 19.8 Missing beneficiary** If, after the death of a person, no spouse or child or designated beneficiary of that person can be found entitled to receive a pension on the person's death, and the Board is satisfied that reasonable inquiries have been made to find the spouse or child or designated beneficiary, and more than one year has passed since the death of the person, the Board may, despite any other provision of the Plan, direct that the money that would be payable under the Plan to the person's estate if the person had died leaving no surviving child or spouse or designated beneficiary entitled to be paid a pension on the person's death be paid to the person's estate upon such terms and conditions as the Board determines.
- 19.9 Beneficiary later found** If the spouse or child or designated beneficiary referred to in section 19.8 is subsequently found and a claim is made for any money payable under the Plan, the Board may direct that such money, less any money paid under subsection 19.8, be paid to the spouse or child or designated beneficiary, as the case may be.
- 19.10 Amendment to Avoid Revocation of Plan** Notwithstanding Article 18 of this Plan, the Plan may be amended and contributions refunded or benefits reduced solely to avoid revocation of the Plan under the *Income Tax Act* (Canada), provided, however, that any such amendment, refund or reduction shall be subject to the prior written consent of the Superintendent of Pensions, if such consent is required.