



PLEASE NOTE

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This document is ***not*** the official version of the Act. The Act and the amendments as printed under the authority of the [*Queen's Printer*](#) for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the [*Table of Public Acts*](#).

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CHAPTER C-9

CIVIL SERVICE SUPERANNUATION ACT

INTERPRETATION

1. (1) In this Act,

Definitions

(a) “actuarial valuation report” means a written actuarial valuation report for accounting purposes prepared, and submitted to the Minister, by the Actuary in accordance with section 6.1;

actuarial valuation
report

(b) “Actuary” means the person or firm appointed as the Actuary under section 6.1;

Actuary

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

assets of the Fund

- (i) the cash balances, in the accounts of the Fund,
- (ii) the investments held in trust by the Minister on behalf of the Fund, and
- (iii) any other assets, including accrued or receivable income;

(d) “average weighted indexed pensionable salary” means, in respect of a member, the amount determined by the formula

average weighted
indexed
pensionable salary

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

where

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

B is the member’s number of years of pensionable service;

(e) “average weighted indexed year’s maximum pensionable earnings amount” means, in respect of a member, the amount determined by the formula

average weighted
indexed year’s
maximum
pensionable
earnings amount

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

where

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

B is the member’s number of years of pensionable service;

base contribution	<p>(f) “base contribution” means</p> <p>(i) in respect of a member, the contribution that the member is required, each calendar year, to make to the Fund under subsection 7(1), and</p> <p>(ii) in respect of an employer, the contribution that the employer is required to make to the Fund, each calendar year, under subsection 7(2);</p>
court order	<p>(g) “court order” means an order of a court of competent jurisdiction in Canada;</p>
Crown Corporation	<p>(h) “Crown Corporation” means a Crown Corporation as defined in the <i>Financial Administration Act</i> R.S.P.E.I. 1988, Cap. F-9;</p>
dependant	<p>(i) “dependant” in relation to an individual entitled to or receiving a pension under this Act at the time of the individual’s death, means a parent, grandparent, brother, sister, child or grandchild of the individual who, at that time, is both dependent on the individual for support and</p> <p>(i) under 18 years of age,</p> <p>(ii) under 21 years of age and in full-time attendance at an institution of post-secondary education, or</p> <p>(iii) dependent on the individual by reason of mental or physical infirmity;</p>
domestic contract	<p>(j) “domestic contract” means a domestic contract as defined in Part IV of the <i>Family Law Act</i> R.S.P.E.I. 1988, Cap. F-2.1;</p>
effective date	<p>(k) “effective date” means, in respect of an actuarial valuation report and subject to subsection 6.1(6), April 1 of the year in which the actuarial valuation report is prepared;</p>
employer’s contributions	<p>(l) “employer’s contributions” means</p> <p>(i) the base contribution, and</p> <p>(ii) the supplementary contribution, if any,</p> <p>that an employer is required to make each calendar year to the Fund under this Act and the regulations;</p>
fiscal year	<p>(m) “fiscal year” means the period beginning April 1 in one year and ending March 31 in the next year;</p>
Fund	<p>(n) “Fund” means the Civil Service Superannuation Fund;</p>
funded benefits ratio	<p>(o) “funded benefits ratio” means, in respect of the Fund, the ratio of the total value of assets of the Fund to the total value of liabilities of the Fund, as calculated by the Actuary as of the effective date of an actuarial valuation report and as expressed by the Actuary as a percentage in that actuarial valuation report, by the Actuary in accordance with this Act;</p>

- (p) “government guarantee shortfall amount” means the amount determined by the Actuary under subsection 7.04(1); government guarantee shortfall amount
- (q) “indexed pensionable salary” means, in respect of a calendar year, the member’s pensionable salary for that calendar year, together with any accumulated salary indexing increases made by January 1 of that calendar year, as indexed under subsection 7.3(2); indexed pensionable salary
- (r) “indexed year’s maximum pensionable earnings amount” means, in respect of a calendar year, the member’s year’s maximum pensionable earnings amount for that calendar year, together with any accumulated indexing increases for the year’s maximum pensionable earnings amount made by January 1 of that calendar year, as indexed under subsection 7.3(5); indexed year’s maximum pensionable earnings amount
- (s) “liabilities of the Fund” means, subject to subsections 6.1(7) and (8), the liabilities of the Fund as set out in an actuarial valuation report; liabilities of the Fund
- (t) “Long-Term Disability Insurance Plan” means any Long-Term Disability Insurance Plan that a participating employer provides for its employees; Long-Term Disability Insurance Plan
- (u) “member” includes member
- (i) a person who was a contributor to the Fund immediately preceding the date on which this section comes into force,
 - (ii) a permanent, probationary or provisional employee as defined in the *Civil Service Act* R.S.P.E.I. 1988, Cap. C-8,
 - (iii) an executive division employee holding a position referred to in clauses 8(1)(a), (c), (d) and (h) of the *Civil Service Act*,
 - (iv) a former employee of a participating employer who is receiving disability payments under a Long-Term Disability Insurance Plan,
 - (v) a contract employee whose contract of employment provides for participation in the Fund,
 - (vi) a former employee who is receiving wage loss benefits under the *Workers Compensation Act* R.S.P.E.I. 1988, Cap. W-7.1 in respect of a total loss of earning capacity, and
 - (vii) any other person who
 - (A) is an employee of a participating employer,
 - (B) is not subject to the *Civil Service Act*, and
 - (C) is included as a member by the regulations;
- (v) “member’s contributions” means member’s contributions
- (i) the base contribution, and
 - (ii) the supplementary contribution, if any,

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

Minister

(w) “Minister” means the Minister of Finance, Energy and Municipal Affairs;

pension benefit

(x) “pension benefit” means any pension, allowance, annuity, return of contributions or other benefit or amount payable under the Act;

pension indexation
asset amount

(y) “pension indexation asset amount” means, in respect of the effective date of an actuarial valuation report,
(i) where an actuarial valuation report with an effective date of April 1, 2016, or April 1 of any subsequent year, indicates that the funded benefits ratio of the Fund, as of the effective date of the report is greater than 110%, the greater of
(A) 0, and
(B) the amount determined by the formula

$$A - B$$

where

A is the salary indexation asset amount as of the effective date of the report, and

B is the total cost of indexing the pensionable salaries of all members for the calendar year immediately following the effective date of the report, and

(ii) where an actuarial valuation report with an effective date of April 1, 2016, or April 1 of any subsequent year, indicates that the funded benefits ratio of the Fund, as of the effective date of the report, is less than or equal to 110%, 0;

pension indexing
percentage

(z) “pension indexing percentage” means, in respect of any year after 2013,

(i) for each of 2014, 2015 and 2016, one and one half per cent, and

(ii) for any year after 2016, the greater of

(A) 0, and

(B) the percentage determined by the following formula

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

where

A is the average Consumer Price (all items) Index for Canada as published by Statistics Canada under the authority of the *Statistics Act* (Canada) for the twelve-month period ending June 30 of the immediately preceding year; and

B is the average Consumer Price (all items) Index for Canada as published by Statistics Canada under the authority of the *Statistics*

Act (Canada) for the twelve-month period immediately preceding the twelve-month period described in “A”;

- (aa) “pensionable salary” means pensionable salary
- (i) in respect of a calendar year prior to 2014 for which a member is credited with pensionable service, the average of the three years of highest salary paid to the member before 2014, and
 - (ii) in respect of a calendar year after 2013 for which a member is credited with pensionable service, the member’s salary for that calendar year;
- (bb) “pensionable service” means service by a member for which the member’s contributions have been made as required under this Act; pensionable service
- (cc) “pensioner” means a former member who is receiving periodic pension payments from the Fund in accordance with this Act and the regulations; pensioner
- (dd) “regulations” means regulations made under this Act; regulations
- (ee) “salary” means core compensation paid to a member for labour or services, and, where applicable, includes such amounts of compensation as are prescribed amounts for the purposes of subsection 147.1(1) of the *Income Tax Act* (Canada) related to disability and eligible periods of reduced pay and temporary absence, but does not include expense allowances, overtime payments or premiums; salary
- (ff) “salary indexation asset amount” means, in respect of the effective date of an actuarial valuation report, salary indexation asset amount
- (i) if the funded benefits ratio as of that date is greater than 110%, the amount determined by the formula

$$(20\% \times 10\% \times A) + (50\% \times [B - (110\% \times A)])$$

where

A is the total value of the liabilities of the Fund, and

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

- (ii) if the funded benefits ratio as of that date is greater than 100% but less than or equal to 110%, the amount determined by the formula

$$20\% \times (B - A)$$

where

A is the total value of the liabilities of the Fund, and

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

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

salary indexing
percentage

- (gg) “salary indexing percentage” means, in respect of any calendar year after 2013,
- (i) for each of 2014, 2015 and 2016, one and one half per cent, and
 - (ii) for any calendar year after 2016, the greater of
 - (A) 0, and
 - (B) the percentage determined by the following formula

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

where

A is the average of the wage measure for each month of the twelve-month period ending on June 30 of the immediately preceding calendar year, and

B is the average of the wage measure for each month of the twelve-month period immediately preceding the twelve-month period described in “A”;

service

(hh) “service” means

- (i) for any period of time prior to May 1, 1999, continuous full-time service as a member and includes

- (A) time spent in Her Majesty’s forces or in service auxiliary thereto during World War I, World War II, or the Korean War, unless that time has been included in the calculation of service in relation to any other pension or superannuation benefit,

- (B) any period during which a member is in receipt of disability payments,

- (C) any period during which a member is in receipt of wage loss benefits under the *Workers Compensation Act* in respect of a total loss of earning capacity up to a maximum period equal to,

- (I) where on the date of the injury giving rise to the benefits the member is 63 years of age or older, the period commencing on the date of the injury and ending on the date the member attains 65 years of age, or

- (II) where on the date of the injury giving rise to the benefits the member is less than 63 years of age, two years or, if the member is allowed a leave of absence due to the injury of more than two years under his or her terms of employment, the period commencing on the date of the injury and ending on the earlier of the date the employer terminates the employment relationship, the date the member attains 65 years of age or the date on which the member ceases to be in receipt of wage loss benefits, and

- (ii) for any period of time on or after May 1, 1999, continuous service as a member, and includes

(A) time spent in Her Majesty's forces or in service auxiliary thereto during World War I, World War II, or the Korean War, unless that time has been included in the calculation of service in relation to any other pension or superannuation benefit,

(B) any period during which a member is in receipt of disability payments,

(C) any period during which a member is in receipt of wage loss benefits under the *Workers Compensation Act* in respect of a total loss of earning capacity up to a maximum period equal to,

(I) where on the date of the injury giving rise to the benefits the member is 63 years of age or older, the period commencing on the date of the injury and ending on the date the member attains 65 years of age, or

(II) where on the date of the injury giving rise to the benefits the member is less than 63 years of age, two years or, if the member is allowed a leave of absence due to the injury of more than two years under his or her terms of employment, the period commencing on the date of the injury and ending on the earlier of the date the employer terminates the employment relationship, the date the member attains 65 years of age or the date on which the member ceases to be in receipt of wage loss benefits;

(ii) "spouse" means an individual who, in respect of a member, spouse
vested former member or pensioner,

(i) is married to the member, vested former member or pensioner,

(ii) has entered into a marriage with the member, vested former member or pensioner that is voidable or void,

(iii) where the member, vested former member or pensioner is not married to anyone, is cohabiting with the member, vested former member or pensioner in a conjugal relationship and has done so continuously for a period of at least three years, or

(iv) where the member, vested former member or pensioner is not married to anyone, is cohabiting with the member, vested former member or pensioner in a conjugal relationship and together they are the natural or adoptive parents of a child;

(jj) "supplementary contribution" means the contribution, if any, supplementary
contribution
that a member or employer is required, in respect of a calendar year, to make to the Fund under section 7.01;

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

$$A \times B$$

where

A is the pension indexing percentage for that year, and

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

total cost of salary indexing for all members

(ll) “total cost of salary indexing for all members” means, in respect of a calendar year following the effective date of the actuarial valuation report, the amount determined by the formula

$$A \times B$$

where

A is the salary indexing percentage for that calendar year, and

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

vested former member

(mm) “vested former member” means a former employee who is not a pensioner and who is not receiving disability payments under a Long-Term Disability Insurance Plan but who is entitled to a deferred or immediate pension from the Fund in accordance with this Act;

wage measure

(nn) “wage measure” means, in respect of a month, the average weekly wages and salaries of the Industrial Aggregate in Canada for the month, as published by Statistics Canada under the authority of the *Statistics Act* (Canada);

weighted indexed pensionable salary

(oo) “weighted indexed pensionable salary” means, in respect of a calendar year, the amount determined by the formula

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

where

A is the total number of hours worked by a member during that calendar year for which the required contributions were made under this Act,

B is the total number of normal full-time hours for the member’s position for that calendar year, and

C is the indexed pensionable salary of the member for that calendar year;

weighted indexed year’s maximum pensionable earnings amount

(pp) “weighted indexed year’s maximum pensionable earnings amount” means, in respect of a calendar year, the amount determined by the formula

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

where

A is the total number of hours worked by a member during that calendar year for which the required contributions were made under this Act,

B is the total number of normal full-time hours for the member's position for that calendar year, and

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

(qq) "year's maximum pensionable earnings amount" means

year's maximum
pensionable
earnings amount

(i) in respect of a calendar year prior to 2014 for which a member is credited with pensionable service, the average amount of the year's maximum pensionable earnings of the member under the Canada Pension Plan for the three-year period used in subclause 1(1)(aa)(i), and

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

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

Annualization of
pensionable salaries

(3) Where the last day of employment for which a member has credited pensionable service is a date other than January 1 of a calendar year, the salary indexing percentage, and the year's maximum pensionable earnings percentage in respect of the calendar year, shall be prorated so as to be proportionate to the part of the calendar year from January 1 to the last day of that year for which the member is credited with pensionable service. 1998,c.84,s.1; 1999,c.21,s.1; 2001,c.30,s.1; 2004,c.28,s.1; 2007,c.25,s.1; 2008,c.37,s.1; 2008,c.8,s.3(2); 2009,c.3,s.1; 2010,c.31,s.3; 2012,c.17,s.2; 2013,c.6,s.2.

Proration of
pensionable salary
and year's
maximum
pensionable
earnings for partial
year prior to
retirement

APPLICATION

2. (1) This Act applies to participating employers, as prescribed by the regulations, who make or have made contributions to the Fund.

Application

(2) This Act, as it read immediately before January 1, 2014, continues to apply on and after that date to

Judges of the
Provincial Court

(a) a member who was appointed, on or after April 1, 1997, as a judge of the Provincial Court;

(b) the employer of a member described in clause (a) in respect of the employer's obligations under this Act in respect of that member; and

(c) a pensioner who was, before his or her retirement, a member described in clause (a). 1981,c.5,s.2; 1987,c.10,s.2; 1992,c.11,s.1; 1993,c.30,s.61; 1995,c.7,s.1; 1996,c.8,s.2; 1997,c.22,s.30; 1999,c.21,s.2; 2000,c.4,s.5; 2001,c.30,s.2; 2004,c.28,s.2; 2013,c.6,s.4.

SPOUSES

Voidable or void marriage not in good faith

2.1 A spouse or a surviving spouse is not entitled to a division of pension benefits or to pension benefits as a spouse or a surviving spouse, if

(a) the marriage is voidable or void; and

(b) the person did not enter into the marriage in good faith. 2008,c.8,s.3(3).

RECIPROCAL TRANSFER AGREEMENTS

Reciprocal transfer agreement with Canada

3. (1) The Minister may enter into a reciprocal transfer agreement with the Government of Canada upon the terms and conditions provided for and set forth in section 40 of the *Public Service Superannuation Act* (Canada) R.S.C. 1985, Chap. P-36.

Other reciprocal transfer agreements

(2) The Minister may enter into a reciprocal transfer agreement with the government of any province of Canada, with any Crown Corporation of Canada, with any municipality, college or university in Prince Edward Island or with the Council of Maritime Premiers for the transfer of superannuation funds and periods of superannuation service.

Government reciprocal transfer agreement

(2.1) For greater certainty, a reciprocal transfer agreement providing for the transfer of superannuation funds and periods of superannuation service may be entered into between the Minister and

(a) the Minister responsible for the administration of Teacher's Superannuation Fund established under the *Teacher's Superannuation Act* R.S.P.E.I. 1988, Cap. T-1; or

(b) the Minister responsible for the Prince Edward Island Education Sector Non-Instructional Pension Plan or any successor plan.

Transfer of service

(3) Any member or person to whom this Act is declared to apply who has been a contributor to any superannuation fund of an authority with which a reciprocal transfer agreement has been made under subsection (1), (2) or (2.1) may transfer his or her years of superannuation service as recognized by his or her employer

(a) on the transfer of the amount of superannuation funds required by the agreement; or

(b) if the agreement does not specify the amount of superannuation funds required to be transferred, on the transfer of the amount of the superannuation funds required by the Minister.

(4) Upon the transfer referred to in subsection (3) the member or person shall be deemed to have been in the employ of the provincial government for the recognized period of service, as determined by the Minister, and to be eligible accordingly to the benefits provided under this Act.

Effect of transfer

(5) Where a member or person to whom this Act is declared to apply had been a member of the registered pension plan of a previous employer and the member or person cannot access a reciprocal transfer agreement with the Fund, the Minister may permit the direct transfer of a lump-sum amount in respect of the member or person from the pension plan of the previous employer into the Fund.

Transfer of lump sum from previous employer

(6) The pensionable service used in section 8 to determine the amount of pension to which a member or person is entitled under this Act shall include all or part of the service that had been credited to the member or person under the pension plan of the previous employer, as determined by the Minister, subject to the condition that the amount of additional pensionable service credited under this subsection shall in no case exceed the amount of service credited to the member or person under the pension plan of the previous employer.

Determination of service

(7) Notwithstanding subsections (5) and (6), the transfer of money from the pension plan of the previous employer shall not be accepted nor shall additional pensionable service be credited under subsection (6) unless the member or person has ceased to be a member of the pension plan of the previous employer and is not entitled to any further payments from that plan.

Condition requiring cessation of payments from former plan

(8) Any reciprocal transfer agreement, the acceptance of the lump-sum amount and the crediting of additional pensionable service under this section shall be subject to any restrictions or limitations imposed under the *Income Tax Act* (Canada).

Income tax requirements apply

(9) Where a former member transfers money from the Fund into a superannuation fund referred to in subsection (3) in respect of the transfer of his or her years of superannuation service, any surplus funds remaining as a result of the transfer shall be distributed in accordance with the regulations. 1981,c.5,s.3; 1993,c.28,s.2; 1996,c.8,s.3; 2000,c.4,s.5; 2001,c.30,s.3; 2004,c.28,s.3; 2005,c.39,s.8; 2009,c.3,s.2.

Surplus funds

ADMINISTRATION

Administration **4.** The Minister shall administer this Act and may designate persons to act on the Minister's behalf. 1981,c.5,s.4; 1998,c.84,s.2; 2000,c.4,s.5; 2009,c.3,s.3.

CIVIL SERVICE SUPERANNUATION FUND

Continuation, Payments, Trust and Investments

Authorized payments out of the Fund **5.** (1) There shall continue to be a fund to be known as the Civil Service Superannuation Fund into which shall be paid all contributions made under this Act and out of which shall be paid only the following:

- (a) all pension benefits authorized by this Act;
- (b) all expenses incurred in the administration of this Act.

Actuarial valuation (2) Repealed by 2013,c.6,s.9.

Payments guaranteed by Operating Fund (3) Repealed by 2013,c.6,s.9.

Investment of Fund (4) The Fund shall be held in trust by the Minister and shall be invested by the Minister in accordance with the investment policy approved by the Lieutenant Governor in Council.

Promissory notes (5) No promissory note issued by the Government to the Fund may be cancelled or recalled by the Government before the maturity of the promissory note unless the Government contributes to the Fund an asset equal to or greater than the value of the promissory note on the date the promissory note is cancelled or recalled. 1981,c.5,s.5; 1987,c.10,s.3; 1995,c.7,s.2; 1996,c.8,s.4; 1997,c.20,s.3; 2009,c.3,s.4; 2013,c.6,s.9.

Annual Report

Annual Report **6.** The Minister shall in each year prepare and transmit to the Lieutenant Governor in Council a report on the operations of the Fund in the preceding fiscal year giving such information as prescribed by the regulations. 1981,c.5,s.6; 2013,c.6,s.11.

Actuary and Actuarial Valuation Report

Actuary, appointment **6.1** (1) The Minister shall appoint
 (a) a person who is a Fellow of the Canadian Institute of Actuaries;
 or
 (b) a firm of which a person referred to in clause (a) is a member,
 as the Actuary.

- (2) The Actuary shall, on or before December 31, 2014,
 (a) prepare an actuarial valuation report respecting the financial status of the fund with an effective date of April 1, 2014; and
 (b) submit the actuarial valuation report to the Minister. Actuarial valuation report for 2014
- (3) The Actuary shall, on or before December 31, of every year following 2014,
 (a) prepare an actuarial valuation report for that year respecting the financial status of the fund with an effective date of April 1 of that year; and
 (b) submit the actuarial valuation report to the Minister. Annual actuarial valuation report
- (4) The Actuary shall, when preparing an actuarial valuation report under this section, follow Canadian generally accepted accounting principles for the public sector. Principles governing preparation of report
- (5) The Actuary shall include in an actuarial valuation report the following information as of the effective date of the report:
 (a) the total value of the assets of the Fund, as expressed in Canadian currency;
 (b) the total value of the liabilities of the Fund, as determined by the Actuary and as expressed in Canadian currency;
 (c) the funded benefits ratio of the Fund;
 (d) the salary indexation asset amount of the Fund;
 (e) the pension indexation asset amount of the Fund;
 (f) the government guarantee shortfall amount, if the Actuary is required to determine such an amount under subsection 7.04(1);
 (g) such other information as the Minister may require. Contents of actuarial valuation report
- (6) The Actuary shall, on or before December 31, 2014, also
 (a) prepare an actuarial valuation report respecting the financial status of the fund with an effective date of January 1, 2014, which shall include the information described in subsection (5); and
 (b) submit the report to the Minister. Transitional valuation requirements for 2014
- (7) The Actuary shall, when determining the total value of the liabilities of the Fund for an actuarial valuation report with an effective date of April 1, 2014, April 1, 2015 or April 1, 2016,
 (a) include the total cost of salary indexing for all members under section 7.3 for 2014, 2015 and 2016;
 (b) include the total cost of pension indexing for all pensioners under section 8.01 for 2014, 2015 and 2016;
 (c) not include the total cost of salary indexing for all members under section 7.3 in respect of any calendar year after 2016; and Transitional liabilities

(d) not include the total cost of pension indexing for all pensioners under section 8.01 after April 1, 2016.

Liabilities not to include future indexing

(8) The Actuary shall, when determining the total value of the liabilities of the Fund for an actuarial valuation report with an effective date of April 1, 2017, or an effective date of April 1 of any subsequent year, shall not include

- (a) the total cost of salary indexing for all members under section 7.3 in respect of any calendar year after the effective date of the report; and
- (b) the total cost of pension indexing for all pensioners under section 8.01 after the effective date of the report. 2013,c.6,s.12.

Going concern valuation for 2014

6.2 (1) The Actuary shall, on or before December 31, 2014,
 (a) conduct a going concern valuation of the financial status of the Fund, as of April 1, 2014, that is determined on a funding basis in accordance with any applicable standards of the Canadian Institute of Actuaries; and
 (b) submit the results of that valuation, in writing, to the Minister.

Going concern valuation

(2) The Actuary shall, on or before December 31, of every year following 2014,
 (a) conduct a going concern valuation of the financial status of the Fund, as of April 1, of every year following 2014 that is determined on a funding basis in accordance with any applicable standards of the Canadian Institute of Actuaries; and
 (b) submit the results of that valuation, in writing, to the Minister.

Transitional going concern valuation for 2014

(3) The Actuary shall, on or before December 31, 2014, also
 (a) conduct a going concern valuation of the financial status of the Fund, as of January 1, 2014, that is determined on a funding basis in accordance with any applicable standards of the Canadian Institute of Actuaries; and
 (b) submit the results of that valuation, in writing, to the Minister. 2013,c.6,s.12.

CONTRIBUTIONS

Base Contributions

Required base contributions, amount

7. (1) For the purposes of this section, for service credited to a member on or after January 1, 2013, and subject to subsections (3) and (4) and subsection 7.02(8) and the maximum contribution limits imposed under the *Income Tax Act* (Canada), the member shall make a base contribution to the Fund, in accordance with subsection 7.02(4) each calendar year in an amount equal to

(a) eight and nine one-hundredths per cent of that part of the member's salary for that calendar year up to the amount of the "Year's Maximum Pensionable Earnings", as defined in the *Canada Pension Plan Act*; and

(b) nine and three-quarters per cent of that part of the member's salary for that calendar year that exceeds the amount of the "Year's Maximum Pensionable Earnings", as defined in the *Canada Pension Plan Act*.

(2) Subject to subsections (3) and (4) and subsection 7.02(7), the employer shall, in respect of each member employed by the employer, make a base contribution to the Fund each calendar year equal to the amount of the base contribution of the member under subsection (1) and pay it to the Minister, who shall cause the same to be paid into the Fund.

Employer's base contribution

(3) Where an actuarial valuation report with an effective date commencing April 1, 2016, or April 1 of any subsequent year, indicates that the funded benefits ratio of the Fund as of the effective date of the report is equal to or greater than 135%, the amount of the base contribution that a member, and that the employer of the member, is required to make to the Fund under subsections (1) and (2), respectively, is reduced in an amount equal to,

Reduction of base contributions, where funded benefits ratio equals or exceeds 135%

(a) in the case of a member, 1% of the member's salary; and

(b) in the case of the employer of the member, 2% of the member's salary,

for

(c) the calendar year immediately following the effective date of the actuarial valuation report; and

(d) each calendar year following the calendar year referred to in clause (c) until, and not including, the calendar year immediately following the effective date of a subsequent actuarial valuation report that indicates that the funded benefits ratio of the Fund is equal to or less than 130%.

(4) Where an actuarial valuation report with an effective date of April 1, 2016, or April 1 of any subsequent year, indicates that the funded benefits ratio of the Fund as of the effective date of the report is equal to or greater than 145%, the amount of the base contribution that the employer of a member is required to make to the Fund in respect of the member under subsection (2) is reduced, in addition to the reduction provided under subsection (3), by a further amount equal to 2% of the member's salary for

Additional reduction of base contribution, where funded benefits ratio equals or exceeds 145%

(a) the calendar year immediately following the effective date of the actuarial valuation report; and

(b) each calendar year following the calendar year referred to in clause (a) until, and not including, the calendar year immediately following the effective date of a subsequent actuarial valuation report that indicates that the funded benefits ratio of the Fund is equal to or less than 140%. 1981,c.5,s.7; 1983,c.5,s.1; 1985,c.8,s.1; 1987,c.10,s.4; 1992,c.11,s.2; 1993,c.28,s.3; 1996,c.8,s.5; 1997,c.8,s.2; 1997,c.60,s.1; 1998,c.84,s.3; 2000,c.4,s.1; 2001,c.30,s.4; 2004,c.28,s.4; 2007,c.25,s.2; 2008,c.37,s.2; 2009,c.3,s.5; 2012(2nd),c.3,s.1; 2013,c.6,s.13.

Supplementary Contributions

Where funded
benefits ratio is less
than 110%

7.01 (1) Where an actuarial valuation report with an effective date of April 1, 2016, or April 1 of any subsequent year, indicates that the funded benefits ratio of the Fund, as of the effective date of the report, is less than 110%,

- (a) each member shall make a supplementary contribution to the Fund in an amount equal to 1% of the member's salary; and
- (b) the employer shall, in respect of each member employed by the employer, make a supplementary contribution to the Fund in an amount equal to 2% of the member's salary,

for

- (c) the calendar year immediately following the effective date of the report; and
- (d) each subsequent calendar year until, and not including, the calendar year immediately following the effective date of a subsequent actuarial valuation report that indicates that the funded benefits ratio of the Fund is equal to or greater than 115%.

Where funded
benefits ratio is less
than 100%

(2) Where an actuarial valuation report with an effective date of April 1, 2016, or April 1 of any subsequent year, indicates that the funded benefits ratio of the Fund, as of the effective date of the report, is less than 100%,

- (a) each member shall make or continue to make the supplementary contribution to the Fund required under clause (1)(a); and
- (b) the employer shall, in respect of each member employed by the employer, make or continue to make
 - (i) the supplementary contribution to the Fund required under clause (1)(b), and
 - (ii) a further supplementary contribution to the Fund in an amount equal to 2% of the member's salary,

for

- (c) the calendar year immediately following the effective date of the report; and

(d) each subsequent calendar year until, and not including, the calendar year immediately following the effective date of a subsequent actuarial valuation report that indicates that the funded benefits ratio of the Fund is equal to or greater than 105%. 2013,c.6,s.13.

General

- 7.02** (1) A member shall make the member's contributions to the Fund as, when and in the amounts required by this Act. Member's contributions
- (2) Subject to subsection (3) and the requirements of sections 8507 and 8508 of the regulations to the *Income Tax Act* (Canada), a member who Contribution calculation where salary deferred or hours reduced
- (a) is participating in the deferred salary plan pursuant to the collective agreement; or
- (b) otherwise elects to reduce his hours of work,
- shall continue to make his or her member's contributions calculated on the reduced salary the member is actually receiving or, at the member's option, on the salary he or she would have received if he or she had continued to work at the normal full-time hours for his or her position.
- (3) Subsection (2) does not apply to a member whose hours of work are reduced to less than half of the normal full-time hours for his position. Maximum reduction
- (4) The employer of a member shall, in each pay period of the member, deduct from the member's salary the proportionate amount of the member's contributions and pay the same to the Minister, who shall cause the same to be paid into the Fund. Deduction and payment of member's contributions
- (5) A member who is receiving disability payments under a Long-Term Disability Insurance Plan shall be deemed for all purposes under this Act to continue in pensionable service during the period the member is receiving such payments if the insurer under the Long-Term Disability Insurance Plan remits to the Minister, on behalf of the member and for the benefit of the Fund, the amount of the member's contributions for that period. Contributions by insurer for member receiving disability payments under the Plan
- (6) In no event shall a member continue to contribute to the Fund after the last day of the year in which the member attains the age of 71 years, and any pension to which a member is entitled under this Act shall commence to be paid not later than that date. Termination of right to contribute and commencement of pension at seventy-one
- (7) Notwithstanding anything to the contrary in this Act, if an employer's contribution would not be an eligible contribution under Ineligible contribution

section 147.2(2) of the *Income Tax Act* (Canada), no such contribution shall be made by the employer.

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

(8) When, in accordance with subsection (7), contributions to the Fund must temporarily be reduced or must temporarily cease to be made, both the member's and employer's contributions shall be temporarily reduced in the same proportion or temporarily ceased, as the case may be.

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

(9) Where, pursuant to paragraphs 1(1)(hh)(i)(C) and 1(1)(hh)(ii)(C), the service of a member includes a period of wage loss benefits under the *Workers Compensation Act*, the employer shall pay the member's contributions based on the member's salary at the date of commencement of receipt of those benefits by the member. 2013,c.6,s.13.

TRANSITIONAL GOVERNMENT FUNDING

Transitional
funding
commitment of
Government

7.03 (1) The Government shall ensure, by contributing such assets to the Fund on or before December 31, 2014, as circumstances require, that the funded benefits ratio of the Fund as of January 1, 2014, would have been 122% if the Fund had included such assets on that date.

Interest

(2) Where the Government is required to contribute an asset to the Fund under subsection (1), interest is payable to the Fund by the Government on the value of the assets to be contributed, in respect of the period between the effective date of the actuarial valuation report and the date the contribution is made. 2013,c.6,s.13.

GOVERNMENT GUARANTEE

Government
guarantee shortfall
amount

7.04 (1) Where the Actuary, when preparing an actuarial valuation report with an effective date of April 1, 2016, or April 1 of any subsequent year, has determined that

(a) the funded benefits ratio of the Fund is less than 100% as of the effective date of the report; and

(b) the contributions required under the Act are not projected to be sufficient to achieve a funded benefits ratio equal to or greater than 100%, on the fifth anniversary of the effective date of the actuarial valuation report,

the Actuary shall determine the amount that, if it were paid into the Fund on the effective date of the actuarial valuation report, is sufficient, in the Actuary's opinion, to achieve a funded benefits ratio of the Fund equal to 100% on the fifth anniversary of the effective date of the actuarial valuation report, which amount shall be known as the government guarantee shortfall amount.

(2) The Government shall, within six months after the submission to the Minister of an actuarial valuation report that includes a government guarantee shortfall amount, pay to the Fund an amount equal to one-fifth of that government guarantee shortfall amount.

Payment required in respect of government guarantee shortfall amount

(3) A payment by the Government under subsection (2) shall include interest for the period commencing the effective date of the report and ending on the date the payment is made. 2013,c.6,s.13.

Interest on government guarantee shortfall amount

MISSED CONTRIBUTIONS

7.1 (1) “Written notice” for the purposes of this section means written notice by the Minister to an employer and member respecting the missed contributions of a member.

Written notice

(2) Where an employer has not made all or part of the deductions required by subsection 7(3) during a period in which the member was required to make contributions to the Fund, the employer shall pay to the Fund the amounts that the employer should have paid to the Fund pursuant to subsection 7(4), together with interest.

Missed deductions

(3) A member may make contributions in respect of the member’s service for the period during which no contributions were made, where the contributions were required pursuant to subsection 7(3).

Member’s back contributions

(4) Where a member makes contributions in accordance with this section, interest accrued on the member contributions payable shall be paid

Accrued interest on late contributions

(a) by the employer for the period during which no contributions were made where the contributions were required pursuant to subsection 7(3),

(i) to the date the member starts making contributions, or

(ii) to the date which is 180 days after the date of written notice, whichever is earlier; and

(b) by the member for the period from 181 days after written notice to the date the member starts making the contributions.

(5) Interest on contributions payable under this section shall be calculated at the rate of 5 per cent compounded annually.

Interest

(6) Notwithstanding subsection (4), the Minister may waive all or part of the interest payable by any person under this section. 2001,c.30,s.5; 2004,c.28,s.5.

Waiver of interest

7.2 The period of service which is pensionable service for contributions made under section 7.1 is

Pensionable service

- (a) where both the employer and the member make the contributions referred to in section 7.1, the period of service in respect of which contributions are made; or
- (b) where only the employer makes the contribution referred to in section 7.1, one-half of the period of service in respect of which contributions are made. 2001,c.30,s.5; 2004,c.28,s.6.

INDEXING OF SALARIES AND YEAR'S MAXIMUM PENSIONABLE EARNINGS

Definitions

7.3 (1) In this section,

member

(a) “member” does not include a former member;

prorated salary indexing percentage

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

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

where

A is the salary indexing percentage for the calendar year,

B is the salary indexation asset amount as of the effective date of an actuarial valuation report of the immediately preceding calendar year, and

C is the total cost of salary indexing for all members for the calendar year.

Indexed pensionable salary increase

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

Application of prorated salary indexing percentage

(3) Where under subsection (2), the total cost of salary indexing for all members for a calendar year commencing January 1, 2017, or any subsequent calendar year, exceeds the salary indexation asset amount on the effective date of an actuarial valuation report immediately preceding the calendar year, the member's pensionable salary for that calendar year, together with any accumulated salary indexing increases made under this section by January 1 of that calendar year, shall be indexed under subsection (2) for that calendar year using the prorated salary indexing percentage instead of the salary indexing percentage.

Recovery of missed indexing

(4) Where

(a) the funded benefits ratio in an actuarial valuation report with an effective date of April 1, 2018, or April 1 of any subsequent year is greater than 115%; and

(b) the salary indexing for a member was determined under this section in a prior calendar year using the prorated salary indexing percentage for that calendar year, in accordance with subsection (3), the member's pensionable salary, together with the accumulated salary indexing increases made under this section by January 1 of the calendar year immediately following the effective date of the report, shall be increased, as of January 1 of the second calendar year immediately following the effective date of the report, in such amount or by such percentage, as is required by the regulations.

(5) Subject to subsection (6), where a member is credited with pensionable service in respect of a calendar year, the member's year's maximum pensionable earnings amount for that calendar year, together with any accumulated indexing increases for the year's maximum pensionable earnings amount made under this section by January 1 of that calendar year, shall be increased by the salary indexing percentage as of January 1 of the following calendar year.

Indexed year's
maximum
pensionable
earnings amount
increase

(6) Where under subsection (2), the total cost of salary indexing for all members for a calendar year commencing January 1, 2017, or any subsequent calendar year, exceeds the salary indexation asset amount as of the effective date of an actuarial valuation report immediately preceding the calendar year, the member's year's maximum pensionable earnings amount, together with any accumulated indexing increases for the year's maximum pensionable earnings amount shall be indexed under subsection (5) for that calendar year using the prorated salary indexing percentage instead of the salary indexing percentage.

Application of
prorated salary
indexing percentage

(7) Where

(a) the funded benefits ratio in an actuarial valuation report with an effective date of April 1, 2018, or April 1 of any subsequent year, is greater than 115%; and

(b) the indexing for the year's maximum pensionable earnings amount for a member was determined under this section in a prior calendar year using the prorated salary indexing percentage for the calendar year, in accordance with subsection (6),

Recovery of missed
indexing

the member's year's maximum pensionable earnings amount, together with the accumulated indexing increases for the year's maximum pensionable earnings amount made under this section by January 1 of the calendar year immediately following the effective date of the report, shall be increased, as of January 1 of the second calendar year immediately following the effective date of the report, in such amount or by such percentage, as is required by the regulations. 2013,c.6,s.15.

COMPUTATION OF PENSIONS

Amount of Pension Payable on Retirement

Number of years of
CPP service

8. (1) A reference in this section to the number of years of CPP service of a member or vested former member is a reference to the number of years determined by the formula

$$A - B$$

where

A is the number of years or part years of pensionable service of the member or vested former member, and

B is sum of the number of years or part years referred to in A

(a) that occurred prior to January 1, 1966,

(b) that the member or vested former member purchased under the regulations made under the *Canada Pension Plan Agreement and Loans Act* before 1988,

(c) that the member or vested former member was in receipt of disability benefits under a Long Term Disability Insurance Plan,

(d) that the member or vested former member was in receipt of wage loss benefits under the *Workers Compensation Act* R.S.P.E.I. 1988, Cap. W-7.1 in respect of a total loss of earning capacity, and

(e) that the member or vested former member was in receipt of CPP retirement pension under the Canada Pension Plan.

Subsections (1.1), (1.2) repealed by 2013,c.6,s.17.

Idem

(1.3) For the purposes of this section, for service credited after January 1, 2010, a reference in this section to the number of years of CPP service of a member or vested former member shall be equal to the number of years or part years of pensionable service of the member or vested former member.

Lifetime pension
computation

(2) The amount of pension payable to any member who retires or is retired and who is eligible to receive a pension pursuant to subsection 9(1) or (1.1) is equal to the amount determined by the formula

$$(2\% \times A \times B) - C$$

where

A is the member's number of years of pensionable service,

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

C is the amount of the pension benefits determined under subsection (2.1).

(2.1) In addition to the amount of pension payable to a member under subsection (2), a member who retires or is retired prior to the age of 65 years, and who is eligible to receive a pension pursuant to clause 9(1)(b) or (1)(c) or subsection 9(1.1) is entitled to receive, until he or she attains the age of 65 years, a temporary pension amount equal to the amount determined by the formula

Bridge pension
amount

$$(0.7\% \times A \times B)$$

where

A is the number of years of CPP service of the member, and

B is the lesser of

(a) the member's average weighted indexed pensionable salary, and

(b) the member's average weighted indexed year's maximum pensionable earnings amount.

(3) In computing the number of years of pensionable service for the purpose of this section

Years of service

(a) if the actual period of pensionable service includes a fraction of a year, the fraction shall be computed on a prorated basis by reference to the number of working days in that year; and

(b) during any period in which a member is employed part-time, the period of pensionable service shall be computed by multiplying the number of years in the period by the ratio of the salary upon which the member's contributions were based in the period to the salary the member would have been paid if he had worked the normal full-time hours for his position during that period.

(4) Repealed by 2013,c.6,s.17.

Annual increase

(5) Repealed by 2013,c.6,s.17.

Application to
deferred pension

(6) The portion of the pension in respect of pensionable service after 1991 which is payable to a member or former member under subsection (2.1) in any year under this Act prior to attaining the age of sixty-five and which is considered under paragraph 8503(2)(b) of the regulations to the *Income Tax Act* (Canada) to be a bridging benefit shall in no case exceed the maximum bridging benefit allowed under the said paragraph of the regulations to the *Income Tax Act* (Canada) with respect to service after 1991.

Maximum bridging
benefit

(7) The total pension in respect of pensionable service after 1991 which is payable to a member or former member in any year under the Act shall in no case exceed the maximum allowed under section 8504 of the regulations to the *Income Tax Act* (Canada) with respect to service after 1991.

Maximum pension

Conditions applicable to service before 1990 (8) Notwithstanding anything to the contrary in this Act or the regulations, a lifetime pension, if any, in respect of the pensionable service prior to 1990 of any member or person entitled to a pension under this Act, shall be subject to the limits and conditions under paragraphs 8504(6) and 8504(7) of the regulations made to the *Income Tax Act* (Canada), if that pensionable service was not already recognized as service under this Act prior to June 8, 1990.

Adjustment of pension benefits (9) Where there has been a division of pension benefits pursuant to this Act, the amount of pension benefits payable pursuant to subsection (2) or (2.1) shall be adjusted as prescribed by regulation. 1981,c.5,s.8; 1983,c.1,s.6; 1983,c.5,s.2; 1986,c.5,s.2; 1987,c.10,s.5; 1992,c.11,s.3; 1993,c.28,s.4; 1996,c.8,s.6; 1997,c.8,s.3; 1998,c.84,s.4; 2000,c.2,s.1; 2001,c.30,s.6; 2004,c.28,s.7; 2007,c.25,s.3; 2009,c.3,s.6; 2013,c.6,s.17.

Indexing of Pensions and Deferred Pensions

Definition, prorated pension indexing percentage **8.01** (1) In this section, “prorated pension indexing percentage” means, in respect of a year, the percentage determined by the formula

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

where

A is the pension indexing percentage for the year,

B is the pension indexation asset amount as of the effective date of an actuarial valuation report of the immediately preceding year, and

C is the total cost of pension indexing for all pensioners for the year.

Pension indexing (2) Subject to subsection (3), where a pensioner is in receipt of a pension as of March 31 of a year, the pensioner’s pension for that year, together with any accumulated pension indexing increases made under this section by April 1 of that year, shall be increased by the pension indexing percentage as of April 1 of the following year.

Application of prorated pension indexing percentage (3) Where under subsection (2), the total cost of pension indexing for all pensioners for 2017 or any subsequent year, exceeds the pension indexation asset amount as of the effective date of an actuarial valuation report of the immediately preceding year, the pension of a pensioner shall be indexed under subsection (2) for that year using the prorated pension indexing percentage instead of the pension indexing percentage.

Recovery of missed indexing (4) Where
(a) the funded benefits ratio in an actuarial valuation report with an effective date of April 1, 2017, or April 1 of any subsequent year, is greater than 118%; and

(b) the pension indexing for a pensioner was determined under this section in a prior year using the prorated pension indexing percentage for that year, in accordance with subsection (3), the pension of the pensioner, together with any accumulated pension indexing increases made under this section by the effective date of the actuarial valuation report, shall be increased, on April 1 of the year immediately following the effective date of the actuarial valuation report, in such amount or by such percentage, as is required by the regulations.

(5) Subsections (2) to (4) apply to a pension deferred under clause 10(1)(e) or 10(2)(e). Application to deferred pension

(6) Where the last day of employment for a member is a date other than April 1 of a year, the pension indexing percentage in respect of the year shall be prorated so as to be proportionate to the part of the year from the last day of employment to April 1. 2013,c.6,s.18. Proration for partial year of retirement

PENSION ELIGIBILITY

8.1 Sections 9, 10 and 11 have effect subject to any restrictions on retirement age and reduction of pension imposed under the *Income Tax Act* (Canada). 1993,c.28,s.5. Application of sections relating to eligibility for pension

9. (1) Subject to this Act and the regulations, where a member, at his or her date of retirement, has at least two years of service and has attained Eligibility for pension

- (a) the age of 65 years;
- (b) the age of 62 years; or
- (c) the age of 60 years and has no pensionable service in a calendar year after 2018,

the member is eligible to receive an unreduced pension.

(1.1) Subject to this Act and the regulations, where a member, at his or her date of retirement, has attained the age of 55 years and has at least Idem

- (a) thirty-two years of pensionable service; or
- (b) thirty years of pensionable service, none of which are in respect of a calendar year after 2018,

the member is eligible to receive an unreduced pension.

(2) A member who has at least two years of service may retire or be retired on attaining the age of fifty-five years and is eligible to receive a reduced pension. Early retirement

(3) Repealed by 2004,c.28,s.8.

(4) Where a member is eligible to receive a reduced pension pursuant to subsection (2) the amount of reduced pension, shall be calculated Deputy Minister, definition Early retirement reduction

- (a) first in accordance with section 8; and

(b) then reduced by an amount equal to the amount determined by the formula

$$(1/4\% \times A \times B) + (1/4\% \times C \times D)$$

where

A is the amount of pension in respect of pensionable service prior to 2019;

B is the lesser of

(i) the number of months between the date of actual retirement and the date the member would attain the age of sixty, or

(ii) the number of months between the date of actual retirement and the date the member would have at least 30 years of service;

C is the amount of pension in respect of pensionable service after 2018; and

D is the lesser of

(i) the number of months between the date of actual retirement and the date the member would attain the age of 62,

or

(ii) the number of months between the date of actual retirement and the date the member would have at least 32 years of service.

2000,c.2,s.2; 2001,c.30,s.7; 2004,c.28,s.8; 2007,c.25,s.4; 2013,c.6,s.20.

REFUNDS OF MEMBER'S CONTRIBUTIONS

Termination of
employment before
retirement

10. (1) Where a member

(a) has at least two years of service;

(b) has no pensionable service in a calendar year after 2018; and

(c) ceases to be a member prior to attaining the age of 60 years,

the member may elect

(d) pursuant to section 12, to receive a refund of all member's contributions made by him or her under this Act; or

(e) to receive a pension deferred until he or she attains the age of 60 years.

Idem

(2) Where a member

(a) has at least two years of service;

(b) has pensionable service in a calendar year after 2018; and

(c) ceases to be a member prior to attaining the age of 62 years,

the member may elect

(d) pursuant to section 12, to receive a refund of all member's contributions made by him or her under this Act; or

(e) to receive a pension deferred until he or she attains the age of 62 years. 1981,c.5,s.10; 1993,c.28,s.7; 1996,c.8,s.10; 2004,c.28,s.9; 2013,c.6,s.21.

11. (1) Repealed by 1993,c.28,s.8.

(2) and (3) Repealed by 1996,c.8,s.7.

Abolition

Suspension of
pension

Refund of member
contributions

12. (1) Where a member

(a) dies;

(b) is dismissed; or

(c) resigns and his resignation is accepted,

before completing two years of service or where after completing two years of service he has elected to receive a refund of all member contributions pursuant to clause 10(1)(d) or 10(2)(d), the sums which have been deducted from his salary under this Act shall in case of his death be refunded to his personal representative or, in the case of his dismissal or resignation, to the member.

(2) In the event of a return of deductions pursuant to this Act, the Minister shall pay in addition to the refund, interest thereon calculated at the rate of five per cent per annum on the annual contributions made by the member. 1981,c.5,s.12; 1982,c.3,s.1; 1983,c.1,s.6; 1986,c.5,s.2; 1996,c.8,s.10; 2000,c.2,s.3; 2007,c.25,s.4; 2013,c.6,s.22.

Interest

DEATH OF MEMBER OR VESTED FORMER MEMBER

13. (1) Notwithstanding section 9, where a member or vested former member dies after at least two years of service and before retirement, sixty per cent of the pension to which the member or vested former member would have been eligible had the member or vested former member retired immediately prior to his death shall be paid to the surviving spouse of the member or vested former member for life.

Death of member,
vested former
member surviving
spouse pension

(2) If the spouse of the member or vested former member dies before the member or vested former member or where, having survived the member or vested former member, the surviving spouse dies leaving children by the member or vested former member, the sixty per cent pension referred to in subsection (1) shall be paid in equal shares to the children if they have not attained the age of eighteen years, until they attain that age or, if attending on a full-time basis at an institution of post-secondary education, until they attain the age of twenty-one years, or, in the case of a child who is incapable by reason of mental or physical infirmity of pursuing on a regular basis any substantially gainful employment and is a dependant, for life.

Payment of pension
to children

(3) Where a member or vested former member does not leave a surviving spouse or children surviving him, but leaves other dependants, the sixty per cent referred to in subsection (1) shall be paid to such dependants during their lifetime.

Payment to other
dependants

Payment of pension on death of pensioner	<p>(4) Where a pensioner dies while receiving a pension, sixty per cent of the pension that the pensioner would be entitled to receive if the pensioner had not died shall be paid</p> <p>(a) to the surviving spouse of the pensioner for life, if the pensioner dies leaving a surviving spouse;</p> <p>(b) to the children of the pensioner, for the period and in the shares specified in subsection 13(2), if</p> <p>(i) the spouse of the pensioner dies before the pensioner and the pensioner dies leaving children surviving him or her, or</p> <p>(ii) the surviving spouse of the pensioner dies after the pensioner and leaves children by the pensioner; or</p> <p>(c) to such other dependants as the pensioner may leave, for life and in equal shares, if the pensioner does not leave a surviving spouse or children surviving him or her.</p>
Deceased deemed to be unmarried	<p>(5) A non-member spouse who, after pension benefits have been divided, has no further rights under the Fund pursuant to subsection 18(4) shall be deemed not to be married to the member or vested former member and not to be a spouse or surviving spouse at the date of death of the member or vested former member.</p>
Children's allowance	<p>(6) In addition to the pension payable to the surviving spouse of a member or vested former member under subsection (1) or (4) an allowance equivalent to one-sixth of the pension paid to the surviving spouse of the member or vested former member shall be paid to the surviving parent or guardian on behalf of each child of the member or vested former member, up to a maximum of four, at any one time, commencing with the oldest four, until the child attains the age of eighteen years or if attending on a full-time basis at an institution of post-secondary education, until the child attains the age of twenty-one years.</p>
Allowance not to be less than total of deductions	<p>(7) If a member or vested former member dies leaving only a child or children entitled to receive payments hereunder for a limited number of years, and the total of the payments is less than the total of deductions from the salary of the member under this Act, then the excess shall be paid to the personal representatives of the member or vested former member, or to the children of the member or vested former member in a lump sum.</p>
Application	<p>(8) Nothing in this section applies in respect of a member or vested former member or the dependants of a member or vested former member whose contributions have been refunded under section 12.</p>
Maximum benefits	<p>(9) Notwithstanding anything to the contrary in this Act or the regulations to this Act, benefits payable upon the death of a member, vested former member or person entitled to a benefit under this Act shall</p>

not exceed nor be inconsistent with those permitted under the *Income Tax Act* (Canada).

(10) For greater certainty, any portion of a pension payable to a surviving spouse child or dependant of a member, vested former member or pensioner under this section that is composed of the temporary benefit provided under subsection 8(2.1) ceases to be payable under this section on the date when the member, vested former member or pensioner would have, but for his or her death, attained the age of 65 years. 1981,c.5,s.13; 1982,c.3,s.2; 1987,c.10,s.7; 1992,c.11,s.5; 1993,c.28,s.9.; 1996,c.8,s.8; 2004,c.28,s.10; 2007,c.25,s.4; 2008,c.8,s.3(4),(5),(6); 2008,c.37,s.3.

Termination of temporary pension benefit

14. The pension or allowance payable to a member or vested former member, or to the surviving spouse, children or dependants of a member or vested former member, shall be paid in monthly instalments and is payable for the whole of the month in which the recipient dies or ceases to be eligible to receive it. 1981,c.5,s.14; 1983,c.5,s.3; 2004,c.28,s.11; 2008,c.8,s.3(6).

Payments to be made monthly

15. No right of a person under this Act is capable of being assigned, charged, anticipated, given as security or surrendered, and, for the purposes of this section

Assignment etc. of rights

(a) assignment does not include assignment pursuant to a decree, order or judgment of a competent tribunal or a written agreement in settlement of rights arising as a consequence of the breakdown of a spousal relationship between an individual and the individual's spouse or former spouse nor does it include assignment by the legal representative of a deceased individual on the distribution of the individual's estate; and

(b) surrender does not include a reduction in benefits to avoid the revocation of the registration under the *Income Tax Act* (Canada) of the pension plan provided for in this Act. 1993, c.28, s.10; 2008,c.8,s.3(7).

RE-EMPLOYMENT

16. (1) Every person receiving a pension under this Act, upon re-employment with a participating employer in a permanent full-time or part-time position, ceases to be entitled to the pension and payment thereof as long as the person continues to be re-employed.

Pension ceases on re-employment

(2) Where the re-employment of a person referred to in subsection (1) ceases, the person is eligible to receive a pension determined by the formula

Restoration of pension upon termination of re-employment

$$A + B$$

where

A is the amount of the pension paid to the person immediately prior to his or her most recent period of re-employment, and

B is the pension calculated in accordance with section 8 in respect of the pensionable service credited to the member during the most recent period of re-employment. 1983,c.5,s.4; 1993,c.28,s.11; 2000,c.4,s.2; 2001,c.30,s.8; 2005,c.41,s.18; 2013,c.6,s.25.

INTERRUPTION OF SERVICE

Service in time of war

17. (1) Interruption of service by reason of any member's enlistment and service in any of Her Majesty's forces or in services auxiliary thereto in time of war shall be disregarded in computing time of pensionable service and in assigning entitlement for it, and the member shall be regarded as being in pensionable service without any contribution required during the whole period of service in the forces or auxiliaries.

Recognition of wartime service

(1.1) Recognition of any periods of wartime service which occur after 1989 shall be subject to the limits and conditions under section 8507 of the regulations to the *Income Tax Act* (Canada).

Leave without pay

(2) If a member is granted leave of absence without pay, other than for service in time of war in Her Majesty's forces or auxiliaries, no contribution will be required from the member during the period of absence, and except as otherwise permitted by the regulations, the period of leave shall not

(a) be calculated as part of service either to entitle the member to a pension or to increase the amount of pension to be allowed; and

(b) be considered to be an interruption in the continuity of service.

Re-employment and continuity of service

(3) Where a person

(a) previously resigned from employment that entitled the person to a pension benefit under this Act;

(b) elected, on that resignation, to receive a refund of contributions and interest thereon under section 12 in respect of his or her years of service; and

(c) is subsequently re-employed in employment that qualifies the person as a member under this Act,

the person may have his or her pensionable service restored as if the member had been absent with leave under subsection (2), if the member repays to the Fund the amount that is the actuarial value, as determined by the Minister, of the pension benefits that the member will be eligible for under this Act in respect of the period of service that is restored.

(4) A repayment referred to in subsection (3) shall, unless the Minister determines otherwise, be made by a single lump sum payment.

Manner of
repayment of
contributions
Repayments begun
before
commencement of
subsection (4)

(4.1) Where a member has, under the former subsection (4), begun but not completed the full repayment of the amount required under the former subsection (3), the member may, on the coming into force of this subsection, have his or her continuity of service restored in accordance with the former subsections (3) and (4).

(4.2) A reference in subsection (4.1) to the former subsection (3) or to the former subsection (4) is a reference to those subsections as they read immediately before the date this subsection comes into force.

Reference to former
subsection (3) and
(4)

(5) A repayment referred to in subsection (3) shall not exceed such limit as may be prescribed under the *Income Tax Act* (Canada) and, if the amount of refund received by the member at the time of his previous withdrawal was more than the amount of his own contributions accumulated with interest, any such repayment must be done by transferring an amount directly into the Fund from a registered retirement savings plan owned by the member or from another registered pension plan of which the member was a member.

Limit on repayment

(6) Repealed by 1996,c.8,s.9; 1981,c.5,s.16; 1993,c.28,s.12; 1996,c.8,s.17; 2000,c.4,s.3; 2001,c.30,s.9; 2004,c.28,s.12.

Limit on initial
annual pension

17.1 Repealed by S.P.E.I., 2001,c.30,s.10.

Work Force
Adjustment
Program

17.2 Repealed by 2004,c.28,s.13. 1998,c.84,s.5; 1999,c.21,s.3; 2004,c.28,s.13.

Provincial
laboratory
employee

DIVISION OF PENSION BENEFITS

18. (1) A person who is a member, a vested former member or a pensioner, or a spouse or former spouse of such person, may, in the circumstances described in subsection (2), apply to the Minister to divide the pension benefits to which the person is entitled under this Act between the person and the spouse or former spouse.

Application for
division of pension
benefits on
marriage
breakdown

(2) An application may be made where

Circumstances in
which application
made

(a) a court of competent jurisdiction in Canada, in proceedings in relation to a divorce or an annulment of marriage, makes an order that provides for the division of pension benefits under this Act between the person and the spouse or former spouse;

(b) the person and the spouse or former spouse have entered into a written witnessed domestic contract that provides for the division of

pension benefits between them upon divorce or annulment of marriage or upon separation; or

(c) one of the spouses commences an application based on subsection 6(2) of the *Family Law Act* respecting improvident depletion that is subsequently granted,

and the effective date of the divorce or annulment of marriage or the separation referred to in clauses (a) and (b), or the date of the application referred to in clause (c), is on or after January 1, 1998.

Determination of
value of pension
benefit

(3) The value of the pension benefit shall be determined as of the valuation date in accordance with this Act and the regulations and shall be divided in accordance with an order of the court, the terms of a domestic contract or an order under subsection 6(2) of the *Family Law Act*.

Division under
ss(3), effect

(4) If the pension benefits under the Fund have been divided in accordance with subsection (3), the non-member spouse has no further right under the Fund and the member's, vested former member's, or pensioner's pension benefits shall be revalued accordingly.

Reduction may not
exceed 50%

(5) A division of pension benefits under the Fund pursuant to the circumstances in subsection (2) shall not result in a reduction of the commuted value of a member's, vested former member's, or pensioner's pension benefits by more than fifty per cent.

Cash payment

(6) If a member would not be entitled to a deferred pension on termination of employment, the portion of the member's contributions with interest to be attributed to the non-member spouse may be paid out in cash in accordance with this Act and the regulations.

Minister not liable

(7) Where a court order or domestic contract provides for payment by the member, vested former member, or pensioner of a sum equal to and in lieu of the amount owing to the member's, vested former member's or pensioner's spouse in relation to a pension benefit, the Minister and the Fund are not liable for any payments.

Application

(8) An application shall be made in writing containing the prescribed information, accompanied by a certified true copy of the court order or domestic contract and by such other documents as are prescribed. 1998,c.84,s.6; 2004,c.28,s.14.

Determination of
questions of
application

19. Any question arising as to the application of this Act to any person or class of persons shall be determined by the Lieutenant Governor in Council. 1981,c.5,s.18.

Interested party

20. (1) In this section and in sections 21 and 23 the term "interested party" means the person who is a member, a vested former member or a

pensioner, and the spouse or former spouse of such person, between whom the person's pension benefits under this Act are sought to be divided.

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

Notice of receipt of application

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

Notice where interested party is not applicant

(4) The notice is deemed to be received by an interested party thirty days after the day on which it is sent in the prescribed manner to that party. 1998,c.84,s.7.

Notice received by interested party

21. (1) An interested party who objects to the division of pension benefits on any of the grounds described in subsection (2)

Interested party objects

(a) may submit a notice to the Minister or his or her delegate in writing within thirty days after the day on which notice of the receipt of the application is deemed under subsection 20(4) to be received by that party; and

(b) shall include with the notice, documentary evidence to establish the grounds for objection.

(2) The grounds for objection are

Grounds for objection

(a) that the court order, or domestic contract has been varied or is of no force or effect;

(b) that the terms of the court order or domestic contract have been, or are being satisfied by other means; or

(c) that proceedings have been commenced in a court of competent jurisdiction in Canada to appeal or review the court order or challenge the terms of the domestic contract. 1998,c.84,s.7.

22. (1) Subject to subsections (2) and (3), the Minister shall, as soon as is practicable after the Minister is satisfied that an application meets the requirements of this Act, approve the division of the pension benefits for which the application is made.

Minister approves division

(2) If an interested party submits a notice of objection to the Minister in accordance with section 21, the Minister shall defer any decision on the application until such time as the Minister is able to ascertain to the Minister's satisfaction whether the grounds referred to in clauses 21(2)(a) or (b) have been established, or until the final disposition of the proceedings referred to in clause 21(2)(c), as the case may be.

Deferral of decision

(3) The Minister shall refuse to approve the division of pension benefits under this Act where

Minister refuses approval, where

- (a) the application for the division does not meet the requirements of this Act;
 - (b) the application is withdrawn in accordance with the regulations;
 - (c) the Minister is satisfied that grounds for objection under clause 21(2)(a) or (b) have been established and that they provide sufficient reason to refuse the division;
 - (d) as a result of the proceedings described in clause 21(2)(c), the court finds that the court order or domestic contract is of no force or effect in respect of the division of pension benefits; or
 - (e) the period subject to division cannot be determined.
- 1998,c.84,s.7.

Transfer of not
more than 50%

23. (1) A division of pension benefits shall be effected by transferring in accordance with subsection (3) an amount which is not more than fifty per cent of the lump-sum value of the pension benefits of the member, vested former member or pensioner subject to division, as determined in accordance with the regulations.

Adjustment

(2) The pension benefits of the member shall be adjusted for the period between valuation date and the date the division is effected in accordance with the regulations.

Shall direct transfer

(3) A non-member spouse, or a non-member former spouse who is entitled to a lump-sum amount upon division of pension benefits shall direct the Minister to transfer the amount to either

- (a) a pension plan selected by the spouse or former spouse that is registered under the *Income Tax Act* (Canada), if that pension plan so permits,
- (b) a retirement savings plan or fund for the spouse or former spouse that is of the prescribed kind, or
- (c) a financial institution authorized to sell immediate or deferred life annuities of the prescribed kind, for the purchase of such an annuity for the spouse or former spouse.

Failure to direct
Minister

(4) If the non-member spouse fails to direct the Minister in relation to the manner in which his or her entitlement is to be dealt with according to the regulations, that spouse shall be deemed to have directed the Minister to purchase a deferred life annuity.

Adjustment

(5) Where the pension benefits of a member, vested former member or pensioner have been divided under this section the pension benefits and accumulated contributions contributed by the member, vested former member or pensioner shall be adjusted in accordance with the regulations.

(6) Where both spouses or former spouses are either members, vested former members, or pensioners, and the pension benefits of only one spouse or former spouse have been divided pursuant to this Act, the receiving spouse or former spouse is not entitled to a lump sum payment and the division shall be effected in accordance with the regulations.

Both spouses
members, one
pension divided,
where

(6.1) Notwithstanding subsection (6), a receiving spouse or former spouse who terminates and withdraws their pension benefits from the Fund after an application to divide pension benefits under section 23 of this Act has been made shall receive a lump-sum amount in accordance with subsection (3), as if he or she were a non-member spouse when the application for division of pension benefits was made.

Lump- sum amount

(7) Where the pension benefits of a member, vested former member or pensioner in respect of a given period of spousal relationship have been divided under this section, no further division of pension benefits may be made under this section in respect of that period.

No further division,
where

(8) An amount that cannot be transferred in accordance with subsection 23(1) by reason only of the death of the spouse or former spouse shall be paid to the estate of the spouse or former spouse.

Payment to estate

(9) The Minister shall send a notice of the division of the pension benefits in the prescribed manner to each interested party. 1998,c.84,s.7; 2008,c.8,s.3(8); 2008,c.37,s.4.

Notice of division

24. If the amount transferred in respect of a spouse or former spouse or paid to the estate of that deceased person under subsection 23(8) exceeds the amount to which that person was entitled to have transferred or the estate was entitled to be paid, the amount in excess constitutes a debt due to the Government of Prince Edward Island by that spouse, former spouse or estate. 1998,c.84,s.7.

Payments in excess
of entitlement

25. Where an adjustment is made under section 23, and an amount is or has been paid to a member, vested former member, or pensioner that exceeds the amount to which that member, vested former member, or pensioner is or would have been entitled under the Fund after the effective date of that adjustment, the amount in excess constitutes a debt due the Government of Prince Edward Island by that member, vested former member, or pensioner and may be recovered at any time by set-off against any pension benefit that is payable to that member, vested former member, or pensioner from the Fund, without prejudice to any other recourse for recovery that may be available to the Government of Prince Edward Island. 1998,c.84,s.7.

Idem

26. (1) Amounts to which a spouse or former spouse is or may become entitled under section 23 are not capable of being assigned, charged,

No assignment

anticipated or given as security, and any transaction that purports to assign, charge, anticipate or give as security any such amount is void.

Exemption from seizure

(2) Subject to sections 24 and 25 and regulations made pursuant to subsection 28(k), amounts to which a spouse or former spouse is or may become entitled under section 23 are exempt from attachment, seizure and execution, either at law or in equity. 1998,c.84,s.7.

Minister may not prejudice, where court order

27. (1) Notwithstanding any other provision of this Act, where a court of competent jurisdiction in Canada so orders, the Minister shall not, for such period as the court may order, take any action on the direction of a member that may prejudice the ability of the spouse or a former spouse to make an application or obtain a division of pension benefits under this Act.

Information to be provided by Minister

(2) The Minister shall, in accordance with the regulations, on request of a spouse or former spouse of a member, vested former member, or pensioner, provide that person with prescribed information concerning the pension benefits that are or may become payable to or in respect of that member, vested former member, or pensioner under the Fund. 1998,c.84,s.7.

GENERAL

Immunity from Legal Action

27.1 (1) No action, grievance, claim or demand or other proceeding for damages or relief of any kind arises or lies, or may be instituted or maintained, against the Government of Prince Edward Island, the Minister, a delegate of the Minister, the Actuary, or an employee or agent of the Government, or any other person or entity,

- (a) for any act done in good faith in the
 - (i) performance or intended performance of any duty under this Act or the regulations, or
 - (ii) exercise or intended exercise of any power or function under this Act or the regulations; or
- (b) for any neglect or default in the performance or exercise in good faith of the powers, functions or duties described in clause (a).

No cause of action arises because of amendment of the Act

(2) Notwithstanding any other statute, regulation, contract, collective agreement, trust, instrument or representation, including any which create or support a pension plan, pension fund or trust, no action, grievance, claim or demand, or other proceeding, for damages or relief of any kind arises or lies, or may be instituted or maintained, against the Government of Prince Edward Island, the Minister or any employee or agent thereof for any change in this Act or the regulations, including, but not limited to, such changes as affect benefits, contributions and funding.

(3) The liability of the Government of Prince Edward Island in respect of funding is limited to such funding as is required by this Act and the regulations. Liability re funding

(4) The Government of Prince Edward Island is entitled to full indemnity out of the Fund for any costs and expenses arising out of any such actions, proceedings, grievances or claims as are brought in contravention of this section. 2013,c.6,s.28. Indemnification of Crown from Fund

28. The Lieutenant Governor in Council make such regulations as the Lieutenant Governor in Council considers necessary or advisable for carrying out the intent and purposes of this Act, including, without limiting the generality of the foregoing, regulations Regulations

- (a) defining the terms under which a person may elect to contribute for years of service prior to the person's participation as a member;
- (a.1) repealed by 2005,c.41,s.18;
- (a.2) defining the terms under which a member may elect to contribute for periods of time during which the member was on an eligible leave of absence pursuant to subsection 17(2);
- (a.3) respecting participating employers to which this Act applies;
- (a.4) respecting the persons who are, for the purposes of clause 1(1)(u)(vii), included as members, including prescribing the positions, or classes or types of positions, that entitle the persons holding such positions to be included as members;
- (a.5) respecting the distribution under subsection 3(9) of surplus funds remaining in the Fund after a former member transfers money from the Fund on the transfer of his or her years of superannuation service;
- (a.6) respecting the information required to be included in an annual report prepared and submitted under section 6;
- (a.7) respecting the indexing increase of a member's pensionable salary, together with accumulated salary indexing increases, under subsection 7.3(4);
- (a.8) respecting the indexing increase of a member's year's maximum pensionable earnings amount, together with accumulated salary indexing increases, under subsection 7.3(7);
- (b) providing for proof to be furnished before any pension or allowance is paid under this Act;
- (c) prescribing the circumstances in which a person may make an application under section 23 of the Act on behalf of another person or may act on behalf of another person in prosecuting an application that has been made by that other person;
- (d) prescribing the circumstances in which a personal representative may make and proceed with an application pursuant to section 23;

- (e) respecting the manner in which and the extent to which any provision of this Act applies to a person referred to in clauses (c) and (d) or in the circumstances prescribed by the regulations and adapting any provision of this Act to those persons or circumstances;
- (f) respecting the withdrawal of applications;
- (g) for the purposes of section 23, for determining, on the basis of generally accepted actuarial principles, the valuation date and the value of pension benefits during the period subject to division;
- (g.1) respecting the apportionment of benefits payable upon the death of a member or vested former member;
- (h) for the purposes of sections 8 and 23, respecting the adjustment of the pension benefits;
- (i) requiring interest be paid on lump sum amounts and prescribing the rate of interest or the manner of determining the rate of interest;
- (j) for determining the effective date of the adjustment of pension benefits;
- (k) respecting the charging of amounts payable under this Act to the Government of Prince Edward Island or to any account or accounts in the accounts of the Government of Prince Edward Island;
- (l) respecting the provision of information to a spouse or former spouse under subsection 27(2);
- (m) prescribing any matter or thing that by this Act is to be or may be prescribed; and
- (n) defining or describing any word, expression or term that is used, but is not already defined, in this Act. 1998,c.84,s.7; 2000,c.4,s.4; 2001,c.30,s.11; 2004,c.28,s.15; 2005,c.41,s.18; 2008,c.8,s.3(9); 2013,c.6,s.29.

SCHEDULE
CIVIL SERVICE SUPERANNUATION FUND
SCHEDULE OF ADDITIONAL GOVERNMENT CONTRIBUTIONS

Repealed by 2009,c.3,s.7. 1995, c.7, s.4; 1997,c.8; 2009,c.3,s.7.