
PENSION (MUNICIPAL) ACT

CHAPTER 355

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PART 1 – INTRODUCTORY PROVISIONS**Definitions and interpretation****1** (1) In this Act:

“**actuary**” means a person who is a Fellow of the Canadian Institute of Actuaries and who is engaged by the board as actuary under section 43;

“**approved employer**” means one of the following:

- (a) an employer to whom the *Pension (College) Act* applies;
- (b) an employer to whom the *Pension (Teachers) Act* applies;
- (c) an employer to whom the *Pension (Public Service) Act* applies;
- (d) an employer to whom the *Public Service Superannuation Act* (Canada) applies;
- (e) an employer to whom the *Legislative Assembly Allowances and Pension Act* applies;
- (f) the government;
- (g) BC Rail Ltd.;
- (h) the British Columbia Hydro and Power Authority;

- (i) an employer to whom the Workers' Compensation Board Pension Plan applies;
- (j) an employer who has been declared to be an approved employer by order of the minister;

“approved group disability income benefit plan” means a plan approved by the minister for this Act;

“benefit” means a pension or any other entitlement payable under this Act, and includes a return of contributions and any payment in a series of payments;

“board” means the Municipal Pension Board continued under this Act;

“board of school trustees” means the board of school trustees of a school district within the meaning of the *School Act*;

“Canada Pension Plan” means the *Canada Pension Plan* (Canada);

“capitalized value” means, in relation to a pension or part of a pension, the capital value of the pension or part of the pension calculated in accordance with the regulations;

“commissioner” means the commissioner of municipal superannuation appointed under this Act;

“commuted value” means, in relation to a benefit that a person has a present or future entitlement to receive under this Act, the actuarial present value of the benefit determined on the basis of actuarial assumptions and methods specified by the board;

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

“contributor” means an employee in the service of the government or other employer to whom this Act applies from whose salary or other money contributions are being made to the fund or whose contributions to the fund have been discontinued during a period the employee is entitled to a monthly benefit under an approved group disability salary continuance plan;

“contributory service” means the period for which an employee makes or is deemed to make contributions and is entitled to accumulate credit towards a pension;

“defined benefit limit” has the same meaning as in section 8500 (1) of the Income Tax Regulations under the *Income Tax Act* (Canada);

“employee” means a person who has reached the age of 18 years and who is

(a) a person who

(i) is receiving a salary as compensation for services rendered as a member of the permanent staff of the employer engaged on a continuous full time basis, or

(ii) has been employed in a continuous full time capacity by the same employer for a period of 12 months, and for this Act full time capacity includes an employee who is employed on the basis of at least 10 months of full time employment each year,

whichever first occurs,

(b) a person engaged on a continuous part time basis, and whose eligibility has been approved by his or her employer by resolution,

(c) a judge of the Provincial Court to whom this Act applies,

(d) a person receiving a monthly income benefit under an approved group disability income benefit plan,

(e) a person who is not within paragraph (a), (b), (c), or (d) and who

(i) has completed 2 years of continuous employment with earnings from an employer of not less than 35% of the year's maximum pensionable earnings in each of 2 consecutive calendar years, and

(ii) elects to have this Act apply, or

(f) an employee designated by a resolution of an employer to be included under this Act, subject to terms and conditions specified by the employer,

but does not include an employee who, being an employee of an employer to whom this Act applies and who is represented by a certified local of the International Woodworkers of America, and under a joint statement by the employer and the certified local of the International Woodworkers of America is permitted exemption from a contribution under this Act and is exempted by the minister;

“employer” means the person directly responsible for the payment of the salary of an employee, and includes a person, board or commission who acts on behalf of an employer or employers to whom this Act applies;

“former Act” means the *Municipal Superannuation Act*, R.S.B.C. 1948;

“former employee” means a person who was formerly employed by an employer to whom this Act applies, but who has not made a contribution to the fund since April 1, 1958;

“fund” means the Municipal Pension Fund continued under this Act;

“highest average salary” means the average monthly salary received by a contributor based on the contributor's highest salary during any 5 years of service in which that contributor received his or her highest salary;

“municipal” or **“municipality”** means a municipal corporation incorporated by a general or special Act as one of the following:

- (a) a city;
- (b) a city municipality;
- (c) a district municipality;
- (d) a town municipality;
- (e) a village municipality;

“pension” means the total monthly annuity or allowance payable under Part 3;

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

“pensionable age” means 5 years less than maximum retirement age;

“Provincial judge” means a person appointed as a judge under the *Provincial Court Act*;

“reciprocal employer” means one of the following:

- (a) an employer to whom the *Pension (College) Act* applies;
- (b) an employer to whom the *Pension (Public Service) Act* applies;
- (c) an employer to whom the *Pension (Teachers) Act* applies;
- (d) the Workers' Compensation Board;
- (e) an employer who has been declared to be a reciprocal employer by order of the Lieutenant Governor in Council;

“retirement annuity” includes the following:

- (a) annuities or pensions derived from the employee's contributions made under the former Act;
- (b) voluntary contributions made under section 5 (3) of the *Pension (Municipal) Act*, R.S.B.C. 1979, c. 317, as it read on December 31, 1992;
- (c) contributions made under section 5 (5), (6) and (7) of this Act;

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

“salary” means the sum of the wages, cost of living bonuses, service pay, vacation pay and allowances for housing or room and board, paid or allowed to an employee, but does not include the following:

- (a) money paid in place of vacation;
- (b) overtime pay, unless the employer, by resolution, determines otherwise;
- (c) a lump sum payment or special payments made, within 5 years of the termination of employment or retirement of an employee, in recognition of service or as retroactive salary adjustments, unless the minister approves the inclusion of those payments;

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“service” means pensionable service determined under section 12, and includes service before the refund date for an employee who received a refund and has been reinstated under section 11 or the regulations;

“spouse” means a spouse as defined in section 1 (1) of the *Pension Benefits Standards Act*;

“supplemental benefits allowance” means the total monthly annuity or allowance payable under Part 4;

“termination of membership” means,

- (a) in the case of an employee who is covered by a collective agreement,
 - (i) the cessation by the contributor of employment for which the employer is required by this Act to make contributions on the contributor’s behalf, and
 - (ii) the cessation of seniority rights under the collective agreement,
- (b) in the case of an employee who is not covered by a collective agreement, the cessation by the contributor of employment for which the employer is required by this Act to make contributions on the contributor’s behalf, or
- (c) in the case of a contributor who is entitled to a disability benefit and whose contributions to the fund have been discontinued because of that entitlement, the cessation of entitlement to disability benefits;

“trustee” means a trustee appointed under section 44;

“year’s maximum pensionable earnings” means the year’s maximum pensionable earnings as defined in the Canada Pension Plan;

“years of continuous employment” means years of employment for a continuous period with an employer including any breaks in employment of up to 26 weeks, but does not include any period in respect of which the member has received a benefit unless that benefit has been reinstated under section 27 or the regulations.

- (2) For the purposes of the definition of “employee” in subsection (1), an employee is deemed to be a member of the permanent staff of an employer when the employee
 - (a) completes the employee’s probationary period, or
 - (b) has completed 2 years of continuous employment with earnings of not less than 35% of the year’s maximum pensionable earnings in each of 2 consecutive calendar years.
- (3) If an employer has different probationary periods for different classes of employees, the employer may, by resolution, elect to have this Act apply at an earlier date to one or more classes of employees.
- (4) An employer may, by resolution, make this Act applicable to the employer’s casual employees on terms and conditions the employer specifies.

Application of this Act

- 2 (1) This Act applies to the following:
- (a) a hospital, and a society that operates a facility funded through the Ministry of Health, to which this Act is declared to be applicable by order of the minister, on receipt of a resolution passed by an affirmative vote of not less than 2/3 of all of the members of the governing authority of the hospital or society;
 - (b) the British Columbia Health Association as employer, and those employees of it employed on a permanent basis and brought within the scope of this Act by resolution of the British Columbia Health Association;
 - (c) the Hospital Employees' Union, Local 180, as employer, and those employees of it employed on a permanent basis and brought within the scope of this Act by resolution of the Hospital Employees' Union, Local 180;
 - (d) the Registered Nurses' Association of British Columbia as employer, and those employees of it employed on a permanent basis and brought within the scope of this Act by resolution of the Registered Nurses' Association of British Columbia, filed with the commissioner;
 - (e) the British Columbia Nurses' Union as employer, and those employees of it employed on a permanent basis and brought within the scope of this Act by resolution of the British Columbia Nurses' Union, filed with the commissioner;
 - (f) the Health Sciences Association of British Columbia as employer, and those employees of it employed on a permanent basis and brought within the scope of this Act by resolution of the Health Sciences Association of British Columbia;
 - (g) the Health Labour Relations Association of British Columbia as employer, and those employees of it employed on a permanent basis and brought within the scope of this Act by resolution of the Health Labour Relations Association of British Columbia;
 - (h) the B.C. InfoHealth Ltd. as employer, and those employees of it employed on a permanent basis and brought within the scope of this Act by resolution of the B.C. InfoHealth Ltd.;
 - (i) the B.C. Health Services as employer, and those employees of it employed on a permanent basis and brought within the scope of this Act by resolution of the B.C. Health Services;
 - (j) the British Columbia School Trustees Association as employer, and those employees of it who are employed on a permanent basis and brought within the scope of this Act by resolution of the British Columbia School Trustees Association filed with the commissioner;
 - (k) the British Columbia Teachers' Federation as employer, and those employees of it employed on a permanent basis, other than employees to

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whom the *Pension (Teachers) Act* applies, and brought within the scope of this Act by resolution of the British Columbia Teachers' Federation;

- (l) the College of Teachers as employer, and those employees of it employed on a permanent basis, other than employees to whom the *Pension (Teachers) Act* applies, and brought within the scope of this Act by resolution of the College of Teachers;
- (m) a teachers' union, as defined in section 1 (1) of the *School Act* as employer, and those employees of it employed on a permanent basis, other than employees to whom the *Pension (Teachers) Act* applies, and brought within the scope of this Act by resolution of the union;
- (n) The B.C. Retired Teachers' Association as employer, and those employees of it employed on a permanent basis and brought within the scope of this Act by resolution of the B.C. Retired Teachers' Association;
- (o) the Vancouver Elementary School Teachers' Association and the Vancouver Secondary Teachers' Association as employers, and those employees of each of them employed on a permanent basis, other than employees to whom the *Pension (Teachers) Act* applies, and brought within the scope of this Act by resolution of the association that employs those employees;
- (p) the Education Relations Information Society as employer, and those employees of it employed on a permanent basis and brought within the scope of this Act by resolution of the Education Relations Information Society;
- (q) a board of school trustees of a school district to which this Act is declared to be applicable by order of the minister, on receipt of a resolution passed by an affirmative vote of not less than 2/3 of all of the members of the board of school trustees;
- (r) a college designated under the *College and Institute Act* as employer, and those persons who are employees of a college within the meaning of this Act, but not those persons who, under the *Pension (College) Act*, are
 - (i) members of a faculty of a college, or
 - (ii) employed by a college and entitled to become a contributor;
- (s) the British Columbia Institute of Technology Staff Society as employer, and those employees of it employed on a permanent basis and brought within the scope of this Act by resolution of the British Columbia Institute of Technology Staff Society;
- (t) the College Institute Educators' Association of British Columbia as employer, and those employees of it employed on a permanent basis and brought within the scope of this Act by resolution of the College Institute Educators' Association of British Columbia.

- (2) This Act also applies to the following:
- (a) the Municipal and Regional Employees Union as employer, and those employees of it employed on a permanent basis and brought within the scope of this Act by resolution of the Municipal and Regional Employees Union;
 - (b) an improvement district as defined in the *Municipal Act* and to which this Act is declared to apply by order of the Lieutenant Governor in Council;
 - (c) an improvement district or regional district incorporated under the *Municipal Act* to which this Act is declared to apply by order of the Lieutenant Governor in Council;
 - (d) the Union of British Columbia Municipalities as employer, and its employees who are employed on a permanent basis and brought within the scope of this Act by resolution of the Union of British Columbia Municipalities filed with the commissioner;
 - (e) a municipality except one which, before March 31, 1959 was declared by order of the minister to be exempt from this Act;
 - (f) an employer to whom the former Act applied on March 31, 1958;
 - (g) a public library association, municipal library or regional library district as constituted under the *Library Act* to which this Act is declared to be applicable by order of the minister on receipt of a resolution passed by an affirmative vote of not less than 2/3 of all of the members of the governing authority of the employer;
 - (h) an employer who is an agent of one or more employers to whom this Act applies or who jointly with Canada or the Province or both is an agent of one or more employers to whom this Act is declared to be applicable by order of the minister on receipt of satisfactory evidence indicating that the employer wishes to come within the scope of this Act;
 - (i) a board, commission or authority established by an Act to which this Act is declared to apply by any other Act or by order of the Lieutenant Governor in Council;
 - (j) a children's aid society incorporated under the *Family and Child Service Act*, R.S.B.C. 1979, c. 119, and to which this Act was declared to be applicable by order of the minister on receipt of a resolution passed by an affirmative vote of not less than 2/3 of all of the members of the board of directors of the society;
 - (k) an employer declared by an order of the Lieutenant Governor in Council to be an employer for the purpose of this Act, but only in respect of those employees included in the order;
 - (l) the Vancouver Museums and Planetarium Association as employer, and its employees who are employed on a permanent basis and brought within the scope of this Act by resolution of the Vancouver Museums and Planetarium Association filed with the commissioner;

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- (m) a band council established under the *Indian Act* (Canada) declared by an order of the Lieutenant Governor in Council to be an employer for the purpose of this Act, but only in respect of those employees included in the order;
 - (n) a corporation, association, board, commission or society, and its employees employed on a permanent basis,
 - (i) to which a grant or advance is made or the borrowings of which are guaranteed by the government or by a municipality, or
 - (ii) all members of which, or a majority of members of which, are appointed by the Lieutenant Governor in Council or a municipality, and to which this Act is declared to apply by order of the Lieutenant Governor in Council on receipt of a resolution passed by an affirmative vote of not less than $\frac{2}{3}$ of all of the members of the board of directors of the corporation, association, board, commission or society;
 - (o) the Vancouver Police Union as employer, and those employees of it employed on a permanent basis and brought within the scope of this Act by resolution of the Vancouver Police Union;
 - (p) the Greater Victoria Labour Relations Association as employer, and those employees of it employed on a permanent basis and brought within the scope of this Act by resolution of the Greater Victoria Labour Relations Association.
- (3) This Act applies to the following employees:
- (a) an employee of an employer to whom the former Act applied on March 31, 1958 who was, on that date, contributing to the municipal pension fund, or the municipal pension fund for over-age employees, and also applies to every employee of an employer to whom subsection (2) (f) applies who enters the service of that employer after March 31, 1958;
 - (b) an employee, except a teacher within the meaning of the *Pension (Teachers) Act*, of an employer to whom this Act applies or is declared to be applicable by order of the minister, and who
 - (i) was in the employ of the employer when this Act first applied to the employer, and whose eligibility under this Act has been approved by the employer, or
 - (ii) entered the service of the employer after this Act first applied to the employer;
 - (c) an employee of an employer under this Act to whom the Act is declared to be applicable by order of the board, on receipt of a recommendation by the advisory council appointed under section 55 (2) (g);
 - (d) an employee to whom this Act applied on March 31, 1967 who, immediately following the amalgamation of 2 or more employers under this Act, became employed by an employer to whom this Act would not

otherwise apply but who is made an employer for the purpose of this Act by an order of the Lieutenant Governor in Council, but only in respect of those employees included in the order.

- (4) For the purposes of this Act,
- (a) the British Columbia Institute of Technology, and
 - (b) the Open Learning Agency established under the *Open Learning Agency Act*,
- are each deemed to be a college designated under the *College and Institute Act*.
- (5) Despite subsection (3), if an employee is employed by an employer on the date this Act begins to apply to the employer, the employee may, by giving written notice to the employer not more than 90 days after the date this Act begins to apply, elect not to have this Act apply to the employee.
- (6) For the purpose of this Act, an employee is in one of the following:
- (a) group 1 if the employee is a male, other than a police officer or firefighter, whose minimum retirement age is 60 years and whose maximum retirement age is 65 years;
 - (b) group 2 if the employee is a police officer or firefighter whose minimum retirement age is 55 years and whose maximum retirement age is 60 years;
 - (c) group 3 if the employee is a female
 - (i) whose last contribution to the fund before April 1, 1971 is made as a group 3 employee and, being an employee, elects in writing filed with the commissioner before November 30, 1971, to remain in group 3 with the approval of her employer, and
 - (ii) whose minimum retirement age is 55 years and whose maximum retirement age is 60 years;
 - (d) group 4 if the employee is a female, other than a group 3 employee
 - (i) whose minimum retirement age is 60 years and whose maximum retirement age is 65 years, or
 - (ii) who was a contributor and was over the age of 50 years on April 1, 1963 and whose minimum retirement age is 58 years.
- (7) Despite any other provision of this Act, a contributor who continues in employment after reaching maximum retirement age must continue to be a contributor on the same basis as before reaching maximum retirement age, but in no case must retirement and the start of a pension be delayed beyond the end of the calendar year in which the contributor reaches the age of 71 years.
- (8) When this Act begins to apply to an employee, the Act is deemed to continue to apply to that employee until termination of membership.

Substitution of pensions and other allowances

- 3 After the commencement of this Act, a subsisting pension or other allowance granted or payable under the former Act, or to which a former employee may have been entitled under the former Act, continues to be payable or becomes payable in the same amount and under the same terms and conditions as if the former Act had continued in operation, but the pensions are instead of any other benefit, allowance or payment under this Act, and section 27 of this Act applies during periods of employment.

PART 2 – MUNICIPAL PENSION FUND**Municipal Pension Fund**

- 4 (1) The Municipal Pension Fund is continued.
- (2) The fund consists of all money received by the commissioner under this Act, including the following:
- (a) the contributions made by employees under the former Act, or under over-age or other agreements authorized under that Act and transferred to the commissioner under this Act;
 - (b) the contributions made by employers under the former Act, or under over-age or other agreements authorized under that Act and transferred to the commissioner under this Act;
 - (c) the contributions made by employers and employees under this Act;
 - (d) the contributions made by the Minister of Finance and Corporate Relations;
 - (e) the interest accruing from the investment of any of the money referred to in this subsection.
- (3) Benefits and disbursements payable under this Act must be paid from the fund, and for this purpose the fund must be considered as one and indivisible.
- (4) The commissioner must keep account of
- (a) all contributions and money received and all money paid out under this Act, and
 - (b) all of the assets and liabilities of the fund.
- (5) The fund must be divided into the following 4 accounts:
- (a) the basic account;
 - (b) the inflation adjustment account;
 - (c) the supplemental benefits account;
 - (d) the retirement annuity account.
- (6) The basic account consists of all the assets of the fund other than assets in the inflation adjustment account, the supplemental benefits account and the retirement annuity account.

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- (7) The inflation adjustment account consists of
- (a) contributions made under section 5 (1) (c) less amounts allocated for the payment of premiums for prescribed group benefit entitlements, and contributions made under section 7 (1) (c),
 - (b) net interest earned on the inflation adjustment account,
 - (c) income that
 - (i) is earned on other fund assets held in the basic account in respect of pensions being paid, and
 - (ii) is in excess of the interest anticipated in the most recent actuarial valuation under section 43,as determined by the commissioner,
- less
- (d) amounts transferred to the basic account under section 19,
 - (e) amounts refunded to an employee under this Act in respect of contributions made under section 7 (1) (c), or transferred out of the fund in accordance with this Act in respect of contributions made under section 5 (1) (c) or 7 (1) (c),
 - (f) amounts determined by the commissioner in respect of a commuted value payment made to an employee, or transferred out of the fund in accordance with section 17 (12) or 22 (1) or (3), and
 - (g) amounts contributed to the supplemental benefits account under subsection (8) (d) of this section.
- (8) The supplemental benefits account consists of
- (a) contributions to the fund provided for in Part 4,
 - (b) net interest earned on the supplemental benefits account,
 - (c) amounts from contributions under section 5 (1) (a) or (b) determined by the commissioner as necessary to cover any annual shortfall between current assets in the supplemental benefits account and the cost of benefits provided for in Part 4 but excepting inflation protection under section 30,
 - (d) amounts from contributions under section 5 (1) (c) determined by the commissioner as necessary to cover any annual shortfall between current assets in the supplemental benefits account and the cost of providing inflation protection under section 30,
 - (e) amounts required under section 18.7 of the *Pension (Municipal) Act*, R.S.B.C. 1979, c. 317, as it read on December 31, 1992, for the payment of 1/2 of the monthly premium payable to the Medical Services Plan of British Columbia,
 - (f) funds received from Revenue Canada for the administration of this account, and
 - (g) other amounts as may be prescribed by the Lieutenant Governor in Council.
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- (9) The retirement annuity account consists of
- (a) the credit balance in the retirement annuity account on March 31, 1958 under the former Act, after deducting the value of the retirement annuities then being paid,
 - (b) voluntary contributions made under section 5 (3) of the *Pension (Municipal) Act*, R.S.B.C. 1979, c. 317, as it read on December 31, 1992,
 - (c) contributions made under section 5 (5), (6) and (7), and
 - (d) net interest earned on the balance in the retirement annuity account.
- (10) The retirement annuity account under subsection (9) must
- (a) have individual accounts maintained for each employee showing the amount of credit in the account, and
 - (b) be debited with the value of the retirement annuity portion of the benefits paid under sections 16, 21 and 22.
- (11) An individual record, in which contributions to the fund are recorded, must be maintained for each employee.
- (12) The commissioner may return to a plan member or employer, or to the supplemental benefits account, any contributions that are inadvertently made to the basic account which are in excess of the maximum contributions set out in the *Income Tax Act* (Canada).

PART 3 – REGISTERED PENSION PROVISIONS

Employer contributions

- 5 (1) Each employer to whom this Act applies must pay to the commissioner on the last day of each month the following amounts:
- (a) during the period July 1, 1996 to June 30, 1997, an amount equal to the sum of
 - (i) 4.9% of the aggregate salaries payable during that month to group 1 employees who have not reached age 50, and 9.8% of the aggregate salaries payable during that month to group 1 employees who have reached age 50,
 - (ii) 8.5% of the aggregate salaries payable during that month to group 2 employees who have not reached age 45, and 17% of the aggregate salaries payable during that month to group 2 employees who have reached age 45,
 - (iii) 5.6% of the aggregate salaries payable during that month to group 3 employees who have not reached age 45, and 11.2% of the aggregate salaries payable during that month to group 3 employees who have reached age 45, and

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- (iv) 5.2% of the aggregate salaries payable during that month to group 4 employees who have not reached age 50, and 10.4% of the aggregate salaries payable during that month to group 4 employees who have reached age 50;
 - (b) during the period on and after July 1, 1997, an amount equal to the sum of
 - (i) 4.9% of the aggregate salaries payable during that month to group 1 employees who have not reached age 50, and 9.8% of the aggregate salaries payable during that month to group 1 employees who have reached age 50,
 - (ii) 8.5% of the aggregate salaries payable during that month to group 2 employees who have not reached age 45, and 17% of the aggregate salaries payable during that month to group 2 employees who have reached age 45,
 - (iii) 5.6% of the aggregate salaries payable during that month to group 3 employees who have not reached age 45, and 11.2% of the aggregate salaries payable during that month to group 3 employees who have reached age 45, and
 - (iv) 5.4% of the aggregate salaries payable during that month to group 4 employees who have not reached age 50, and 10.8% of the aggregate salaries payable during that month to group 4 employees who have reached age 50;
 - (c) the amount required to be paid under section 7 (1) (c) by the employer's employees to whom this Act applies;
 - (d) an amount determined by the commissioner to be sufficient to liquidate by March 31, 1984 the obligations of the employer in respect of the service of the employer's employees before April 1, 1958 or the date on which this Act first applies to the employer, whichever is the later, and other obligations in respect of amounts paid or payable to former employees under the former Act or the *Superannuation Act*, R.S.B.C. 1936, unless
 - (i) the employer has paid the employer's obligations in a lump sum or lump sums, or
 - (ii) the obligations arise under section 2 (1) (b) or (c) or (2) (a), in which case the employer must liquidate the obligations by payment of a lump sum within one month after the employer determines such service to be pensionable service.
 - (2) The total of the payments required under subsection (1) (a) or (b) must be reduced by the amount by which 6.5% of the aggregate salaries of the employees to whom this Act applies exceeds the deductions made under section 7 (1) (a) and (b).
 - (3) The commissioner may assign one rate to each employer for all the employer's employees, or for each class of employees designated by that employer and approved by the commissioner, representing the total of the payments required under subsection (1) (a) or (b), less the reduction required under subsection (2).
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- (4) The employer must calculate the rate under subsection (3) as follows:
- (a) for the period beginning on January 1, 1971, to and including June 30, 1971, by
 - (i) multiplying the total salaries on which contributions were paid by the employer during the month of July, 1970, for each group of employees designated under subsection (1) (a) or (b) by the percentage rate specified in the appropriate subsection (1) (a), (b), or (c),
 - (ii) reducing that sum by the amount specified in subsection (2), and
 - (iii) dividing the remainder by the total salaries on which contributions were paid during the month of July, 1970;
 - (b) for the period beginning on July 1, 1971, to and including June 30, 1972, and for each subsequent 12 month period beginning on July 1, by
 - (i) multiplying the total salaries on which contributions were paid by the employer during the immediately preceding calendar year for each group of employees designated under subsection (1) (a) or (b) on December 31 of the year before the start of the period, by the percentage rate specified in subsection (1) (a) or (b),
 - (ii) reducing the sum by the amount specified in subsection (2), and
 - (iii) dividing the remainder by the total salaries on which contributions were paid during the preceding calendar year;
 - (c) if this Act is declared to apply to an employer, for the period ending June 30 of the next following calendar year, by
 - (i) multiplying the total salaries paid to those employees to whom the Act then applies at the date the declaration is made, for each group of employees designated under subsection (1) (a) or (b),
 - (ii) reducing the sum by the amount specified in subsection (2), and
 - (iii) dividing the remainder by the total salaries being paid to those employees to whom the Act then applies at the date the declaration is made.
- (5) Despite this Act, an employer to whom this Act applies may, if the approval of the minister has been obtained, enter into an agreement with the commissioner by which the pension, supplemental benefits allowance or refund for an employee or group of employees, or former employees, may be increased in an amount and with the modifications that are set out in the agreement.
- (6) The agreement referred to in subsection (5) may make an increase in pensions or supplemental benefits allowances, or both, conditional on increased contributions being made by the employees in the manner set out in the agreement.
- (7) The contributions required to be paid in accordance with the terms of the agreement must be paid in addition to contributions or deductions required to be made under this Act.

- (8) There must be paid from the fund for reimbursing employers who, by agreement under this section, are providing increases in pensions or supplemental benefits allowances, or both, or supplementary allowances for retired employees and widows of employees or pensioners who were granted pensions on or before March 31, 1957 and who had, at that date, completed at least 10 years of pensionable service, amounts calculated as follows:
- (a) 50¢ per month multiplied by the number of years of pensionable service, not exceeding 25 years in total, for a retired employee;
 - (b) 35¢ per month multiplied by the number of years of the spouse's pensionable service, not exceeding 25 years in total, for a widow of an employee or pensioner.

Additional employer contributions

- 6 (1) If an actuarial valuation, completed by an actuary in accordance with the requirements of section 43, discloses that
- (a) there has been an increase in the unfunded actuarial liability for the plan when measured on a statutory basis as a percentage of payroll, and
 - (b) the increase has occurred since the immediately preceding actuarial valuation,
- then additional employer contributions as determined by the actuary as sufficient to
- (c) meet the normal costs of the plan,
 - (d) hold the unfunded actuarial liability constant as a percentage of payroll, and
 - (e) amortize the identified increase in the unfunded actuarial liability over a period not exceeding 15 years,
- must be paid to the fund in a manner prescribed by the Lieutenant Governor in Council.
- (2) If an actuarial valuation, completed by an actuary in accordance with the requirements of section 43, discloses that
- (a) a surplus has been created or an existing surplus has been increased, and
 - (b) the surplus or the increase has occurred since the immediately preceding actuarial valuation,
- then employer contributions may be reduced by the amount determined by the actuary as sufficient to amortize the identified surplus or increase over a period of not less than 15 years.

Contributions by employees

- 7 (1) From each payment of the salary, made during a calendar year to an employee to whom this Act applies, unless the employee elects under section 27 (1) (c) not to contribute, the employer must deduct

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- (a) from the employee's cumulative salary payable that is within the year's maximum pensionable earnings, 5%,
 - (b) from the employee's cumulative salary payable exceeding the year's maximum pensionable earnings, 6.5%, and
 - (c) from the employee's entire salary, 1%,
- and the amounts deducted must be transferred by the employer to the fund as a contribution from the employee.
- (2) Further deductions must not be made from an employee's salary under subsection (1) when the employee has accrued 35 years of pensionable service, including service rendered by the employee in the service of all reciprocal employers.
 - (3) An employee whose contributions cease in accordance with subsection (2) is deemed to be a contributor making contributions for all other purposes of this Act.
 - (4) Contributions made under subsection (1) must not exceed the maximums set out in section 8503 (4) of the Income Tax Regulations under the *Income Tax Act* (Canada).
 - (5) Contributions made under subsection (1) in respect of a calendar year must not be paid before January 1 of that year.

Failure to make deductions

- 8 (1) If an employer has not made deductions under section 7 (1) from the time an employee became eligible to contribute to the fund under this Act, the commissioner must order the employer
 - (a) to make deductions immediately, and
 - (b) to pay to the commissioner the amounts which should have been paid under section 5, together with interest at the rate calculated in section 17 (15), payable annually.
- (2) The employee may make contributions in respect of the employee's period of service from the date of first becoming eligible to the date of the first deduction from his or her salary, together with interest at the rate calculated in section 17 (15), payable annually.
- (3) If both employer and employee make the contributions referred to in subsections (1) and (2), the period in respect of which contributions are made is pensionable service within the meaning of this Act.
- (4) If the employer portion only is paid, 1/2 of the period of service in respect of which contributions by the employer have been made is pensionable service.

- (5) The *Limitation Act* does not apply to
 - (a) deductions that an employer should have made under this section, or
 - (b) contributions that an employer should have made under section 5.
- (6) Subsection (5) is retroactive to the extent necessary to give it effect.

Eligibility of employees entering the service of hospitals

- 9 (1) If an employee, before April 1, 1963, entered the service of a hospital to which this Act applies, the employer may, by resolution, approve eligibility as a group 4 employee if otherwise qualified under section 36 of the *Pension (Municipal) Act*, R.S.B.C. 1979, c. 317, as that section read on June 28, 1988.
- (2) If, before the approval, the employee was ineligible to contribute to the fund, the approval may be expressed to be and is retroactive to the date on which contributions would have begun had the higher retirement age been in effect at the time when the Act first became applicable to the employer.
- (3) If the eligibility is approved retroactively, the commissioner must determine the amounts of arrears to be paid by the employer and employee respectively.

British Columbia Teachers' Federation indemnity fund

- 10 (1) An employee who is absent from service by reason of the employee's illness and who
 - (a) has taken his or her total entitlement of sick leave for that year,
 - (b) is not entitled to a benefit under a group disability salary continuance plan approved by the minister, and
 - (c) is receiving benefits from the salary indemnity fund administered by the British Columbia Teachers' Federation, as approved by the minister,must make contributions each month during the period of the employee's absence, calculated by multiplying the amount of the employee's salary payable during the last complete month of employment immediately before his or her absence by the percentage rates referred to in section 7 (1), and the period to which the contributions relate is deemed to be service with an employer.
- (2) During the employee's absence, the British Columbia Teachers' Federation must remit contributions under subsection (1) to the commissioner monthly on behalf of the employee.
- (3) During the period an employee is absent from service and is receiving benefits referred to in subsection (1) (c), an employer must make contributions on the same basis as the contributions under subsection (1) but the reference to section 7 (1) in that subsection is deemed to be a reference to section 5 (1).

Transfer of funds on transfer of employees

- 11 (1) If an employee transfers from the service of one employer to whom this Act applies to the service of another employer to whom this Act applies and does not make application for a refund,
- (a) the contributions by the employee's employer must continue without interruption, and
 - (b) the employer must
 - (i) continue deductions from the employee's salary without interruption, and
 - (ii) pay the employer contributions under section 5,
- provided that the transfer is made without a break in service, or with a break in service of not more than one month between the last day of employment with the employee's former employer and the first day of employment with the employee's employer.
- (2) If the break in service exceeds one month but is less than 3 years,
- (a) the transfer must take effect without loss of accrued benefits if the employee has not received a refund under this Act, and
 - (b) the employer may defer contributions on behalf of the transferring employee for a period of not more than one year after the employee begins service with his or her employer, provided that the total noncontributory period does not exceed 3 years.

Calculation of pensionable service

- 12 (1) For the purpose of this Act, "**pensionable service**" means,
- (a) for an employee who was a contributor under the former Act on or before March 31, 1958, all service which was included in length of service under the former Act, and all service during which contributions by both the employer and the employee have been made under this Act,
 - (b) subject to subsection (5), all service, whether with the employee's employer or with other employers not included in paragraph (a), which the employee's employer, by resolution, determines is pensionable, and the employee is required to contribute to the fund an additional sum that may be determined by resolution of the employer, not exceeding 1/2 of the cost determined by the commissioner, in order that the additional service is recognized,
 - (c) for an employee who became a contributor after March 31, 1958, all service during which contributions by both the employer and the employee have been made under this Act, and all other service, whether with that employer or other employers to whom this Act applies, which the present employer, by resolution, determines is pensionable and is to be taken into account in determining the employer's additional contribution under section 5 (1) (d),

but the maximum number of years of pensionable service of an employee under this Act is 35 years.

- (2) For the purpose of this section, service before January 1, 1990 will only be recognized if the pension benefit for the year does not exceed $\frac{2}{3}$ of the defined benefit limit for the year in which the benefits begin to be paid.
- (3) Subsection (2) does not apply for a particular calendar year if
 - (a) a period in the particular year was pensionable service under a pension plan before June 8, 1990,
 - (b) the contributor was entitled, on June 8, 1990, under an arrangement in writing, to be provided with lifetime retirement benefits in respect of a period in the particular year, whether or not the entitlement was conditional on contributions being made, and
 - (c) at the beginning of the year, a period in the preceding year was pensionable service of the contributor and the contributor was disabled or on leave of absence.
- (4) For service after December 31, 1989, only service for which Revenue Canada certification of past service pension adjustment has been received will be eligible for reinstatement under the regulations.
- (5) If a determination is made by the employer under subsection (1) (b), the commissioner must make an appropriate adjustment of the employer contribution required under section 5 (1) (d).
- (6) If an employee to whom this Act applies is paid an annual salary in 10 equal installments on the basis of at least 10 months of employment in every year, the number of years of service of the employee must be calculated on the basis of 10 months of the employment being equivalent to one year of service.
- (7) An employee who
 - (a) enters the service of the employer within 3 years after leaving the service of an approved employer, and
 - (b) is entitled to a deferred pension or other allowance as a result of service with an approved employer,must have his or her service with the approved employer taken into account in determining the employee's eligibility for a pension under this Act, but the amount of the employee's pension under this Act must be based on the employee's pensionable service and contributions under this Act.
- (8) When determining the amount of a pension, part time service must be reduced to its full time equivalent, but in determining an employee's eligibility for a pension, every calendar month in respect of which the employee has pensionable service, whether part time or full time, must be counted as one month's contributory service.

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Entitlement to a pension

- 13 (1) Each contributor is entitled to a pension, on application, as follows:
- (a) if, having completed at least 5 years of continuous employment or 5 years of contributory service, and having reached the minimum retirement age for the contributor's group specified in section 2 (6), the contributor retires or is retired from service;
 - (b) if, having completed 5 years of continuous employment or 5 years of contributory service, the contributor is totally and permanently disabled within the meaning of section 21 and is retired from service;
 - (c) if, having reached the maximum retirement age for the contributor's group specified under section 2 (6), the contributor is retired from service;
 - (d) if the contributor
 - (i) is an employee referred to in section 2 (6) (a) or (d),
 - (ii) has a combined age plus years of contributory service equal to not less than 90 years,
 - (iii) is 55 years of age or more, and
 - (iv) retires or is retired from service;
 - (e) if the contributor
 - (i) is an employee referred to in section 2 (6) (b) or (c),
 - (ii) has a combined age plus years of contributory service that is equal to not less than 80 years,
 - (iii) is 50 years of age or more, and
 - (iv) retires or is retired from service.
- (2) If, on or after July 1, 1994, an employee who is not entitled to a pension under subsection (1) of this section or under section 17 (10) or (11) resigns, is dismissed or is otherwise retired from service after having reached the minimum retirement age for the employee's group as specified in section 2 (6) and after completing less than 5 years of continuous employment or less than 5 years of contributory service, the employee is, on application, entitled to receive
- (a) a pension calculated under section 16 after reaching the maximum retirement age for the employee's group, or
 - (b) a pension calculated under section 16 on or after reaching the minimum retirement age for the employee's group, but the 2% referred to in section 16 (2) (b) must be reduced by 3% of that amount for each year of age by which the employee's age is less than the maximum retirement age for the employee's group, and the amount must be prorated for fractions of a year.
- (3) If, on or after July 1, 1994, an employee who is not entitled to a pension under subsection (1) or (2) of this section or section 17 (10) or (11) retires, resigns or is dismissed from service and the employee

- (a) has reached an age that is not more than 5 years under the minimum retirement age for the employee's group as specified in section 2 (6), and
- (b) has completed 5 or more years of continuous employment or 5 or more years of contributory service,

the employee is entitled, on application, to receive a pension calculated under section 16, but the pension referred to in section 16 (2) (b) must be reduced by the lesser of

- (c) 3% of that amount for each year by which the employee's age is less than the minimum retirement age for the employee's group, and
- (d) 3% of that amount for each year by which
 - (i) the sum of the employee's age plus contributory service is less than 90 years for an employee referred to in section 2 (6) (a) or (d), or
 - (ii) the sum of the employee's age plus contributory service is less than 80 years for an employee referred to in section 2 (6) (b) or (c),

and the amount must be prorated for fractions of a year.

- (4) If an employee who has not received a benefit dies before receiving a pension to which the employee is otherwise entitled under this section, the employee is deemed to have died in service and section 22 applies, but the amount of pension must be calculated under section 16 rather than under section 21 (2).
- (5) The minimum service requirement referred to in this section does not apply if the employee, within 3 years after making his or her last contribution to the fund,
 - (a) enters the service of an approved employer and remains in service with the employer long enough to qualify for a pension under that employer's pension plan, and
 - (b) has not received a benefit under this Act.
- (6) If an employee is entitled to receive a pension under this section or through having service taken into account under section 12 (7), the commissioner must determine the highest average salary of the employee to have been increased by the ratio that the pension index of the earlier of
 - (a) the calendar year immediately before the calendar year in which the pension was granted, and
 - (b) the year ending December 31, 1980,

bears to the pension index of the calendar year in which the employee ceased to contribute, and the Lieutenant Governor in Council may make regulations prescribing the method of adjusting the highest average salary after December 31, 1980 until the pension is granted.

- (7) If the highest average salary of an employee has been increased under subsection (6), the capitalized value of the increase in the employee's pension resulting from the increase in the employee's highest average salary must be transferred from the inflation adjustment account to the basic account.

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- (8) In the case of an employee who, before April 1, 1958, was transferred from the service of an employer to whom this Act applies to the service of The University of British Columbia or Victoria College, or to a teaching position in the service of a board of school trustees, if that employee remains on the staff until he or she reaches the minimum retirement age, on application, following the employee's retirement from the staff, he or she is entitled to receive a pension calculated as if the provision of the former Act relating to the amount of the service pension and the amount of the retirement annuity had continued to be in force.
- (9) Subsection (8) only applies if the employee has not made and does not make application for a refund of the amount at his or her credit in the fund.

Agreements

- 14** (1) With the approval of the board, the commissioner may enter into an agreement
 - (a) by which a pension or refund may be granted to, or in respect of, an employee who, after March 31, 1958, transfers to the service of any other employer, and
 - (b) by which the service of an employee who transfers from the service of any other employer to the service of an employer under this Act may receive recognition for the service on the start of contributions to the fund.
- (2) Without limiting the terms of the agreement, the agreement may include the following:
 - (a) the conditions under which pensions or refunds may be granted and the amount of such benefits;
 - (b) the date on which payments are to be made;
 - (c) the rate of interest to be paid;
 - (d) the amount and recognition of service with other employers;
 - (e) any amounts which may be transferred to or from the employers' and employees' accounts in the fund instead of provision for deferred pension benefits;
 - (f) any other matters necessary to ensure equity between all contributors to whom this Act applies;
 - (g) conditions to facilitate the transfer of employees from one employer to another without loss of accrued privileges concerning the employees' ultimate pension.
- (3) If Canada and the government enter into an agreement under which hospitals are transferred to the jurisdiction of the government or its designated agent and if employees of those hospitals are given the option
 - (a) to elect to have funds transferred from the federal public service superannuation fund to the Municipal Pension Fund, or
 - (b) to elect to have their contributions remain in the federal public service superannuation fund,

the conditions governing the options set out in the terms of the agreement apply to those employees and to the government, and the provisions of this Act are deemed to have been amended to the extent required to carry out the agreement.

Reciprocal employers

- 15** (1) If an employee who has made or is making contributions under this Act is a person who
- (a) ceased or ceases to be employed in the service of a reciprocal employer and, on or after July 1, 1994, is or becomes employed in the service of an employer to whom this Act applies, or
 - (b) ceased or ceases to be employed in the service of an employer to whom this Act applies and, on or after July 1, 1994, is or becomes employed in the service of a reciprocal employer,
- that employee's aggregate period of pensionable service as an employee, within the meaning of the pension plan of the reciprocal employer and as an employee within the meaning of this Act, must be allowed in computing the employee's length of service for determining the employee's eligibility for a pension under this Act, but the amount of the employee's pension under this Act must be based on his or her pensionable service and contributions under this Act.
- (2) The maximum aggregate of the pensionable service rendered by an employee in the service of all reciprocal employers that may be included in the calculation of a pension under this section is 35 years, including first in the aggregate, the most recent service.
 - (3) Subject to any limitations specified by the board, when determining the highest average salary to be used in the calculation of a pension under this Act, salary earned while employed with an employer under this Act, or salary earned while employed with a reciprocal employer during a period of service included in the calculation of a pension under this Act, or a combination of both, is included.
 - (4) If a person is entitled to a pension under this Act and that person is also entitled to a pension from a reciprocal employer,
 - (a) the equivalent amount, on the basis of the prescribed tables, of any pension payable under the pension plan of the reciprocal employer, or under this Act, may, subject to the consent of all reciprocal employers, be transferred to the account in the fund, or transferred to the pension fund of the reciprocal employer maintained for the payment of contributory pensions, whichever plan the employee contributed to immediately before retirement, and
 - (b) the portion of the amount transferred under paragraph (a) attributable to contributions made by the employee must be applied and treated as if they had been made by the employee under this Act.
 - (5) If an employee transferred to a reciprocal employer and before June 1, 1973 elected to have the employee's payable or refundable credit under section 24

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transferred to the pension plan of the reciprocal employer, and that amount was credited to the voluntary account of the employee in the pension plan of the reciprocal employer, that amount, including accrued interest, must, on application by the employee, be transferred back to the fund and the service of that employee must be reinstated under this Act.

- (6) Locked-in pension credits must not be transferred on behalf of a contributor to another employer's pension plan unless the contributor and employer make written commitments that the locking-in conditions required by this Act will continue to apply to such credits.
- (7) For the purpose of this section, only contributions and service that comply with sections 7 (4), 12 (2) and 16 (9) will be recognized.

Method of calculating pensions

- 16** (1) For the purpose of this section, the “**highest average salary**” of an employee who is entitled to a pension on or after June 1, 1973 means the average monthly salary received by an employee during the 5 years of the employee's service in which the employee received his or her highest salary.
- (2) The monthly pension to which an employee is entitled must be determined as follows:
- (a) the amount of the monthly pension on the single life plan referred to in section 17 must be 1.75% of the employee's highest average salary multiplied by the employee's pensionable service before the date on which this Act first applies to the employer, but not exceeding 35 years, reduced by the number of years of pensionable service used in the computation of the amount referred to in paragraph (b);
 - (b) the amount of the monthly pension on the single life plan referred to in section 17 must be 2% of the employee's highest average salary multiplied by the employee's pensionable service after the date on which this Act first applies to the employer, but not exceeding 35 years;
 - (c) the amount of the monthly pension on the single life plan referred to in section 17 must be reduced at the age of 65 years, or at the date of death or disability, whichever is earlier, by an amount that is equal to the sum of
 - (i) $\frac{7}{10}$ of 1% of the lesser of
 - (A) the employee's highest average salary, and
 - (B) $\frac{1}{12}$ the year's maximum pensionable earnings for the calendar year immediately before the calendar year in which the pension is received by the employee,multiplied by the number of years of pensionable service after January 1, 1966, not exceeding 35 years, and
 - (ii) any supplementary allowance provided with respect to an amount in subparagraph (i);

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- (d) an amount obtained by converting to a monthly pension, in accordance with the prescribed tables,
 - (i) any accumulated contributions made by the employee to a retirement annuity under the former Act, with interest credited on the annuity, and
 - (ii) any accumulated contributions made by the employee to the retirement annuity account, or under section 5 (5), (6) and (7) with interest credited on it.
 - (3) Subject to subsections (4) and (5), for the purpose of calculating the highest average salary, if an employee for any reason did not work full time during the 60 months immediately before the date the employee began receiving a pension, the commissioner may, using a method of calculation determined by the board, use the salary from previous pensionable service, adjusted for inflation by a method determined by the board, to compensate for the period the employee was not working.
 - (4) Subsection (3) applies only if the highest average salary calculated under that subsection is greater than the highest average salary otherwise calculated under this Act.
 - (5) If an employee's highest average salary is adjusted under section 13 (6) or 21 (5), subsection (3) of this section applies only for the purpose of calculating the highest average salary of the employee,
 - (a) in the case of an employee to whom section 13 (6) applies, on the date the employee's service ended, or
 - (b) in the case of an employee to whom section 21 (5) applies, on the date the employee began receiving a monthly income benefit under an approved group disability income benefit plan,and the reference in subsection (3) of this section to the date the employee began receiving a pension is deemed to be a reference to the date in paragraph (a) or (b) of this section.
 - (6) If an employee has not completed sufficient years of pensionable service, the employee's highest average salary must be the average monthly salary paid to the employee during his or her actual period of service.
 - (7) For the purpose of this section, only salary paid to an employee after the date on which this Act first applies to the employee must be counted in calculating the employee's highest average salary.
 - (8) If a pension granted or payable under this Act includes a portion attributable to an amount at credit in or contributions to the retirement annuity account, the commissioner must transfer from the retirement annuity account to the account maintained in the fund for the payment of pensions the accumulated credit and contributions of the employee in the retirement annuity account.
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- (9) Pension benefits payable for service accrued after December 31, 1991 will be limited to the maximum lifetime retirement benefits set out in section 8504 of the Income Tax Regulation under the *Income Tax Act* (Canada).

Pension plans

- 17 (1) A pension may be granted on any of the following plans:
- (a) single life, payable for the life of the employee;
 - (b) single life guaranteed, payable for the life of the employee or for a term not to exceed 15 years, whichever period is longer;
 - (c) joint life and last survivor, payable during the joint life of the employee and any person nominated by the employee before the granting of the pension, and during the life of the survivor;
 - (d) temporary life annuity at a rate not exceeding one of the following:
 - (i) the amount of the monthly pension payable under the *Old Age Security Act* (Canada), payments to cease when the employee dies or reaches the age of 65 years, whichever first occurs;
 - (ii) the amount of the monthly pension payable under the *Old Age Security Act* (Canada), payments to cease when the beneficiary of the employee dies or becomes entitled to a pension under the *Old Age Security Act* (Canada), whichever first occurs;
 - (iii) the amount of the employee's retirement pension under the Canada Pension Plan, payments to cease when the employee dies or reaches the age of 65 years, whichever first occurs;
 - (e) any combination of plans under paragraphs (a), (b), (c) and (d) as the contributor, with the approval of the commissioner, may request,
- but a pension granted under paragraph (a), (b), (c), (d) or (e) must be the actuarial equivalent of the amount of the pension calculated on the single life plan.
- (2) If an employee has a spouse on the date the employee elects a plan under subsection (1), the employee is deemed to have elected that 60% of the employee's pension be paid on the joint life and last survivor plan under subsection (1) (c) unless the spouse waives this requirement in writing by completion of a form specified by the commissioner.
- (3) Within 60 days of the date on which the contributor's pension is granted, a contributor may change his or her pension plan or combination of plans by notice in writing filed with the commissioner.
- (4) A person who
- (a) has been granted a pension before April 1, 1966,
 - (b) has not reached the age of 70 years, or whose spouse has not reached the age of 70 years, and

- (c) selected a combination of plans including a temporary life annuity under section 15 (1) (d) (i) or (ii) of the *Municipal Superannuation Act*, R.S.B.C. 1960, c. 258, as those plans existed before the coming into force of the *Municipal Superannuation Act Amendment Act, 1966*,
may elect to have the payment of the pension plan changed, effective from the first day of the fourth month following the month in which the person's election was made, to include a temporary life annuity under subsection (1) (d) (i) or (ii), but
 - (d) the amount of the pension after the change must be the actuarial equivalent of the amount of the pension immediately before the change, and
 - (e) the amount of the remainder of the pension payable under the plans, other than temporary life annuity or temporary pension, must be increased or decreased to maintain that actuarial equivalent.
- (5) If a pension does not include any amount payable under subsection (1) (a) and payment of the pension ceases, the last survivor or the survivor's personal representative must be paid any amount by which the refund value of the employee's contributions under the former Act and this Act exceeds the total of pension payments made under this Act.
- (6) When granting a pension on the single life guaranteed plan under subsection (1) (b), provision may be made that, if the employee dies before the full guaranteed amount has been paid, payment of the pension for the remainder of the term must be made to a person nominated by the employee.
- (7) An employee or former employee may change his or her nominee at any time by making application in writing to the commissioner, supported by any evidence the commissioner may require.
- (8) If a nomination is made, and the person nominated survives the employee, the pension does not for any purpose form part of the estate of the deceased employee, but if both the employee and the person nominated die before the full amount guaranteed has been paid, the commuted value of the remaining payments must be paid to the estate of the last survivor.
- (9) If the service of a contributor terminates or is terminated on or after January 1, 1993, the contributor is entitled to leave a contributory account on deposit in the fund to provide a deferred pension calculated under section 16
 - (a) in respect of all pensionable service if the contributor has completed at least 10 years of service at the termination of membership, or
 - (b) in respect of pensionable service on and after January 1, 1993 if the contributor has completed 5 or more years of continuous employment or 5 or more years of contributory service at the termination of membership.
- (10) A contributor entitled to a deferred pension may apply to receive the pension
 - (a) on reaching the minimum retirement age for the group specified in section 2 (6), or

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- (b) on or after reaching an age that is not more than 5 years less than pensionable age, but the 1.75% referred to in section 16 (2) (a) and the 2% referred to in section 16 (2) (b) must be reduced by 5% of that amount for each year of age by which the employee's age is less than pensionable age, and the reduction must be prorated for fractions of a year.
- (11) Subject to the terms and conditions set out in subsection (12), a contributor may elect to receive, instead of a deferred pension, one of the following:
 - (a) a payment in the amount of the contributor's contributions, if any, made in respect of service before January 1, 1993, together with accumulated interest under subsection (15), plus a payment in the amount of the commuted value of the contributor's deferred pension calculated in respect of service on and after January 1, 1993;
 - (b) a payment in the amount of the commuted value of the deferred pension;
 - (c) a payment in the amount of the contributor's contributions, if any, made in respect of service before January 1, 1993, together with accumulated interest under subsection (15), and an entitlement to a deferred pension calculated under section 16 in respect of service on and after January 1, 1993.
- (12) A contributor may elect to receive a payment or payments under subsection (11) (a) or (b) if
 - (a) at the time of termination of membership the contributor's age is more than 5 years under minimum retirement age, and
 - (b) the commissioner is satisfied that the commuted value payment is to be transferred on a locked-in basis to one of the following:
 - (i) another pension plan;
 - (ii) an RRSP;
 - (iii) an insurance company or other financial institution in accordance with the requirements for funds locked in under the *Pension Benefits Standards Act*.
- (13) If, on termination of membership, a contributor is not entitled to a deferred pension under subsection (9) in respect of some or all service, the contributor may elect
 - (a) to leave a contributory account on deposit in the fund, or
 - (b) to receive a payment in the amount of the contributor's contributions, together with accumulated interest under subsection (15), in respect of the period of service for which the contributor is not entitled to a deferred pension.
- (14) If a person leaves a contributory account on deposit in the fund under subsection (9) and dies before a pension is granted under this Act, benefits must be determined in accordance with section 16.

- (15) The accumulated interest referred to in subsection (11) must be determined as follows:
- (a) for periods before January 1, 1993, on the basis of rates that were in effect from time to time under section 17 of the *Pension (Municipal) Act*, R.S.B.C. 1979, c. 317, as it read on December 31, 1992;
 - (b) for periods on or after January 1, 1993, at the rate of interest calculated on the basis of the average yields of 5 year personal fixed term chartered bank deposit rates, published in the Bank of Canada Review as CANSIM Series B 14045.
- (16) Interest must be
- (a) compounded annually to the first day of the month in which payment of the refund is made, and
 - (b) computed as if
 - (i) the contributions made during the fiscal year in which the refund is paid were made in a lump sum on the first day of the month in which payment of the refund is made, and
 - (ii) the contributions made during any other fiscal year were made in a lump sum on December 31 of the calendar year in which the contributions were made.

Supplementary allowance

- 18 (1) For the purposes of this section:

“adjustment index” with respect to any adjustment quarter means the average for that adjustment quarter of the consumer price index for each month in that adjustment quarter;

“adjustment quarter”, in relation to a payment quarter, means,

- (a) if the payment quarter begins on January 1 in a year, the period of 3 months beginning on July 1 immediately before that January 1,
- (b) if the payment quarter commences on April 1 in a year, the period of 3 months beginning on October 1 immediately before that April 1,
- (c) if the payment quarter begins on July 1 in a year, the period of 3 months beginning on January 1 immediately before that July 1, or
- (d) if the payment quarter begins on October 1 in a year, the period of 3 months beginning on April 1 immediately before that October 1;

“basic lifetime portion of the pension” means,

- (a) if the retired employee is living, the pension payable monthly during the lifetime of the employee, or

- (b) if the retired employee is not living, the superannuation allowance payable monthly during the lifetime of the person nominated by the employee before the granting of the pension, and includes any pension granted to the nominee under a plan described in section 17 (1) (b), and

in the case of a pension granted on or after January 1, 1975, does not include any portion of the pension derived from contributions made by the employee under section 5 (5), (6) and (7) if the agreement provides for an optional refund to the employee at the date of retirement;

“payment quarter” means a period of 3 months beginning on the first day of January, April, July or October in any year.

- (2) Subject to this section, in addition to any supplementary allowance to which a person may be entitled under sections 17A, 17B, 17C and 17D of the *Municipal Superannuation Act*, R.S.B.C. 1960, a person receiving a pension granted under this Act is entitled to a supplementary allowance determined as follows:

- (a) if the pension was granted before January 1, 1974, by multiplying the amount of the basic lifetime portion of the pension by the percentage shown in the following table:

Table

Year in Which Superannuation Allowance Was Granted	Amount of Supplementary Allowance Expressed as a Percentage of the Amount of the Basic Lifetime Portion of the Superannuation Allowance, Payable Per Cent
At or before December 31, 1972	12
January 1, 1973 to December 31, 1973	4

- (b) if the pension was granted on or after January 1, 1974 but before July 1, 1974, by multiplying the amount of the basic lifetime portion of the pension by the ratio that the increase in the consumer price index for the month of December, 1974 over the consumer price index for the month of December, 1973 bears to the latter index;

- (c) if the pension was granted on or after July 1, 1974 but before January 1, 1975, by multiplying the amount of the basic lifetime portion of the pension by the ratio that the increase in the consumer price index for the month of December, 1974 over the consumer price index for the month of June, 1974 bears to the latter index.

- (3) A pension,

- (a) after being adjusted in accordance with subsection (2), or

- (b) granted to a person during an adjustment quarter beginning on or after January 1, 1975

must be adjusted beginning on the first day of each payment quarter on or after July 1, 1975 by the amount of the basic lifetime portion of the pension that would

have been paid to that person for the month in the 3 month period immediately before that payment quarter calculated in the ratio that the adjustment index for the adjustment quarter bears to the adjustment index for the immediately preceding adjustment quarter, but an adjustment must not be made under this subsection in respect of a payment quarter beginning after January 1, 1981.

- (4) The supplementary allowance payable under this section is deferred in respect of an employee who
 - (a) has elected to receive a pension authorized under section 10 (2) of the *Pension (Municipal) Act*, R.S.B.C. 1979, c. 317, as that section read on December 31, 1992, until that employee has reached his or her minimum retirement age, or
 - (b) has elected to receive a pension authorized under section 13 (2) of this Act until that employee has reached his or her maximum retirement age.
- (5) If the supplementary allowance has been deferred under subsection (4), the amount payable must begin on the first day of the payment quarter next following the month the employee reaches the required age under subsection (4).
- (6) The supplementary allowance under this section must not be taken into account in determining the amount of supplementary allowance under sections 17A, 17B, 17C and 17D of the *Municipal Superannuation Act*, R.S.B.C. 1960, and is in addition to that amount.
- (7) Payment of the supplementary allowance calculated under subsection (2) (a) must begin on July 1, 1974 and must cease on the date that payment of the pension ceases.
- (8) Payment of the supplementary allowance calculated under subsection (2) (b) and (c) must begin on April 1, 1975 and must cease on the date that payment of the pension ceases.
- (9) Despite subsection (2), the amount of a pension that may be paid to a pensioner for any month in a payment quarter must not be less than the amount of the pension that was or may be paid to the pensioner for any month in the 3 month period immediately before that payment quarter as a result of the application of this section.
- (10) If, in relation to a payment quarter, the adjustment index for the adjustment quarter is lower than the adjustment index for the previous adjustment quarter,
 - (a) a pension adjustment must not be made under subsection (2) in respect of that payment quarter, and
 - (b) a pension adjustment must not be made under that subsection in respect of any subsequent payment quarter until the adjustment index for that subsequent payment quarter is higher than the previous adjustment quarter in which the adjustment index had reached the highest point.

- (11) The Lieutenant Governor in Council may, by regulation, prescribe how the average of the adjustment index for any period of months must be determined and how the average that is determined to be a fraction of a whole number must be expressed.

Supplementary allowances – continued

- 19 (1) The commissioner must use money in the inflation adjustment account established under section 4 to provide supplementary allowances to persons receiving pensions granted under this Act.
- (2) Beginning on January 1, 1995, and on January 1 of each subsequent year, the commissioner must grant supplementary allowances in accordance with this section to persons receiving a pension, but if on the day a supplementary allowance is granted, the pension has been paid for a period of less than 12 months, the supplementary allowance must be reduced to the amount obtained by multiplying the allowance by $\frac{1}{12}$ for each complete month that the pension has been paid.
- (3) The portion of the pension eligible for adjustment is the total amount of the pension payable monthly less the sum of
- (a) any monthly pension provided as a temporary life annuity under section 17 (1) (d),
 - (b) any monthly pension provided under section 16 (2) (d) (i), and
 - (c) any monthly pension provided with respect to voluntary contributions made under section 5 (3) of the *Pension (Municipal) Act*, R.S.B.C. 1979, c. 317, as it read on December 31, 1992.
- (4) The amount of a supplementary allowance granted on any January 1 must not exceed the amount obtained by multiplying
- (a) the percentage increase in the consumer price index over the 12 months ending on the immediately preceding September 30
- by
- (b) the portion of the pension eligible for adjustment on that January 1.
- (5) Subject to subsection (4), the supplementary allowances must
- (a) be an amount that has a capitalized value equal to the amount in the inflation adjustment account on the preceding September 30, and
 - (b) be calculated to provide a uniform percentage increase in the portion of the pensions eligible for adjustment.
- (6) The total capitalized value of all supplementary allowances granted on any January 1 under this section must not exceed the amount that the commissioner determines is in the inflation adjustment account on the preceding September 30.

- (7) The capitalized value of the aggregate of the supplementary allowances granted annually under this section must be transferred from the inflation adjustment account to the basic account established under section 4.
- (8) The supplementary allowances granted under this section are in addition to the supplementary allowances under section 18 of this Act and sections 17A, 17B, 17C and 17D of the *Municipal Superannuation Act*, R.S.B.C. 1960.
- (9) A supplementary allowance ends when the part of the pension, on which the supplementary allowance is based ends.
- (10) Any supplementary allowance deferred under section 16.1 (7) of the *Pension (Municipal) Act*, R.S.B.C. 1979, c. 317, as it read on December 31, 1994, will be provided beginning on January 1, 1995 and the capitalized value of the amount of a supplementary allowance will be transferred from the inflation adjustment account to the basic account as of January 1, 1995.

Notice of written agreement or court order

- 20** (1) If an employee is divorced and there is a written agreement or court order under which the spouse is entitled to or relinquishes entitlement to the benefits under this Act or has that entitlement cancelled, a copy of that written agreement or court order must be deposited with the commissioner before the earlier of
- (a) the death of the employee, and
 - (b) the date the employee begins receiving a pension or supplemental benefits allowance.
- (2) If the written agreement or court order is not deposited within the time required by subsection (1), the commissioner must not make any adjustment in the payment of a pension other than a pension granted under section 22 (1) or (3).
- (3) If an adjustment is made to a pension granted under section 22 (1) or (3), the adjustment applies only to payments made after the written agreement or court order is deposited.

Disability allowances

- 21** (1) For the purposes of this section, “**total and permanent disability**” means the total and permanent incapacity of the employee, arising out of mental or physical disability, to fill or occupy any position in the service of the employer, and made available to the employee in the service of the employer, the duties of which the employee might reasonably be expected to carry out, but an employee is not considered to be totally and permanently disabled until
- (a) the employee has been examined, at the direction of the commissioner, by 2 or, if possible, 3 medical practitioners appointed by the commissioner, and

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- (b) at least 2 of them concur in certifying in writing to the commissioner that, to the best of their knowledge and belief, the employee is totally and permanently disabled within the meaning of this subsection.
- (2) Subject to the other provisions of this Act, if an employee becomes totally and permanently disabled
 - (a) after having completed not less than 5 years of continuous employment or 5 years of contributory service, and
 - (b) before reaching the employee's minimum retirement age,the employee is entitled to receive during his or her disability, on application, following termination of employment, a disability allowance on the single life plan in an amount equal to $\frac{1}{2}$ of the pension that would have been payable to the employee on the single life plan calculated on the date the disability allowance was granted.
- (3) The disability allowance granted under subsection (2) must be increased by the number of years of service by which the employee's age at the date the allowance is granted is less than the employee's minimum retirement age for the employee's group under section 2 (6), increased annually by the amount that bears to $\frac{1}{2}$ of that pension the same ratio that the number of years elapsed since this Act first applied to the employee bears to the number of years between the date on which the Act first applied to the employee and his or her minimum retirement age.
- (4) The disability allowance to which an employee becomes entitled under subsection (2) must be granted
 - (a) on application made by the employee after termination of employment, and
 - (b) within 2 years after the date of the last contribution made to the fund by the employee.
- (5) If an employee is entitled to a monthly income benefit under an approved group disability income benefit plan, the employee is not entitled to a pension under this Act, but the period during which the employee receives a monthly income benefit under a group disability income benefit plan must be considered pensionable service for purposes of this Act.
- (6) For the purpose of subsection (5), the commissioner must determine the highest average salary of the employee to have been increased by the ratio that the pension index for the calendar year immediately before the calendar year in which the pension was granted bears to the pension index for the calendar year in which the employee last started to receive a monthly income benefit under the plan.
- (7) The commissioner must not require further medical examinations more often than once a year.
- (8) If the commissioner finds that the employee has ceased to be totally and permanently disabled within the meaning of subsection (1) before the employee

reaches the minimum retirement age, the employee's disability allowance must, by that fact itself, be suspended and, subject to the provisions of subsection (9), the employee

- (a) is entitled to receive as a refund any amount by which the refund value of the employee's contributions at the time the employee's disability allowance was granted exceeds the total amount of allowance payments paid to the employee under this Act, or
 - (b) may, instead of receiving a refund under paragraph (a), elect to have the payment of his or her pension resumed when, on the basis of age, the employee qualifies for the pension, but the employee is not entitled to any further benefits under this Act.
- (9) If the employee again enters the service of an employer under this Act,
- (a) the refund value under subsection (8) (a) must not be paid,
 - (b) the employee must be reinstated in the fund in the same position as near as possible to the position in which the employee was in at the time his or her disability allowance was granted, and
 - (c) the employee must resume making monthly contributions to the fund as required by this Act.
- (10) A disability allowance under this section must be paid on the single life plan, and
- (a) if the contributor is a married contributor, the contributor may, at his or her option, elect to be paid the allowance with his or her spouse on the joint life and last survivor plan as described in section 17 (1) (c), and
 - (b) when the pension ceases, there must be paid to the estate of the contributor or of the spouse an amount by which the refund value of the contributor's contributions under this Act and the former Act on the date on which the disability allowance was granted exceeds the total pension payments made to or on behalf of the contributor under this Act.
- (11) Benefits payable under this section will be limited to the maximums set out in section 8503 (3) of the Income Tax Regulations under the *Income Tax Act* (Canada).

Death benefits

- 22** (1) The pension payable to the spouse of a contributor who dies in service, on or after January 1, 1993, is as follows:
- (a) if the contributor dies before reaching minimum retirement age and after not less than 5 years of continuous employment or not less than 5 years of contributory service, the pension payable must be the amount calculated as if the contributor
 - (i) had been disabled and had retired from service immediately before death with a pension determined in accordance with section 21 (2), and

Section 22

- (ii) had converted to the joint life and last survivor plan described in section 17 (1) (c);
- (b) if the contributor dies after reaching minimum retirement age, the pension payable must be the amount calculated as if the contributor
 - (i) had retired from service immediately before death, and
 - (ii) had converted to the joint life and last survivor plan described in section 17 (1) (c).
- (2) If, on the death of a contributor, a pension is not payable under subsection (1), a refund calculated in accordance with section 17 (13) must be paid as follows:
 - (a) to the spouse of the contributor unless
 - (i) the contributor has nominated some other person after the date of the contributor's last marriage, and
 - (ii) the nomination is with the written consent of the contributor's spouse;
 - (b) if there is no person entitled under paragraph (a); to the payee nominated by the contributor under subsection (5);
 - (c) if there is no person entitled under paragraph (a) or (b), to the personal representative of the estate of the contributor.
- (3) Instead of receiving the pension provided under subsection (1), the spouse may elect
 - (a) to convert the pension plan to the temporary life annuity under section 17 (1) (d) (ii) in combination with the joint life and last survivor plan under section 17 (1) (c), or
 - (b) to transfer the whole of the commuted value of the pension on a locked-in basis in accordance with the conditions referred to in section 17 (12) (b).
- (4) The provisions of section 13 (2) relating to actuarial equivalents do not apply to a pension granted under this section or section 21.
- (5) If a contributor dies in service and there is no surviving spouse, the person nominated by the contributor as beneficiary or, if there is no valid designation of beneficiary the personal representative of the estate in a representative capacity, is entitled to a payment equal to the greater of
 - (a) the deceased contributor's contributions together with accumulated interest, and
 - (b) the sum of the deceased contributor's contributions, together with accrued interest, made before January 1, 1993 plus 60% of the commuted value of any pension to which the contributor would have been entitled in respect of service on and after January 1, 1993 had the contributor terminated membership immediately before death.

- (6) If the person nominated in writing by the employee is a minor at the time of the employee's death, the commissioner must pay the amount to the Public Trustee in trust for the minor.
- (7) Despite any other provision of this section, if a contributor is divorced and remarried and, as a result of a written agreement or a court order made under the *Family Relations Act*, has nominated a former spouse to receive a lump sum payment on the death of the contributor, that nomination is valid and the benefit specified in subsection (1) must be paid to that nominated beneficiary as if the contributor had died in service with no surviving spouse.
- (8) If an amount becomes payable to the surviving spouse or any person by virtue of a nomination made under subsection (5), the amount
 - (a) is not subject to the control of the creditors of the deceased employee, and
 - (b) does not form part of the employee's estate,and the amount is instead of any other payment under this Act.
- (9) Despite subsections (5) and (7), if an employee is divorced and remarried and, as a result of a written agreement or court order, has nominated his or her former spouse under subsection (5), that nomination is valid despite being made before the date of the employee's last marriage and without the consent of the employee's current spouse.
- (10) For the purpose of subsections (5) and (7), if an employee is divorced and, as a result of a written agreement or court order, the former spouse is entitled to a portion of the employee's contributions, the former spouse is entitled to that portion whether or not the employee has nominated the former spouse or any other person.
- (11) Despite subsection (10), if the commissioner
 - (a) has paid a refund before receiving notice of an agreement or court order, and
 - (b) has acted under an otherwise valid nomination or in accordance with subsection (7),the commissioner is not liable to make the payment of contributions to the former spouse.
- (12) Despite any other provision of this Act, the remainder of the benefit, whether refund or pension, over the amount of the court order or separation agreement, must be paid to the current spouse or beneficiary or to the estate as the remainder would have been paid had there been no court order or separation agreement.
- (13) Benefits payable under this section will be limited to the maximums set out in section 8503 (2) of the Income Tax Regulations under the *Income Tax Act* (Canada).

Section 23

Resumption of pension for widows

- 23** (1) If payment of a pension granted under this Act to the widow of an employee ceased before November 1, 1973 in accordance with the provisions of this Act, due to the remarriage of the widow one of the following applies:
- (a) if the widow did not receive a lump sum payment at the time the pension ceased due to remarriage or, having received a lump sum payment, elects to repay the amount of the lump sum payment without interest to the fund, on application in writing by the widow to the commissioner, the Lieutenant Governor in Council may authorize resumption of payment of the pension to the widow with effect from the date specified by the Lieutenant Governor in Council, equal in amount to the amount the widow was receiving before the cessation of the pension, together with the supplementary allowance determined under section 4.5 of the *Municipal Superannuation (Amendment) Act*, S.B.C. 1973, c. 61;
 - (b) if the widow received a lump sum payment at the time the pension ceased due to her remarriage, and does not elect to repay the lump sum payment under paragraph (a), and the Lieutenant Governor in Council authorizes resumption of payment of the pension to the widow pursuant to paragraph (a), the amount of pension must be reduced by an amount that is the actuarial equivalent of the lump sum payment received by the widow.
- (2) If a widow remarried before November 1, 1973 and was receiving a monthly pension under this Act before October 31, 1973 which was reduced by reason of her remarriage, the amount of her monthly pension must be increased with effect from November 1, 1973 to be equal to the amount she was receiving immediately before her remarriage, in addition to the supplementary allowance determined under section 22 of the *Municipal Superannuation (Amendment) Act*, S.B.C. 1973, c. 61.
- (3) If a widow remarried on or after November 1, 1973, the amount of her monthly pension is not affected by reason of her remarriage.

Pension refunds

- 24** If an employee is retired from service and becomes entitled to a pension, the total or any portion of the pension on credit in the fund resulting from contributions on the employee's behalf under section 5 (3) of the *Pension (Municipal) Act*, R.S.B.C. 1979, c. 317, as it read on December 31, 1992, must before the granting of the pension be refunded on demand.

Refund of contributions

- 25** (1) Despite any enactment, with respect to the repayment of contributions to an employee, the law is deemed to be and to have always been that an employee is entitled to receive only the contributions the employee personally made, together with interest as may be provided for, and is not entitled to and never was entitled

to repayment of contributions made on the employee's behalf by an employer or interest earned on those contributions.

- (2) This section applies whether or not the employee was, at the time the employee received his or her contributions, entitled to receive a pension either immediately or at a future date.

Conditions governing pensions

- 26** (1) A pension must not be granted earlier than
- (a) the first day of the month following the month for which the final payment of salary is made,
 - (b) the first day of the month in which the application of the contributor for a pension is filed with the commissioner, and
 - (c) the first day of the month following the month in which the employee first became eligible to receive a pension.
- (2) Despite subsection (1) (b), if a person fails to apply for a pension on or before the date the person is eligible to begin receiving a pension and, in the opinion of the commissioner, the failure to apply is due to
- (a) the person being incapable of managing his or her affairs, or
 - (b) a good and sufficient reason why the person failed to apply for a pension,
- the commissioner may grant a pension effective the date the person would have, but for his or her failure to apply, begun receiving the pension.
- (3) A pension must be paid monthly from the fund, including a full payment for the month in which the person dies or the pension ends.
- (4) A pension or refund of the amount at the credit of an employee in the fund may not be assigned, charged, attached, anticipated or given as security, and any transaction purporting to assign, charge, attach, anticipate or give as security a pension or refund is void.
- (5) Instead of a pension, a contributor or the surviving spouse of a deceased contributor may receive a payment equal to the commuted value of the pension if
- (a) the monthly pension payment is less than 1/12 of 2% of the year's maximum pensionable earnings in the year of termination of membership, or
 - (b) the commuted value is not greater than 4% of the year's maximum pensionable earnings in the year of termination of membership.
- (6) If a contributor or the surviving spouse of a deceased contributor is entitled to locked-in benefits under this Act and the commissioner is satisfied that the person entitled to such benefit has a mental or physical disability that is likely to considerably shorten the person's life expectancy, the person may, before payment of the pension begins, elect to convert the pension to a payment or series of payments on a basis acceptable to the board.

Section 27

Public sector remuneration after retirement

- 27** (1) If a former contributor receiving a pension under this Act becomes an employee to whom this Act applies, the employee may elect to do one of the following:
- (a) repay to the fund all amounts received by way of a pension, together with interest calculated at the rate provided for in section 17 (15), and be reinstated in the fund and the employee's rights under the fund reinstated as near as possible to the position held at the time the pension was originally granted, in which case the payment of the pension must cease and the employee must begin making contributions and accruing service in respect of that re-employment;
 - (b) without repayment of amounts received by way of a pension or repayment of interest, begin making contributions and accruing service in respect of the re-employment, in which case the payment of the pension must cease;
 - (c) continue to receive a pension, in which case the employee is not eligible to make contributions and accrue service in respect of the re-employment.
- (2) If a person receiving a pension from a reciprocal employer becomes an employee to whom this Act applies, the employee is entitled
- (a) to repay to the reciprocal employer's fund all amounts received by way of pension, together with interest calculated at the rate provided for in section 17 (15), and
 - (b) to be re-established in that fund in a position as near as possible to the position the employee held in the fund immediately before commencement of the pension,
- and payment of the pension must cease and the employee must begin making contributions and accruing service in respect of the new employment.
- (3) If the payment of a pension ceases under subsection (1) or (2), the pension is deemed to have ceased at the end of the month in which contributions begin.
- (4) If the payment of a pension ceases under subsection (1) (a), the pension payable to the contributor on termination of the period of re-employment must be calculated in accordance with section 16.
- (5) If the payment of a pension ceases under subsection (1) (b), the pension payable to the contributor on termination of the period of new employment must be determined as the sum of the pension accrued during the period of new employment plus the pension that has ceased, recalculated in accordance with section 16, but the assumed age of retirement for the purposes of the calculation is the contributor's age when the new pension commences minus a period equivalent to the time period for which the contributor received the pension that ceased.
- (6) The provisions of this section apply on or after January 1, 1993 to a former contributor who

- (a) was or is receiving a pension under this Act or a pension from a reciprocal employer, and
 - (b) is currently an employee to whom this Act applies.
- (7) Funds held in trust under section 18.1 of the *Pension (Municipal) Act*, R.S.B.C. 1979, c. 317, as it read on December 31, 1992 must be dealt with by the commissioner in an equitable manner.
- (8) An election made by a contributor under subsection (1) or (2) is irrevocable.
- (9) This section does not apply to a person receiving a pension as a beneficiary.

PART 4 – SUPPLEMENTAL PENSION PROVISIONS

Supplemental contributions

- 28 (1) If an employee contribution required under section 7 (1) is limited by section 7 (4), the difference between what would have been contributed and what is actually contributed under Part 3 must
- (a) be contributed under this Part, or
 - (b) be attributed to a contribution that would have been made under section 7 (1) (b).
- (2) If an employee contribution required for a benefit under section 12 (1) or 15 is limited by section 12 (2) or (3), the difference between what would have been contributed and what is actually contributed under Part 3 must be contributed under this Part.
- (3) If contributions under section 5 (7) cannot be included in Part 3, the difference between what would have been contributed and what is actually contributed under Part 2 must be contributed under this Part.
- (4) If an employer contribution required for a benefit under Part 3 is limited by section 12 (2), the difference between what would have been contributed and what is actually contributed under Part 3 must be contributed under this Part.

Supplemental benefits

- 29 (1) If a benefit that would be provided under section 12 (1) or 54 (2) (b) is limited by section 12 (2) and (3), the difference between what would have been provided and what is actually provided under Part 3 must be provided under this Part.
- (2) If a benefit that would be provided under section 15 is limited by section 15 (7), the difference between what would have been provided and what is actually provided under Part 3 must be provided under this Part.
- (3) If a benefit that would be provided under section 21 is limited by section 21 (11), the difference between what would have been provided and what is actually provided under Part 3 must be provided under this Part.

Section 30

- (4) If a benefit that would be provided under section 22 is limited by section 22 (13), the difference between what would have been provided and what is actually provided under Part 3 must be provided under this Part.
- (5) If a benefit that would be provided under Part 3 is limited by section 16 (9), the difference between what would have been provided and what is actually provided under Part 3 must be provided under this Part.

Supplemental inflation protection

- 30**
- (1) If a person receives or is entitled to receive a supplementary allowance under section 19, the person must receive or is entitled to receive a similar allowance with respect to the amount of a supplemental benefits allowance payable under section 29.
 - (2) The supplementary allowance provided under this section must
 - (a) be the same percentage increase as that provided with respect to a pension, and
 - (b) be provided in the same manner as a supplementary allowance provided with respect to a pension.

Supplemental benefits account

- 31**
- (1) The contributions required under section 28 must be made to the supplemental benefits account.
 - (2) The benefits provided under section 29 and the allowance provided under section 30 must be paid from the supplemental benefits account.
 - (3) Payment of withholding taxes to Revenue Canada must be paid from the supplemental benefits account.

Payment of benefits

- 32**
- If a benefit is payable under section 29 or 30, the benefit is payable on the same terms and conditions as the original benefit payable under Part 3 unless
- (a) the benefit was to be in the form of a commuted value transfer to a locked-in RRSP, in which case the payment of the commuted value amount under this Part will be made directly to the individual,
 - (b) the person has elected different options for the payment of Part 3 and Part 4 benefits, or
 - (c) different treatment is required under the *Income Tax Act* (Canada) or some other authority.

Re-employment

- 33**
- If a person receiving a supplemental benefits allowance under this Act or from a reciprocal employer becomes an employee to whom this Act applies, the provisions of section 27 respecting a pension also apply to the supplemental benefits allowance.

PART 5 – MISCELLANEOUS**Administration**

- 34** As soon as possible after the close of each fiscal year, the minister must lay before the Legislative Assembly a return that
- (a) contains a full and clear statement and account of all business done under this Act, and
 - (b) shows the condition of the fund.

Commissioner of municipal superannuation

- 35** (1) For administering and carrying out the provisions of this Act, there is continued an officer called the commissioner of municipal superannuation, appointed by the Lieutenant Governor in Council.
- (2) In addition to his or her duties under this Act, the commissioner must perform other duties that may be assigned to the commissioner by the Lieutenant Governor in Council.

Powers of commissioner

- 36** Subject to this Act and the regulations, the commissioner may
- (a) determine whether a person is within the scope of this Act and entitled to receive a benefit under it,
 - (b) determine the amount of any benefit granted under this Act,
 - (c) determine all further matters arising from time to time in the administration of this Act that are necessary to be determined to properly carry out the provisions of this Act,
 - (d) if money is payable under this Act to a person who, in the opinion of the commissioner, is unfit to manage his or her own affairs, deal with the amount payable for the benefit of the contributor, or of his or her nominee, or of the spouse or children, in the manner the commissioner determines, and
 - (e) determine the allocation of any contribution or benefit between Part 3 and Part 4 as is necessary to comply with the requirements of the *Income Tax Act* (Canada).

Inquiry by commissioner

- 37** A pension or supplemental benefits allowance must not be granted to a person until the commissioner, after inquiry in the prescribed manner, determines the following:
- (a) that the person is within the scope of this Act;
 - (b) that the person is entitled to receive the pension or supplemental benefits allowance, or both, under the provisions of this Act;
 - (c) the grounds on which the person is entitled to receive the pension or supplemental benefits allowance or both.

Duty of commissioner to keep books and accounts

- 38** In addition to the accounts to be kept by the commissioner under this Act, the commissioner must record any data that may be required by the actuary, and must keep all books and accounts necessary
- (a) to determine the pension and supplemental benefits allowances payable under this Act,
 - (b) to record the contributions made by employers and employees, and
 - (c) to record the payments made from the consolidated revenue fund to the fund.

Municipal Pension Board

- 39** (1) The Municipal Pension Board is continued.
- (2) The board consists of 9 members appointed by the Lieutenant Governor in Council as follows:
- (a) 3 persons nominated by the government;
 - (b) 4 persons representative of the plan members, nominated by the Municipal Employees Pension Committee;
 - (c) one person nominated by the Union of British Columbia Municipalities;
 - (d) the commissioner.
- (3) An appointment under subsection (2) (a), (b) or (c) may be made for a period of not more than 2 years, and an appointment under that subsection may be renewed or extended.
- (4) The commissioner is the chair of the board.
- (5) All expenses necessarily incurred by board members in carrying out their responsibilities may be paid out of the fund.

Powers of the board

- 40** The board may do any of the following:
- (a) make recommendations to the minister with respect to this Act and the regulations and, before enactment, review amendments to this Act or the regulations;
 - (b) make recommendations to Treasury Board with respect to
 - (i) changes in benefits,
 - (ii) funding policies for the plan,
 - (iii) contribution rates,
 - (iv) modifications to the plan, and
 - (v) the budget of the commissioner;

- (c) make recommendations to the Minister of Finance and Corporate Relations with respect to the investment of the fund;
- (d) report to plan members on issues related to the plan;
- (e) establish procedures and methods for board operations.

Duties of the board

- 41** Subject to this Act and the regulations, the board must do all of the following:
- (a) submit to Treasury Board and to the minister an annual report on the operation of the plan, the fund and the board;
 - (b) review reports on the investment of the fund;
 - (c) direct the commissioner on the application of plan rules;
 - (d) carry out other prescribed duties and responsibilities.

Right to appeal to board

- 42** (1) A person or organization directly affected by a decision of the commissioner in the application of the plan rules may, by written notice to the board, appeal all or part of the decision in accordance with the practice and procedure specified by the board.
- (2) The board must ensure that each appeal is dealt with promptly and efficiently.
- (3) For the purposes of this section, the board and each of its members has the powers, protection and privileges of a commissioner under sections 12, 15 and 16 of the *Inquiry Act*.

Actuary

- 43** (1) The board may engage the services of an actuary for the purposes of this Act.
- (2) The actuary must
- (a) make all actuarial reports and computations required by the board,
 - (b) make actuarial valuations of assets and liabilities under this Act when requested to do so by the board, and
 - (c) report to the board the results of each actuarial valuation.
- (3) Despite subsection (2) (b), actuarial valuations must be made at least once in each 3 year period.
- (4) An amount paid to the actuary for his or her services is an expense incurred in the administration of this Act.

Trustees of fund

- 44** For the purpose of this Act, the Lieutenant Governor in Council must appoint not more than 3 persons to be called the trustees of the Municipal Pension Fund.

Section 45

Money available for investment

- 45** (1) The commissioner must advise the trustees of the sums of money available for investment.
- (2) The trustees must keep accounts and records in a form prescribed by the Minister of Finance and Corporate Relations.

Investment by trustees

- 46** (1) The trustees must invest all money, and may vary or realize those investments.
- (2) The trustees
- (a) must not make any investment or realize any security without first obtaining the approval in writing of the Minister of Finance and Corporate Relations to that investment or to the realization,
 - (b) must not make any investment except those investments permitted for a pension plan registered in compliance with the *Pension Benefits Standards Act*,
 - (c) must obtain registration, in the name the Minister of Finance and Corporate Relations directs, for securities that are registered with respect to principal or principal and interest, and
 - (d) the trustees must deposit securities for safekeeping with the person the Minister of Finance and Corporate Relations directs.

Realization of investments

- 47** The trustees must, at the request of the board but subject to the approval of the Minister of Finance and Corporate Relations, realize an investment to provide money required for this Act.

Salaries and expenses

- 48** (1) All salaries and expenses necessarily incurred in the administration of this Act, as determined and certified by the commissioner, must
- (a) be paid out of the fund or out of the consolidated revenue fund, and
 - (b) be reimbursed to the consolidated revenue fund out of the fund to the extent to which the salaries and expenses are paid out of the consolidated revenue fund.
- (2) If an order is made under section 47 (4) of the *Financial Administration Act*, that order prevails over subsection (1) of this section to the extent that the order conflicts with subsection (1).

Audit of accounts

- 49** (1) At least once each year the accounts of the commissioner and the board must be audited by the Auditor General or by an auditor appointed by the Lieutenant Governor in Council for that purpose.

- (2) The salary or remuneration of an auditor appointed by the Lieutenant Governor in Council must be paid by the government.

Enforcement of contributions

- 50 Payment of a sum of money which an employer is required by this Act to pay or forward to the commissioner may be enforced by action in any court, in the name of the commissioner, as for a debt due by that employer to the commissioner.

Act exhaustive regarding refunds

- 51 Except as expressly provided in this Act, nothing in this Act confers on a person a right to demand or enforce the repayment of any amount contributed by that person to the fund, or the payment of any interest on that amount.

Address of persons receiving pensions and allowances

- 52 A person receiving a pension or supplemental benefits allowance, or both, must
- (a) keep the commissioner informed of his or her whereabouts, and
 - (b) at least once each year report in person, or by certificate in the prescribed form, as the commissioner may require.

Power of dismissal not impaired

- 53 This Act does not impair or affect the right of an employer to remove or dismiss a person from service.

Application of Act to firefighter

- 54 (1) On receipt of a joint request in writing from a municipality and the majority of the volunteer firefighters employed by the municipality, the minister may declare this Act to apply to the municipality and all of the municipality's volunteer firefighters who have completed, or could complete, at least 15 years of pensionable service before reaching the age of 60 years, and on that declaration this Act applies.
- (2) For the purposes of this section, the following conditions apply:
- (a) the board, subject to the prior consent of the municipality, must determine the amount of salary on which employer and employee contributions are to be made, and on which benefits are to be calculated;
 - (b) “**pensionable service**” means only service during which contributions are made, but a municipality may by bylaw determine service before the date of the first contribution to be pensionable service if the contributions to be made by the municipality in respect of them will be sufficient to liquidate the liability in respect of them not later than March 31, 1984;
 - (c) if a volunteer firefighter to whom this Act applies terminates his or her service with the municipality, payment of a refund or commuted value must not be made until one year after the date of termination of service unless the volunteer firefighter submits evidence satisfactory to the commissioner

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indicating that the firefighter's termination of service as a volunteer firefighter is permanent;

- (d) if a volunteer firefighter dies in service, section 22 applies;
- (e) if a volunteer firefighter becomes totally and permanently disabled, section 21 applies only if the firefighter is unable to fill or occupy a position for remuneration or profit, or engage in any gainful occupation;
- (f) if complete returns are made monthly, charges for administration described in section 48 apply;
- (g) if returns are made at less frequent intervals, the board may modify the method by which expenses of administration are determined to ensure that the charge is equitable in relationship to the expenses involved in the administration of the plan.

(3) For the purposes of subsection (2) (b), section 12 (2), (3) and (4) applies.

Power to make regulations

- 55**
- (1) Subject to the approval of the Lieutenant Governor in Council, the commissioner may make regulations referred to in section 41 of the *Interpretation Act*.
 - (2) Subject to the approval of the Lieutenant Governor in Council and without limiting subsection (1), the commissioner may make regulations as follows:
 - (a) regulating the manner of making application for and the granting of pensions and supplemental benefits allowances;
 - (b) prescribing forms to be used for this Act or the regulations;
 - (c) prescribing the method of proving any fact necessary to be proved for the purpose of granting or paying pensions, supplemental benefits allowances or refunds, or for any purpose of the administration of this Act;
 - (d) providing for the inspection of payrolls of employers to whom this Act applies, and for reports to be made by employers for the purposes of this Act;
 - (e) prescribing penalties for the breach of a regulation made under this paragraph;
 - (f) prescribing tables, as approved by the actuary, for use in making an actuarial valuation or computation required for the carrying out of the provisions of this Act;
 - (g) establishing an advisory council on which the employers and employees to whom this Act applies must be represented;
 - (h) prescribing how the pension index, the average of the consumer price index and the adjustment index for any period of months must be determined and how any such average that is determined to be a fraction of a whole number must be expressed;
 - (i) prescribing the method in which interest is to be applied;
 - (j) providing for interest to be paid, and the rate at which it is to be paid, to a person if the person is entitled to payments under a pension plan and

through no fault of that person there is a delay in the person receiving a payment;

- (k) specifying the time within which an employer must remit contributions to the fund required under this Act, and providing for interest to be paid and the rate at which it is to be paid by an employer who fails to remit contributions within the time specified by the commissioner;
- (l) establishing the method of calculating the average monthly salary of an employee for the purpose of determining the employee's highest average salary;
- (m) prescribing group benefit entitlements which may be provided for pensioners, including extended health plans and dental plans;
- (n) prescribing terms and conditions under which the group benefit entitlements referred to in paragraph (m) may be provided and funded from employer contributions under section 5 (1) (c);
- (o) prescribing the terms and conditions under which coverage under the Medical Services Plan of British Columbia may be funded from employer contributions under section 5 (1);
- (p) prescribing duties and responsibilities of the Municipal Pension Board.

Service recognition

- 56** The Lieutenant Governor in Council may prescribe the terms and conditions, including the costs to be paid, under which
- (a) leaves of absence from an employer may be included as contributory and pensionable service,
 - (b) previous service under this plan, or with a reciprocal employer, may be included as contributory and pensionable service, or
 - (c) periods of child rearing may be included as contributory service.

PENSION (MUNICIPAL) — HISTORICAL TABLE

Amendments Not in Force

PENSION (MUNICIPAL) ACT

RSBC 1996, chapter 355

Section	Citation
22	RS1996 (Supp) -355-1; 1993-64-30(1)(r).

Legislative History

PENSION (MUNICIPAL) ACT

RSBC 1996, chapter 355

Section	History
1	RS1979-317-1; 1980-42-1; 1983-20-44; 1988-52-17; 1993-61-35,36,37; 1994-54-23.
2	RS1979-317-2; 1985-14-13; 1985-81-17; 1987-62-21; 1988-52-19; 1989-35-10; 1989-72-23; 1993-61-35,40; 1994-31-69; 1994-54-25.
3	RS1979-317-3; 1994-54-26.
4	RS1979-317-4; 1980-42-2; 1993-61-35,41,42; 1994-54-27.
5	RS1979-317-4.1; 1993-61-43.
6	RS1979-317-4.2; 1994-54-28.
7	RS1979-317-5; 1980-42-3; 1985-14-14; 1988-52-20; 1993-61-35,45; 1994-54-29.
8	RS1979-317-5; 1988-52-20; 1993-61-35,45.
9	RS1979-317-5.
10	RS1979-317-5.1; 1988-52-21; 1993-61-35,46.
11	RS1979-317-8; 1993-61-49.
12	RS1979-317-9; 1980-42-6; 1993-61-50; 1994-54-31.
13	RS1979-317-10; 1980-42-7; 1985-14-16; 1988-52-24; 1994-54-32.
14	RS1979-317-10; 1993-61-35,51; 1994-54-32.
15	RS1979-317-11; 1988-52-25; 1993-61-35,52; 1994-54-33.
16	RS1979-317-12; 1985-14-17; 1988-52-26; 1993-61-53; 1994-54-34.
17	RS1979-317-13; 1985-14-18; 1988-52-27; 1992-76-50; 1993-61-35,54; 1994-54-35.
18	RS1979-317-16; 1980-42-8; 1993-61-57.
19	RS1979-317-16.1; 1980-42-9; 1993-61-58; 1994-54-37.
20	RS1979-317-1.1; 1994-54-24.
21	RS1979-317-14; 1985-14-19; 1993-61-35, 55.
22	RS1979-317-15; 1985-14-20; 1988-52-28; 1989-35-11; 1993-61-35,56; 1994-54-36.
23	RS1979-317-15; 1993-61-35,56.
24	RS1979-317-17; 1993-61-59.
25	RS1979-317-17.1; 1985-14-22.
26	RS1979-317-18; 1985-14-23; 1986-15-21; 1988-52-29; 1993-61-35,60; 1994-54-38.
27	RS1979-317-18.1; 1993-61-61; 1994-54-39.
28	RS1979-317-18.2; 1993-61-62.
29	RS1979-317-18.3; 1993-61-62.
30	RS1979-317-18.4; 1993-61-62.
31	RS1979-317-18.5; 1993-61-62.
32	RS1979-317-18.6; 1993-61-62.
33	RS1979-317-18.8; 1993-61-62.
34	RS1979-317-19; 1980-42-11; 1993-61-64.
35	RS1979-317-20.
36	RS1979-317-23; 1993-61-66.
37	RS1979-317-28; 1993-61-68.
38	RS1979-317-22; 1993-61-65.
39	RS1979-317-23.1; 1994-54-41.
40	RS1979-317-23.2; 1994-54-41.
41	RS1979-317-23.3; 1994-54-41.
42	RS1979-317-23.4; 1994-54-41.
43	RS1979-317-29; 1994-54-43.

PENSION (MUNICIPAL) — HISTORICAL TABLE

Legislative History — Continued

PENSION (MUNICIPAL) ACT

RSBC 1996, chapter 355

Section	History
44	RS1979-317-24.
45	RS1979-317-25; 1993-61-41.
46	RS1979-317-26; 1981-15-133; 1990-58-18; 1993-61-35,67.
47	RS1979-317-27; 1993-61-41; 1994-54-42.
48	RS1979-317-21; 1988-52-31.
49	RS1979-317-35; 1980-35-26; 1981-15-134.
50	RS1979-317-31.
51	RS1979-317-32.
52	RS1979-317-33; 1993-61-69.
53	RS1979-317-34.
54	RS1979-317-38; 1993-61-35,70; 1994-54-45.
55	RS1979-317-39; 1985-14-24; 1992-77-17; 1993-61-35,71; RS1979-317-39(4); 1994-54-46.
56	RS1979-317-40; 1994-54-47.

EXPLANATORY NOTE

Amendments Not in Force: If there are any legislative changes to the Act that are not in force as of December 31, 1996, these are identified in *italics* at the beginning of the historical table. The "Section" column identifies the affected provisions of the Act. The "Citation" column identifies the amending legislation by its citation in the 1996 Statute Revision Supplement.

Legislative History: The second part of the table provides a legislative history of each section of the Act between the 1979 Statute Revision and the 1996 Statute Revision. The "Section" column identifies all sections of the Act in force on December 31, 1996. The "History" column for each section begins with the citation of the section immediately before the 1996 Statute Revision. This is followed by a list of citations for the legislation that enacted or amended the section between the 1979 Statute Revision and the 1996 Statute Revision (if a section was repealed and replaced during that period, these last citations begin at the most recent replacement).

Legislative citations have the format of "year-chapter-section".

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