

Public Service Superannuation Act

SCHEDULE B OF CHAPTER 4 OF THE ACTS OF 2012

as amended by

2013, c. 3, ss. 14-16; 2014, c. 34, ss. 54, 55; 2016, c. 2, s. 15



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SCHEDULE B OF CHAPTER 4 OF THE ACTS OF 2012
amended 2013, c. 3, ss. 14-16; 2014, c. 34, ss. 54, 55; 2016, c. 2, s. 15

**An Act Respecting Retiring Allowances
for Persons Employed in
the Public Service of Nova Scotia**

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Short title

1 This Act may be cited as the *Public Service Superannuation Act*.
2012, c. 4, Sch. B, s. 1.

Interpretation

2 In this Act,

(a) “actuarial valuation report” means a report for funding purposes prepared as of a specified date on the financial status of the Pension Plan commissioned by the Trustee and prepared by the plan’s actuary in accordance with generally accepted actuarial principles and based on assumptions approved by the Trustee;

(b) “Administrator” means the person or entity providing administration and investment support services to the Trustee in respect of the Pension Plan and Superannuation Fund;

(c) “allowance” means a superannuation allowance or a deferred allowance;

(d) “annual inflation rate” means, for any calendar year, the percentage increase in the average Consumer Price Index for the twelve-month period ending on October 31st of that calendar year over the average Consumer Price Index for the twelve-month period ending on October 31st of the immediately preceding calendar year;

(e) “average blended contribution rate” means the average contribution rate of members, as a percentage of salary, for the Pension Plan as a whole;

(f) “Board” means the Board of Directors of the Corporation;

(g) “*Canada Pension Plan*” includes the regulations made under the *Canada Pension Plan*;

(h) “Canadian Union of Public Employees” means the Canadian Union of Public Employees Local 1867;

(i) “Chair” means the Chair of the Board;

(j) “child” means

(i) the natural or adopted child of a member or former member, or

- (ii) a person to whom a deceased member or a deceased former member stood *in loco parentis* at the time of the death of the member or former member;
- (k) “commuted value” means the value of an allowance calculated as prescribed by the plan regulations;
- (l) “Consumer Price Index” means the Consumer Price Index for Canada published by Statistics Canada on an all-items basis, not seasonally adjusted;
- (m) “contribution rates” means the percentages of an employee’s salary, prescribed by the plan regulations, used to determine periodic contribution obligations to the Superannuation Fund of employees and employers;
- (n) “contributions” means
 - (i) the periodic contributions to the Superannuation Fund required to be made by employees and employers under this Act and the plan regulations, and
 - (ii) the contributions to the Superannuation Fund by employees and employers to have prior service recognized as pensionable service;
- (o) “Corporation” means Public Service Superannuation Plan Trustee Incorporated;
- (p) “deferred allowance” means a superannuation allowance payable to a former member, the payment of which is deferred until the former member retires;
- (q) “dependant” of a member or former member means the father, mother, grandfather, grandmother, brother, sister, child or grandchild of the member or former member who, at the date of the death of the member or former member, is, by reason of mental or physical disability, dependent on the member or former member for support;
- (r) “director” means a member of the Board, other than the Chair;
- (s) “eligible service” means service that is credited for the purpose of determining a member’s entitlement to receive an allowance;
- (t) “employee” means
 - (i) a person who is employed by an employer in respect of employment,
 - (ii) a person or a member of a class of persons deemed under subsection 13(10) or Section 25 or 26 of the former Act to be and to have been an employee for the purpose of that Act and the regulations made under that Act, or
 - (iii) a person prescribed by the plan regulations;
- (u) “employer” means
 - (i) the Province,
 - (ii) an entity prescribed by the initial plan regulations, or

- (iii) after the coming into force of the initial plan regulations, an entity that makes a request to the Trustee to be prescribed as an employer and is so prescribed by the plan regulations;
- (v) “employment” means employment that
 - (i) immediately before the coming into force of this Act, is eligible to become pensionable service based either on
 - (A) the category of work involved, or
 - (B) the entitlement of an employee or class of employees, or
 - (ii) is prescribed by the plan regulations;
- (w) “five-year actuarial valuation report” means the actuarial valuation report for the Pension Plan as at December 31, 2014, and every five years thereafter;
- (x) “five-year cycle” means each successive five-year period under the Pension Plan beginning with the period commencing January 1, 2011, and ending December 31, 2015;
- (y) “former Act” means Chapter 377 of the Revised Statutes, 1989, the *Public Service Superannuation Act*;
- (z) “former member” means
 - (i) a retiree, or
 - (ii) a person who has contributed to the Pension Plan and is entitled to a deferred allowance or a refund of the person’s employee contributions in accordance with this Act or the plan regulations;
- (za) “funded ratio” means the ratio of the assets of the Pension Plan to the liabilities of the Pension Plan, expressed as a percentage and as calculated by the plan’s actuary and set out in an actuarial valuation report, and, in determining this ratio,
 - (i) assets are the market value of investments held by the Pension Plan or a value related to the market value by means of an averaging method that stabilizes short-term fluctuations of market value over a period of not more than five years, plus any cash balances and accrued or receivable income and expense items, and
 - (ii) liabilities are the present value of the accrued benefits under the Pension Plan determined on the basis of a going concern actuarial valuation for funding purposes taking into account any known cost-of-living increases for the five-year period following the actuarial valuation date but excluding the possibility of any increases that are not known;
- (zb) “Funding Target” means a funded ratio for the Pension Plan of at least one hundred per cent by the end of the ten-year period commencing on the first day of the five-year cycle next following a five-year actuarial valuation report that identifies the funded ratio of the Pension Plan as being below one hundred per cent;
- (zc) “Government director” means a director appointed under clause 7(1)(a);

(zd) “*Income Tax Act* (Canada)” includes the regulations made under that Act;

(ze) “member” means

(i) an employee who is contributing to the Pension Plan in accordance with this Act and the plan regulations, or

(ii) an employee who, by reason of accumulated years of pensionable service, is exempted under this Act or the plan regulations from making contributions to the Pension Plan;

(zf) “Minister” means the Minister of Finance and Treasury Board;

(zg) “non-Government director” means a director who is not a Government director;

(zh) “pensionable service” means service that is used to calculate the amount of a superannuation allowance, and comprises

(i) employment by an employee for an employer for which contributions are paid into the Superannuation Fund, in accordance with this Act and the plan regulations, and not withdrawn from the Superannuation Fund or, where withdrawn, are fully repaid, and

(ii) employment or other service that is prescribed by the plan regulations as constituting pensionable service;

(zi) “Pension Plan” means the public service superannuation plan continued by this Act;

(zj) “percentage rate of accrual of benefit per year of service” means the annual percentage rate that, when multiplied by highest average salary and pensionable service, determines the amount of an allowance;

(zk) “plan eligibility and benefits” means all components of the Pension Plan prescribed in the plan regulations relating to eligibility for, and calculation of, a superannuation allowance, survivor allowance or deferred allowance, and includes, without limiting the generality of the foregoing,

(i) service and age requirements for retirement eligibility,

(ii) the percentage rate of accrual of benefit per year of service and salaries used to determine the amount of an allowance,

(iii) the number of years of service used to determine the amount of an allowance, and

(iv) the period of time over which a survivor allowance may be paid;

(zl) “plan regulations” means regulations made under Sections 87 and 88;

(zm) “plan’s actuary” means a Fellow of the Canadian Institute of Actuaries, or a firm of which such person is a member, appointed by the Trustee;

(zn) “Province” means Her Majesty in right of the Province;

(zo) “retire” means

(i) in the case of a member entitled to receive a superannuation allowance, cease employment and provide written notice to the Administrator requesting immediate commencement of payment of the allowance, or

(ii) in the case of a former member entitled to receive a deferred allowance, provide written notice to the Administrator requesting immediate commencement of payment of the allowance,

but retirement in either case is deemed to have occurred no later than the end of the calendar year in which the member or former member attains the age at which a superannuation allowance must begin to be paid as specified in the *Income Tax Act* (Canada);

(zp) “retiree” means a person who has retired pursuant to this Act or the former Act;

(zq) “salary” means the salary or compensation earned by an employee in respect of employment with an employer, including any performance-based pay or performance-based bonus except where expressly excluded under an employment contract, but does not include

(i) in the case of a secondment to an entity other than an employer, any salary, bonuses, performance pay or other compensation received by the employee during the secondment, such that the salary of the seconded employee is deemed to be the salary the employee would have earned had the employee remained with the employer from which the employee was seconded,

(ii) acting pay, unless

(A) the employee has been in an acting capacity for a period of six months or more, and

(B) all contributions required for the period under this Act and the plan regulations have been paid into the Superannuation Fund,

(iii) benefits such as the value of living and residential allowances, automobile allowances, gratuities, overtime, payment in lieu of overtime or cost-of-living bonuses, and

(iv) any other remuneration or benefit prescribed by the plan regulations;

(zr) “school board” has the same meaning as in the *Education Act*;

(zs) “spouse” means either of two persons who

(i) are married to each other,

(ii) are married to each other by a marriage that is voidable and has not been annulled by a declaration of nullity,

(iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or, where they have ceased to cohabit, have cohabited within the twelve-month period immediately preceding the date of entitlement,

(iv) are domestic partners within the meaning of Section 52 of the *Vital Statistics Act*, or

(v) not being married to each other, are cohabiting in a conjugal relationship with each other, which relationship has continued for at least

(A) three years, if either of them is married, or

(B) one year, if neither of them is married;

(zt) “superannuation allowance” means the amount payable to a retiree from the Superannuation Fund on a periodic basis under this Act and the plan regulations;

(zu) “Superannuation Fund” means the public service superannuation fund continued by this Act;

(zv) “survivor allowance” means the amount payable to a spousal, child or dependant survivor of a member or former member from the Superannuation Fund on a periodic basis under this Act and the plan regulations;

(zw) “Trustee” means the trustee of the Pension Plan and Superannuation Fund and includes a sole trustee, a board of trustees, or a corporate trustee appointed in accordance with this Act;

(zx) “Vice-chair” means a Vice-chair of the Board. 2012, c. 4, Sch. B, s. 2; 2013, c. 3, s. 14; 2014, c. 34, s. 54.

PUBLIC SERVICE SUPERANNUATION PLAN TRUSTEE INCORPORATED

Body corporate

3 There is hereby established a body corporate without share capital to be known as Public Service Superannuation Plan Trustee Incorporated consisting of those persons who from time to time compose the Board. 2012, c. 4, Sch. B, s. 3.

Head office

4 The head office of the Corporation must be within the Halifax Regional Municipality. 2012, c. 4, Sch. B, s. 4.

Objects and purposes

5 (1) The objects and purposes of the Corporation are

(a) to act as Trustee; and

(b) to carry out such other activities or duties as may be authorized or required by this Act.

(2) The Corporation has the capacity and, subject to this Act, the rights, powers and privileges of a natural person. 2012, c. 4, Sch. B, s. 5.

Management and control

6 The management and control of the affairs of the Corporation are vested in a Board of Directors, and the Board may, subject to this Act, exercise the powers of the Corporation. 2012, c. 4, Sch. B, s. 6.

Composition of Board

7 (1) The Minister shall appoint a Board consisting of the Chair and ten to twelve directors, of whom

(a) at least four and no more than six directors are appointed at the Minister's discretion;

(b) three directors are appointed from persons recommended by the Nova Scotia Government Employees Union;

(c) one director is appointed from persons recommended by the Canadian Union of Public Employees;

(d) one director is appointed from persons recommended by the Nova Scotia Government Retired Employees Association; and

(e) one director is appointed to represent non-union employee members.

(2) For greater certainty, in appointing directors under clause (1)(b), the Minister shall appoint persons who are recommended by the Nova Scotia Government Employees Union.

(3) For greater certainty, in appointing a director under clause (1)(c), the Minister shall appoint a person who is recommended by the Canadian Union of Public Employees.

(4) For greater certainty, in appointing a director under clause (1)(d), the Minister shall appoint a person who is recommended by the Nova Scotia Government Retired Employees Association.

(5) In making the appointment of a director under clause (1)(b), (c) or (d), where a recommendation from the respective identified party is not provided within

(a) sixty days following the date the Corporation comes into existence, in the case of the initial appointments to the Board; or

(b) sixty days following the date a position on the Board is vacated for any reason,

the quorum referred to in Section 12 is reduced by the number of Board seats for which no appointee has been recommended, and such reduced quorum continues and is restored, in whole or in part, at such time as the outstanding Board seats are filled.

(6) The Minister shall appoint as Chair such person as is jointly recommended to the Minister by the directors appointed under subsection (1) who together hold at least ten votes in accordance with Section 19.

(7) Where the quorum for the Board has been reduced pursuant to subsection (5), the total votes required to support a recommendation for Chair under subsection (6) is reduced by a corresponding number for such period as the quorum remains reduced.

(8) Where the directors are unable to jointly recommend a person as Chair of the first Board in accordance with subsection (6) within ninety days fol-

lowing the date the Corporation comes into existence, a single arbitrator appointed by the Chief Justice of Nova Scotia shall recommend a person to be appointed as Chair, and the Minister shall appoint the recommended person.

(9) Where the directors are unable to jointly recommend a replacement Chair in accordance with subsection (6) within sixty days following the occurrence of any vacancy in the Chair, a single arbitrator appointed by the Chief Justice of Nova Scotia shall recommend a person to be appointed as Chair, and the Minister shall appoint the recommended person.

(10) Following the expiration of the time period referred to in subsection (8) or (9), a director may provide written notice to the Chief Justice of Nova Scotia that the directors are unable to jointly recommend a person to be appointed as Chair and request that the Chief Justice appoint an arbitrator for the purpose of recommending a person to be appointed as Chair by the Minister.

(11) An arbitrator appointed pursuant to subsection (8) or (9) shall provide to each director the opportunity to submit the name and qualifications of any person the director wishes the arbitrator to consider recommending to be appointed as Chair. 2012, c. 4, Sch. B, s. 7; 2013, c. 3, s. 15.

Term of Chair and directors

8 (1) A director appointed under clause 7(1)(a) or (e) serves for such term, not exceeding five years, as is specified by the Minister at the time of appointment.

(2) A director appointed under clause 7(1)(b), (c) or (d) serves for such term, not exceeding five years, as is specified by the Nova Scotia Government Employees Union, the Canadian Union of Public Employees or the Nova Scotia Government Retired Employees Association, as applicable.

(3) The Chair serves for such term, not exceeding five years, as specified in the joint recommendation of the directors who recommended appointment of the Chair.

(4) Where the Chair is appointed under subsection 7(8) or 7(9), the arbitrator shall specify the length of term to be served by the Chair.

(5) Five non-Government directors may, after reasonable consideration and having provided a full opportunity for all directors to be heard, unanimously determine that the sixth non-Government director is not acting in the best interests of the members and former members of the Pension Plan and recommend to the Chair the removal from the Board of that non-Government director, in which case the Chair shall forthwith remove that non-Government director from the Board.

(6) Where

- (a) the term of a director or the Chair expires; or
- (b) a director or the Chair ceases to sit on the Board or is unable to act before the expiration of the director's or the Chair's term of office,

the Minister shall appoint a replacement director or Chair, as the case may be, in accordance with Section 7, and for the term prescribed by subsection (1), (2), (3) or (4), as applicable.

(7) No person may be appointed to the Board for more than ten consecutive years. 2012, c. 4, Sch. B, s. 8; 2013, c. 3, s. 16.

Vice-chairs

9 (1) The Government directors shall appoint from their number a Vice-chair.

(2) The non-Government directors shall appoint from their number a Vice-chair. 2012, c. 4, Sch. B, s. 9.

Chair of meeting

10 (1) The Chair shall act as chair of a meeting of the Board.

(2) Where the Chair is not in attendance at a meeting of the Board, the Vice-chairs shall jointly act as the chair of the meeting or, where the Chair is absent and only one Vice-chair is in attendance at a meeting, that Vice-chair shall act as the chair of the meeting. 2012, c. 4, Sch. B, s. 10.

Board meetings

11 (1) The Board shall meet at least four times in each calendar year.

(2) As soon as is practical after the commencement of each calendar year, the Chair shall set the date and location of each meeting and provide the dates and locations of the meetings to the directors.

(3) Any four directors may request that the Chair convene a meeting of the Board, which request must be in writing and include the information reasonably required by the Chair to prepare and distribute an agenda in accordance with Section 13.

(4) Where a meeting is requested pursuant to subsection (3), the Chair shall, no later than fourteen days following receipt of the written request, give notice to the directors setting out the date and location of the meeting, which meeting must be held within two months of the date upon which the request to convene a meeting was received by the Chair.

(5) Where the office of the Chair is vacant, the Vice-chairs, acting jointly, may exercise the powers otherwise given to the Chair to set the date and location of a meeting, and give notice of the meeting to the other directors.

(6) Meetings of the Board must be held in the Province.

(7) The record of attendance at meetings of the Board for each director and the Chair must be included in the Corporation's annual report.

(8) Where a director or the Chair participates in a meeting of the Board by means of a telephone conference or other communication facility as is

permitted under Section 14, the director or the Chair is deemed to be in the Province for the purpose of the meeting. 2012, c. 4, Sch. B, s. 11.

Quorum

12 (1) Eight directors constitute a quorum, but such quorum must include a majority of the non-Government directors and a majority of the Government directors.

(2) Where a quorum is not present within one hour of the time specified for a meeting of the Board, the directors present shall adjourn the meeting and not transact any other business.

(3) Where, during a meeting, a quorum is lost, the directors remaining at the meeting shall adjourn the meeting and not transact any further business.

(4) A meeting is validly constituted if a quorum is present, notwithstanding that a director position is vacant.

(5) Where a meeting does not proceed because a quorum is not present or because a quorum is lost during a meeting, the Chair shall set the date and location of another meeting to occur within thirty days of the meeting that did not proceed, and, notwithstanding anything else in this Section, the subsequent meeting may proceed regardless of whether a quorum is present. 2012, c. 4, Sch. B, s. 12.

Notice of meeting

13 (1) The Chair, or any other person authorized to do so under this Act, shall cause written notice of each meeting of the Board to be given to the directors not less than seven days before the meeting.

- (2)** The notice of a meeting must
- (a) specify the date, time and location of the meeting;
 - (b) include an agenda for the meeting; and
 - (c) whenever possible, be accompanied by any reports or other documentation to be considered at the meeting.

(3) Subject to the by-laws, nothing in this Section precludes a director from bringing forth any matter for discussion at a meeting, and business not included in the agenda for a meeting may be conducted at a meeting. 2012, c. 4, Sch. B, s. 13.

Meeting by telecommunication

14 A meeting of the Board or any committee of the Board may be held, or a director or the Chair may participate in a meeting of the Board, by means of a telephone or other communication facility that permits all persons participating in the meeting to speak to and hear each other, and a director participating in a meeting by such means is deemed to be present at the meeting and is counted in determining whether a quorum is present. 2012, c. 4, Sch. B, s. 14.

Waiver of notice of meeting

15 (1) A director may waive notice of a meeting of the Board in writing.

(2) A director is deemed to have waived notice of a meeting of the Board by attending at the meeting without objection. 2012, c. 4, Sch. B, s. 15.

By-laws

16 (1) The Board may enact by-laws not inconsistent with this Act for the purpose of regulating its proceedings and for the conduct and management of the Corporation's affairs.

(2) Without limiting the generality of subsection (1), the Board shall enact a by-law to implement a policy applicable to the Corporation that provides for transparency in respect of its actions and accessibility of information by members and former members, subject to such reasonable limitations as the Board considers necessary. 2012, c. 4, Sch. B, s. 16.

Recording secretary

17 The Board shall appoint a recording secretary, who need not be a director, to keep minutes or records of all meetings, proceedings and acts of the directors, which minutes or records must be provided to the directors for verification at the next meeting of the Board. 2012, c. 4, Sch. B, s. 17.

Remuneration and expenses

18 (1) Subject to subsection (2), a director, both in respect of service on the Board and on a committee established under Section 27, shall serve without remuneration.

(2) The following amounts are a charge upon and must be paid out of the Superannuation Fund:

(a) all costs and reasonable expenses incurred and payable in respect of the conduct of the business and affairs of the Corporation;

(b) the reasonable travel and other expenses necessarily incurred by a director or a person appointed to a committee of the Board in carrying out the business of the Corporation;

(c) remuneration as set by the Board for the Chair, together with reimbursement of reasonable travel and other expenses necessarily incurred by the Chair in carrying out the business of the Corporation; and

(d) remuneration as set by the Board for a person, other than a director, appointed to a committee of the Board. 2012, c. 4, Sch. B, s. 18.

Voting

19 (1) All decisions of the Corporation must be made by a resolution passed at a meeting of the Board by an affirmative vote of at least eight directors, in accordance with the following requirements:

- (a) each Government director has and is entitled to exercise one vote;
- (b) *repealed 2016, c. 2, s. 15.*
- (c) each non-Government director has and is entitled to exercise one vote;
- (d) the Chair is not entitled to vote.

(2) A resolution in writing, signed by all of the directors, is as valid as if it had been passed at a meeting of the Board duly called, constituted and held.

(3) Notwithstanding subsection (1), where the quorum for the Board has been reduced pursuant to subsection 7(5), the number of affirmative votes required to support a resolution of the Board is the number referred to in subsection (1) reduced by a corresponding number for such period as the quorum remains reduced.

(4) Notwithstanding subsection (1), for a meeting constituted pursuant to subsection 12(5), the number of affirmative votes required to support a resolution of the Board is the number referred to in subsection (1) reduced by the number of votes that cannot be exercised at the meeting because of the non-attendance of directors, but the number of required affirmative votes must in no event be fewer than four. 2012, c. 4, Sch. B, s. 19; 2016, c. 2, s. 15.

Defect in appointment, removal or qualification

20 No act of the Corporation done and carried out in good faith is invalid or ineffective by reason only that it is subsequently discovered or determined that there exists some defect in the appointment, removal or qualification of any director. 2012, c. 4, Sch. B, s. 20.

Execution of documents and transfer of funds

21 (1) All agreements and other documents to be executed on behalf of the Corporation must, after being approved by the Board, be signed by the Chair.

(2) Where the office of the Chair is vacant or the Chair is unavailable, the Vice-chairs, acting jointly, may exercise the power otherwise given to the Chair to execute agreements and other documents approved by the Board under subsection (1).

(3) All transfers of funds out of the Superannuation Fund that are approved by the Board or are otherwise required under this Act or the plan regulations must be effected by the Chair.

(4) Where the office of the Chair is vacant or the Chair is unavailable, the Vice-chairs, acting jointly, may exercise the power otherwise given to the Chair to effect transfers of funds out of the Superannuation Fund that are approved by the Board under subsection (1) or are otherwise required under this Act or the plan regulations.

(5) Notwithstanding subsections (1) to (4), the Board may delegate to the Administrator the power to execute agreements and other documents on

behalf of the Corporation, and to effect transfers of funds out of the Superannuation Fund that are approved by the Board or otherwise required under this Act or the plan regulations. 2012, c. 4, Sch. B, s. 21.

Enforcement of payments

22 The Corporation may enforce the payment or delivery of contributions or transfers or any other payments due to the Superannuation Fund by action in any court in the name of the Trustee. 2012, c. 4, Sch. B, s. 22.

Duties of Corporation, directors and Chair

23 (1) The Corporation shall administer the Pension Plan and manage and invest the Superannuation Fund in good faith, in compliance with this Act, the plan regulations and all applicable laws, and in a manner appropriate to a trustee of a public pension plan in Canada.

(2) Each director and the Chair shall use, in the administration of the Pension Plan and the management and investment of the Superannuation Fund, the care and diligence that a person of ordinary prudence would exercise in dealing with the property of another person, and shall apply all relevant knowledge and skill that the individual possesses or, by reason of profession, business or calling, ought to possess. 2012, c. 4, Sch. B, s. 23.

Management and investment of Superannuation Fund

24 (1) Management and investment of the Superannuation Fund by the Corporation shall materially conform with the rules and criteria for permitted investment set out in Part I of the *Trustee Act*.

(2) The Corporation shall

(a) establish a written statement of investment policies for the Superannuation Fund that

(i) must include the purpose and objectives of the Superannuation Fund, the duties of the persons responsible for the management and administration of the Superannuation Fund and the manner in which investments are to be considered and made, and

(ii) may include the terms under which the Corporation may enter into contracts, including derivative contracts, on behalf of the Superannuation Fund and the terms under which the Corporation may secure the obligations of the Superannuation Fund;

(b) periodically review and update the written statement of investment policies and procedures referred to in clause (a); and

(c) recommend to the plan's actuary the actuarial assumptions and methods to be used to value the Pension Plan and the Superannuation Fund. 2012, c. 4, Sch. B, s. 24.

Administrator

25 (1) The Corporation shall retain an Administrator and monitor the performance of the Administrator, including in respect of those duties set out in subsection (2).

(2) The Administrator shall

(a) keep an account of all money and assets received and paid out of the Superannuation Fund and keep an accounting of the assets and liabilities of the Superannuation Fund; and

(b) keep an individual record of contributions made by each member.

(3) The Administrator shall, under the direction and oversight of the Corporation, do all further things required by the Corporation for the proper administration of the Pension Plan and Superannuation Fund in accordance with this Act, the plan regulations and all applicable laws, including, without limiting the generality of the foregoing,

(a) assisting the Corporation with the operation of the Pension Plan;

(b) negotiating agreements on behalf of the Corporation;

(c) implementing agreements entered into by the Corporation;

(d) establishing service standards necessary for providing the appropriate quality and level of service to members;

(e) assisting the Corporation in the preparation and adoption of an annual budget for the administration of the Pension Plan, the management of the investments of the Superannuation Fund and the activities of the Corporation;

(f) assisting the Corporation in the preparation of an annual report, including audited financial statements, in respect of the Pension Plan and the Superannuation Fund, to be completed no later than one hundred and twenty days after the end of each fiscal year of the Pension Plan;

(g) obtaining an actuarial valuation report at such intervals as directed by the Corporation;

(h) retaining such professional, technical and other advisers as the Administrator considers necessary and determining the remuneration and reimbursement for expenses to which the advisers are to be entitled; and

(i) providing for the financial administration of the Pension Plan by

(i) the establishment of an accounting system for the proper reporting and accountability to the Corporation in a timely manner and at a reasonable cost,

(ii) the preparation of annual financial statements of the Pension Plan in accordance with generally accepted accounting principles, and

(iii) the performance of a financial reporting audit on the financial statements referred to in subclause (ii). 2012, c. 4, Sch. B, s. 25.

Power to retain services

26 The Corporation may retain the services of persons for the purpose of assisting the Corporation with the administration of the Pension Plan and the management of the Superannuation Fund. 2012, c. 4, Sch. B, s. 26.

Resolutions, committees and appointments

27 (1) The Board may

(a) pass resolutions it considers necessary or advisable to administer the Pension Plan and the Superannuation Fund and to exercise the Board's powers and perform its duties;

(b) establish committees of the Board including, without limiting the generality of the foregoing, a standing committee to hear appeals by members, former members, and spousal, child and dependant survivors of members and former members from decisions of the Administrator relating to plan eligibility and benefits;

(c) subject to subsection (2), determine the composition, duties, responsibilities, limitations, and rules and operating procedures of committees of the Board;

(d) appoint persons other than directors or the Chair to a committee referred to in clause (b) and set the terms of appointment that apply to those persons; and

(e) rescind an appointment made under clause (b) or (d).

(2) Subject to subsection (3), any committee established by the Board may only make recommendations and has no power to bind the Board or Corporation or to amend the Pension Plan.

(3) Determinations made by a standing committee established to hear appeals by members, former members, and spousal, child and dependant survivors of members and former members from decisions of the Administrator relating to plan eligibility and benefits must be in compliance with the *Income Tax Act* (Canada), are binding on the Board, and constitute final decisions of the Trustee. 2012, c. 4, Sch. B, s. 27.

Settlement of claims

28 The Corporation may, where and as it considers fit, compromise, compound, abandon, submit to arbitration or otherwise settle a debt, account, claim or other thing relating to the Pension Plan or the Superannuation Fund and, for this purpose, the Corporation may enter, give, execute, do and make such agreements, instruments of composition or arrangement, releases and other things as it considers expedient. 2012, c. 4, Sch. B, s. 28.

Indemnification

29 (1) In this Section and Section 30, "director" includes the Chair.

(2) Each director must be indemnified out of the Superannuation Fund against all costs, charges and expenses actually and reasonably incurred by that person, including an amount paid to settle an action or satisfy a judgment in a civil, criminal or administrative action or proceeding, including an action brought by the Trustee, to which the person is made a party because of being or having been a director if

- (a) the director acted in good faith;
- (b) the director had reasonable grounds for believing that the conduct was lawful; and
- (c) the director's conduct is in accordance with the standard of care imposed on directors under subsection 23(2).

(3) The Corporation may, on such terms and conditions as the Corporation considers fit, advance to any director referred to in subsection (2) any costs or expenses incurred by the director in defending any civil, criminal or administrative action or proceeding to which the director has been made a party because of being or having been a director, but such director shall repay all amounts advanced in the event that a court finds that the director was not entitled to indemnification under this Section. 2012, c. 4, Sch. B, s. 29.

No action lies

30 (1) No action lies for damages or otherwise against any director or employee of the Corporation in relation to any act or omission done in good faith under this Act or the plan regulations by any director or any employee of the Corporation, including, without limiting the generality of the foregoing

- (a) the making, retention or sale of any investment or reinvestment in accordance with this Act, the plan regulations, or in accordance with any other legal duty; or
- (b) an act or omission resulting in any loss to or diminution of the Superannuation Fund.

(2) No action lies for damages or otherwise against any director or employee of the Corporation in relation to

- (a) any matter, cause or thing arising due to the invalidity or unenforceability of all or any part of the Pension Plan;
- (b) any delay occasioned by any restriction or provision in
 - (i) the Pension Plan,
 - (ii) any contract entered into in the course of the administration of the Pension Plan or Superannuation Fund; or
- (c) any contributions required to be paid to the Superannuation Fund, other than the contributions a director may be required or permitted to make under the Pension Plan in the director's capacity as a member. 2012, c. 4, Sch. B, s. 30.

Payment of indemnity

31 The Corporation shall do such things and execute and deliver such documents in order that any and all funds required under this Act to be paid out of the Superannuation Fund by way of indemnity are paid. 2012, c. 4, Sch. B, s. 31.

Recourse solely to Superannuation Fund

32 A member, former member or spousal, child or dependent survivor of a member or former member shall have recourse solely to the Superannuation Fund for any benefit or other payment under the Pension Plan. 2012, c. 4, Sch. B, s. 32.

No liability for directors appointed

33 A person or organization is not liable for any of the acts or obligations of a director solely because the director is or was an officer or employee of the person or organization or because the person or organization recommended the appointment of the director. 2012, c. 4, Sch. B, s. 33.

Extension of indemnification and limited liability provisions

34 (1) The provisions of this Act that limit the liability or provide for the indemnification of a director or the Chair apply *mutatis mutandis* to a person appointed to a committee under Section 27, unless the context clearly indicates otherwise.

(2) The provisions of this Act that limit the liability or provide for the indemnification of a director, the Chair, or a person appointed to a committee under Section 27 apply to the individuals who formerly held these positions and to the personal representatives of any such individuals, unless the context clearly indicates otherwise. 2012, c. 4, Sch. B, s. 34.

Insurance and bonding

35 (1) The Corporation may obtain insurance or fidelity bonds in respect of those persons it considers appropriate.

(2) The persons referred to in subsection (1) may be insured or bonded in the amounts and in the manner considered appropriate by the Board.

(3) The cost of insurance or bonds referred to in subsection (1) must be paid out of the Superannuation Fund. 2012, c. 4, Sch. B, s. 35.

Liability insurance

36 (1) The Corporation may purchase and maintain such errors and omissions insurance or fiduciary liability insurance, or insurance of a similar nature or description, as it considers necessary for the Trustee, any director, the Chair, any person appointed to a committee under Section 27 or anyone else engaged in the administration or operation of the Pension Plan or the Superannuation Fund.

(2) The cost of the insurance referred to in subsection (1) must be paid out of the Superannuation Fund. 2012, c. 4, Sch. B, s. 36.

Plan's actuary

37 (1) The Corporation shall engage the services of an actuary to prepare all actuarial valuation reports and perform all actuarial valuations and related analyses required by this Act or otherwise required by the Corporation for the proper administration of the Pension Plan, and to provide such other services in relation to the Pension Plan and the Superannuation Fund as are required from time to time by the Corporation or Administrator.

(2) The fees of the plan's actuary must be paid from the Superannuation Fund. 2012, c. 4, Sch. B, s. 37.

No conflict of interest

38 (1) In this Section, "director" includes the Chair and any person appointed to a committee under Section 27.

(2) No director or employee of the Corporation shall knowingly permit that person's other interests to conflict with that person's powers, duties and responsibilities in respect of the Corporation, the Pension Plan or the Superannuation Fund, and in that regard directors and employees shall comply with any policy established by the Corporation under subsection (3).

(3) The Corporation shall make by-laws establishing the policy of the Corporation in respect of situations considered by the Corporation to constitute a conflict of interest or a potential conflict of interest relating to directors and employees of the Corporation including, without limiting the generality of the foregoing,

(a) the circumstances that constitute a conflict of interest or potential conflict of interest;

(b) the disclosure of a conflict of interest or potential conflict of interest; and

(c) the manner in which a conflict of interest or potential conflict of interest is to be resolved.

(4) An entitlement to a pension or other benefit under the Pension Plan does not constitute a conflict of interest. 2012, c. 4, Sch. B, s. 38.

Committee appointees

39 (1) Where the Board appoints a person to a committee under Section 27, the Board shall select the person and be satisfied of the person's qualifications and ability to perform the duties for which the person is appointed.

(2) The Board shall carry out such supervision of a person appointed to a committee as is prudent and reasonable.

(3) A person appointed to a committee under Section 27 is subject to the same duty of care as directors and is not entitled to any payment from the Superannuation Fund other than

(a) a pension benefit provided in accordance with the Pension Plan, if applicable;

(b) any expenses or remuneration authorized under Section 18 or otherwise provided for under this Act or the plan regulations; and

(c) any indemnification provided for under Section 29. 2012, c. 4, Sch. B, s. 39.

Delegation

40 (1) Subject to any limitations set out in this Act, the Corporation may employ or appoint agents and delegate to them the authority to carry out any act required to be done in the administration of the Pension Plan or in the administration and investment of the Superannuation Fund.

(2) Where the Corporation employs or appoints an agent, the Board shall select the agent and be satisfied of the agent's qualifications and suitability to perform the duties for which the agent is employed or appointed.

(3) The Board shall carry out such supervision of an agent as is prudent and reasonable.

(4) An agent is entitled to remuneration as determined by the Board, together with reimbursement of reasonable travel and other expenses necessarily incurred by the agent in carrying out the business of the Corporation, which amounts are a charge upon and must be paid out of the Superannuation Fund. 2012, c. 4, Sch. B, s. 40.

Restriction on benefits payable to directors, Chair and committee appointees

41 (1) In this Section, "director" includes the Chair and any person appointed to a committee under Section 27.

(2) No director is entitled to any benefit from the Pension Plan or Superannuation Fund other than

(a) a pension benefit provided in accordance with the Pension Plan, if applicable;

(b) any expenses or remuneration authorized under Section 18 or otherwise provided for under this Act or the plan regulations; and

(c) any indemnification provided for under Section 29. 2012, c. 4, Sch. B, s. 41.

Exemption from taxation

42 The Corporation, its property and assets are not subject to taxation. 2012, c. 4, Sch. B, s. 42.

Status of Corporation and employees

43 (1) The Corporation is not an agent of the Province.

(2) A person employed or engaged by the Corporation is not an officer, servant or agent of the Province. 2012, c. 4, Sch. B, s. 43.

GENERAL

Supervision and management

44 The Minister has the general supervision and management of this Act. 2012, c. 4, Sch. B, s. 44.

Administration of Pension Plan and Superannuation Fund

45 (1) The Trustee is responsible for all matters relating to the administration of the Pension Plan and the Superannuation Fund.

(2) The Trustee may, subject to this Act, delegate any matters it considers appropriate to other persons.

(3) The Administrator is the Nova Scotia Pension Agency.

(4) All reasonable costs, charges, fees and expenses incurred and payable in respect of the administration and governance of the Pension Plan and the management of the Superannuation Fund, including those relating to the Administrator, any external service providers and the Trustee, are a charge upon and must be paid out of the Superannuation Fund.

(5) Notwithstanding subsection (4), no expenses related to the administration of the supplementary pension provided for under Sections 82 to 86 or any other pension arrangement not referred to in subsection (4) are payable out of the Superannuation Fund.

(6) Where the Minister is Trustee, the Minister shall, within one hundred and twenty days of each fiscal year-end of the Province, provide to the Governor in Council an annual report of all proceedings during the preceding fiscal year and a statement showing the condition of the Superannuation Fund.

(7) Where the Minister is Trustee, the Minister may, through the Administrator, invest and deal with moneys in the Superannuation Fund in accordance with such investment policies as are established from time to time by the Minister as Trustee. 2012, c. 4, Sch. B, s. 45.

Pension Plan terms and governance

46 (1) The terms of the Pension Plan are set out in this Act and the plan regulations.

(2) The governance arrangements for the Pension Plan are set out in this Act, the plan regulations and such other documents as may be created or adopted from time to time in accordance with this Act or the plan regulations.

(3) Where the Trustee at any time determines that amendments to this Act are necessary or desirable, the Trustee shall provide to the Minister a report setting out the recommended amendments and the Minister shall introduce legislation at the next sitting of the House of Assembly to implement the recommended amendments.

(4) Where another enactment provides, or purports to provide, to any person plan eligibility and benefits superior to or in excess of those provided for

in this Act and the plan regulations, the incremental cost associated with such plan eligibility and benefits are not payable from the Superannuation Fund but are instead payable out of the General Revenue Fund or from such other source as is specified by the enactment. 2012, c. 4, Sch. B, s. 46.

Five-year reviews

47 (1) In 2017, and at least every five years thereafter, the Trustee shall cause a comprehensive review of the Pension Plan to be completed, pursuant to terms of reference set by the Trustee, by an independent reviewer having expertise in Canadian public pension plan structure and administration.

(2) The reviewer must be appointed by the Trustee and paid from the Superannuation Fund.

(3) The terms of reference of the appointment of the reviewer must require production and delivery of a written report to the Trustee within one hundred and twenty days following the appointment.

(4) The written report must include any recommendations for change that the reviewer considers appropriate as a result of the review.

(5) The Trustee shall review the report produced pursuant to subsections (3) and (4) and, where the report recommends any changes to this Act, the Trustee may submit to the Minister some or all of such recommendations.

(6) Upon receipt of the Trustee's recommended amendments to this Act pursuant to subsection (5), the Minister shall introduce legislation at the next sitting of the House of Assembly to implement the recommended amendments.

(7) Where the report produced pursuant to subsections (3) and (4) recommends changes to the plan regulations, the Trustee shall review the recommendations and consider making appropriate amendments to the plan regulations. 2012, c. 4, Sch. B, s. 47.

Application of Income Tax Act (Canada)

48 This Act must be administered in accordance with the *Income Tax Act* (Canada) and, where there is a conflict between this Act and the *Income Tax Act* (Canada), the *Income Tax Act* (Canada) prevails. 2012, c. 4, Sch. B, s. 48.

Trustee

49 (1) The Minister is the Trustee.

(2) Notwithstanding subsection (1), the Minister may appoint a replacement Trustee and, in such case, the Minister shall transfer the Minister's powers and duties as Trustee, as established under this Act and the plan regulations, to the replacement Trustee and, upon such transfer, the Minister shall no longer act as the Trustee and shall have no continuing legal liability for the Pension Plan in the Minister's capacity as Trustee of the Pension Plan.

(3) Upon the Minister appointing a replacement Trustee under subsection (2), no person has or may maintain any cause of action or claim against the Minister or the Province arising from or in relation to any act or failure to act of

the Minister in the Minister's capacity as Trustee of the Pension Plan occurring at any time prior to the appointment of the replacement Trustee.

(4) Upon being appointed, the replacement Trustee

(a) is responsible for providing all the benefits and meeting all the obligations that were previously the responsibility of the Minister as Trustee of the Pension Plan; and

(b) shall receive all contributions, revenues and other income owing to the Superannuation Fund, which contributions, revenues and other income must be used for the purpose of maintaining and enhancing the Pension Plan.

(5) Notwithstanding subsection 45(3), where the Minister appoints a replacement Trustee and a replacement Administrator is retained by the replacement Trustee, the Nova Scotia Pension Agency ceases to be the Administrator and has no continuing legal responsibility for the administration of the Pension Plan.

(6) Upon a replacement Administrator being retained, no person has or may maintain any cause of action or claim against the Nova Scotia Pension Agency, the Department of Finance and Treasury Board, the Province or the Minister, arising from or in relation to any act or failure to act of the Nova Scotia Pension Agency or the Department of Finance and Treasury Board as Administrator occurring at any time prior to the retention of the replacement Administrator.

(7) Where the Minister appoints a replacement Trustee, the Minister may enter into an agreement with the replacement Trustee in respect of any transitional matter related to the appointment of the replacement Trustee.

(8) The Province is not liable for any acts, omissions or obligations of

(a) a replacement Trustee; or

(b) any member of the board of directors or member of a committee of the board of directors of the Trustee, if the replacement Trustee is a corporation,

or obligations relating to the Superannuation Fund, and the Superannuation Fund shall bear sole liability for the acts, omissions and obligations of the replacement Trustee and, where the Trustee is a corporation, members of the board of directors and members of committees of the board of directors of the Trustee.

(9) The Province must be indemnified out of the Superannuation Fund against all costs, charges and expenses incurred by it in connection with any act, omission or obligation referred to in subsection (8). 2012, c. 4, Sch. B, s. 49; 2014, c. 34, s. 55.

Annual audit

50 (1) The accounts and investments of the Superannuation Fund must be audited annually by the Auditor General or such other auditor as the Minister may from time to time appoint.

(2) Where a replacement Trustee is appointed under subsection 49(2), subsection (1) no longer applies and, notwithstanding the *Auditor General Act* or any other enactment, the Trustee shall annually appoint an auditor who shall audit the accounts and investments of the Superannuation Fund and report to the Trustee. 2012, c. 4, Sch. B, s. 50.

Assignment and garnishment

51 (1) Subject to subsection (2) and any division of an allowance between spouses permitted in accordance with the plan regulations, the interest of any member, former member, spouse, former spouse, child or dependant in the Superannuation Fund under this Act or the plan regulations, and in any allowance granted under this Act or the plan regulations,

(a) must not be assigned, charged, anticipated, given as security or surrendered; and

(b) is not subject to garnishment, attachment, seizure or any legal process, except in respect of failure to account for public moneys.

(2) For the purpose of enforcing a maintenance order within the meaning of the *Maintenance Enforcement Act*, an allowance, including an allowance divided between spouses in accordance with the plan regulations, a survivor allowance and any other payment or entitlement under this Act or the plan regulations, is, for greater certainty, subject to, as applicable,

(a) a garnishment issued pursuant to the *Maintenance Enforcement Act*; or

(b) attachment by the Director of Maintenance Enforcement pursuant to the *Maintenance Enforcement Act*. 2012, c. 4, Sch. B, s. 51.

Powers of Trustee

52 (1) Subject to this Act, the Trustee may determine conclusively all matters relating to the operation and application of the Pension Plan.

(2) The Trustee may

(a) provide for proof to be furnished, satisfactory to the Trustee, regarding any factual matter stipulated under this Act or the plan regulations, before any allowance may be paid or other payment made under this Act or the regulations; and

(b) recognize institutions as educational institutions for the purpose of this Act and the plan regulations. 2012, c. 4, Sch. B, s. 52.

General Revenue Fund

53 (1) Where the Minister determines that money is owed by a current or former employer to the General Revenue Fund of the Province in respect of the Pension Plan or Superannuation Fund, the current or former employer shall immediately pay to the Province for deposit into the General Revenue Fund the amount of money determined to be owed.

(2) The Governor in Council may authorize the Minister to make payments from the General Revenue Fund of the Province, or receive payments into the General Revenue Fund, for the purpose of complying with or implementing any provision of this Act or the regulations. 2012, c. 4, Sch. B, s. 53.

Application of Act

54 (1) This Act does not apply to an employee who is in receipt of a pension or allowance or entitled to receipt of an immediate pension or allowance under a related plan.

(2) Subject to subsection (3), where a person to whom a superannuation allowance is being paid is employed within the meaning of the *Teachers' Pension Act*, the superannuation allowance paid under this Act to the person or in respect of the person's service must not be discontinued by reason only of that employment or of the circumstance that the *Teachers' Pension Act* applies to the person, but time during which that person is so employed must not be taken into account in computing an allowance payable under this Act or a pension payable under the *Teachers' Pension Act*.

(3) Subsection (2) ceases to apply if the Trustee determines and declares that the Pension Plan, as defined by the *Teachers' Pension Act*, is not a related plan. 2012, c. 4, Sch. B, s. 54.

FUNDING OF SUPERANNUATION FUND

Contributions

55 (1) An employee of an employer engaged in employment shall pay into the Pension Plan in accordance with this Act and the plan regulations.

(2) The employer of an employee referred to in subsection (1) shall, for each pay period, deduct from the salary of the employee and provide to the Administrator for deposit into the Superannuation Fund such amounts as are calculated on the basis of the contribution rates prescribed by plan regulations.

(3) Subject to this Act and the plan regulations, an employer referred to in subsection (2) shall match its employees' contributions to the Superannuation Fund, and shall provide such matching amounts to the Administrator for deposit into the Superannuation Fund at the same time as its employees' corresponding contributions are provided to the Administrator.

(4) An employee may acquire pensionable service in respect of prior employment or a duly authorized absence from employment, or otherwise as permitted by the plan regulations, in accordance with the purchase of service requirements prescribed by the plan regulations.

(5) Where the Trustee determines that an existing or former employer owes money to the Superannuation Fund, the existing or former employer shall immediately pay to the Administrator for deposit into the Superannuation Fund all such money determined to be owed.

(6) After the appointment of a replacement Trustee under subsection 49(2), the Minister shall not make any special payments into the Superannuation Fund on behalf of the Province. 2012, c. 4, Sch. B, s. 55.

Interest on money owed

56 The Trustee may charge interest, in accordance with the plan regulations, in respect of any money determined by the Trustee to be owed to the Superannuation Fund. 2012, c. 4, Sch. B, s. 56.

Employee with maximum number of years of pensionable service

57 (1) Any employee who has acquired the maximum number of years of pensionable service shall

- (a) make no further contributions to the Pension Plan; and
- (b) acquire no additional pensionable service.

(2) Subject to the plan regulations, the maximum number of years of pensionable service referred to in subsection (1) is thirty-five. 2012, c. 4, Sch. B, s. 57.

Insufficient money in Superannuation Fund

58 (1) Where at any time the Superannuation Fund is insufficient to make all payments required to be made under this Act, the Minister shall pay into the Superannuation Fund an amount out of the General Revenue Fund of the Province sufficient to enable such payments to be made.

(2) The obligation of the Minister under subsection (1) is an obligation on behalf of the Province, and not an obligation of the Minister in the capacity of Trustee of the Pension Plan. 2012, c. 4, Sch. B, s. 58.

Cessation of obligations

59 (1) Upon the appointment of a replacement Trustee by the Minister under subsection 49(2),

- (a) Section 58 ceases to have effect;
- (b) the Minister is only responsible for making those payments to the Superannuation Fund as the Minister as an employer is required to make under this Act and the plan regulations; and
- (c) the Minister is not liable to make any supplementary payments for the purpose of meeting any underfunding in the Pension Plan.

(2) Upon Section 58 ceasing to have effect due to the operation of subsection (1), and notwithstanding any contract, agreement, order or representation to the contrary given, made or delivered at any time, no person has or may maintain any cause of action or claim against the Province, the Minister, the Trustee or any other person arising from or in relation to the cessation of the obligation of the Minister under Section 58 or the failure of the Minister to make any payment contemplated by Section 58. 2012, c. 4, Sch. B, s. 59.

Termination and wind-up

60 (1) Where the Superannuation Fund is to be terminated and wound up, the assets of the Superannuation Fund must be used to meet the accrued benefit entitlements of members, former members and any other persons entitled to a benefit under the Pension Plan before any other distribution may be made.

(2) Where the assets of the Superannuation Fund are insufficient to secure the benefit entitlements referred to in subsection (1), the assets of the Superannuation Fund must be allocated to members, former members and any other persons entitled to a benefit under the Pension Plan on a pro-rated basis, based on the actuarial present value of the accrued benefits of such persons as of the date of the wind-up, and distributed in the manner prescribed by the plan regulations.

(3) No employee or employer is required to pay any additional amount to the Pension Plan in respect of a shortfall in the Superannuation Fund upon the wind-up of the Pension Plan. 2012, c. 4, Sch. B, s. 60.

**RETIREMENT AND ELIGIBILITY FOR
SUPERANNUATION ALLOWANCE****Retirement**

61 A member or former member, other than a retiree, may retire in accordance with the ages and years of eligible service requirements prescribed by the plan regulations. 2012, c. 4, Sch. B, s. 61.

Entitlement to allowance

62 (1) Subject to this Act and the plan regulations, a superannuation allowance not exceeding the allowance authorized by this Act and the plan regulations must be paid to every member or former member whose interest in the Pension Plan is vested and who retires.

(2) A superannuation allowance payable under subsection (1) must not be paid while the member or former member owes contributions or other money to the Superannuation Fund. 2012, c. 4, Sch. B, s. 62.

**DETERMINATION OF ALLOWANCE
AMOUNTS AND OTHER PAYMENTS****Amount of annual superannuation allowance**

63 The amount of an annual superannuation allowance must be determined in accordance with the plan regulations and is payable in accordance with the terms and limitations prescribed by the plan regulations. 2012, c. 4, Sch. B, s. 63.

Amount of annual survivor allowance

64 The amount of an annual survivor allowance must be determined in accordance with the plan regulations and is payable in accordance with the terms and limitations prescribed by the plan regulations. 2012, c. 4, Sch. B, s. 64.

Amount of other payment

65 The amount of any other payment from the Superannuation Fund authorized under this Act or the plan regulations, including, without limiting the generality of the foregoing, a refund of contributions or a commuted value, must be determined in accordance with the plan regulations and is payable in accordance with the terms and limitations prescribed by the plan regulations. 2012, c. 4, Sch. B, s. 65.

COST-OF-LIVING ADJUSTMENTS
AND ADJUSTMENTS TO
CONTRIBUTION RATES AND
PLAN ELIGIBILITY AND BENEFITS

Adjustments where funded ratio below 100% but at or above 96%

66 (1) Where, in a five-year actuarial valuation report, the funded ratio of the Pension Plan is below one hundred per cent but at or above ninety-six per cent, the Trustee may amend the plan regulations to increase the average blended contribution rate by up to one percentage point, so as to achieve the Funding Target based on a projection of the Pension Plan's financial position using the plan's going-concern actuarial assumptions for funding purposes and in consideration of any other actions required under this Act.

(2) An increase of contribution rates under subsection (1) may occur only to the extent that the average blended contribution rate for each of employees and employers does not exceed the maximum rate permitted under the *Income Tax Act* (Canada) and applicable Canada Revenue Agency rules and policies and, when such maximum percentage contribution rate is reached, there must be no further increase of contribution rates. 2012, c. 4, Sch. B, s. 66.

Adjustments where funded ratio below 96% but at or above 90%

67 (1) Where, in a five-year actuarial valuation report, the funded ratio of the Pension Plan is below ninety-six per cent but at or above ninety per cent, the Trustee shall immediately amend the plan regulations to increase the average blended contribution rate, so as to achieve the Funding Target based on a projection of the Pension Plan's financial position using the plan's going-concern actuarial assumptions for funding purposes and in consideration of any other actions required under this Act.

(2) An increase of contribution rates under subsection (1) may occur only to the extent that the average blended contribution rate for each of employees and employers does not exceed the maximum rate permitted under the *Income Tax Act* (Canada) and applicable Canada Revenue Agency rules and policies and, when the maximum percentage contribution rate is reached,

(a) there must be no further increase of contribution rates;
and

(b) the Trustee shall adjust plan eligibility and benefits so as to achieve the Funding Target based on a projection of the Pension Plan's financial position using the plan's going-concern actuarial assumptions for funding purposes and in consideration of any other actions required under this Act. 2012, c. 4, Sch. B, s. 67.

Adjustments where funded ratio below 90%

68 (1) Where, in a five-year actuarial valuation report, the funded ratio of the Pension Plan is below ninety per cent, the Trustee shall immediately amend the plan regulations to

(a) increase the average blended contribution rate to at least the level that would be required under subsection 67(1) if the funded ratio of the Pension Plan was at ninety per cent; and

(b) after accounting for the increase in the average blended contribution rate under clause (a), adjust plan eligibility and benefits,

such that the combination of the contribution rate increase under clause (a) and the adjustment of plan eligibility and benefits, if any, under clause (b) achieves the Funding Target based on a projection of the Pension Plan's financial position using the plan's going-concern actuarial assumptions for funding purposes and in consideration of any other actions required under this Act.

(2) An increase of contribution rates under clause (1)(a) may occur only to the extent that the average blended contribution rate for each of employees and employers does not exceed the maximum rate permitted under the *Income Tax Act* (Canada) and applicable Canada Revenue Agency rules and policies and, when such maximum percentage contribution rate is reached, there must be no further increase of contribution rates and any further amendments to the Pension Plan necessary to achieve the Funding Target must be by way of the adjustment of plan eligibility and benefits only. 2012, c. 4, Sch. B, s. 68.

Cost-of-living adjustments for 2011 to 2015

69 (1) A superannuation allowance or other allowance being paid under this Act or the former Act on December 31, 2010, inclusive of any cost-of-living adjustments made by that date, must be increased by one and a quarter per cent, or a lesser percentage in accordance with subsection (3) or (4), on January 1, 2011, and thereafter the superannuation allowance or other allowance together with accumulated cost-of-living adjustments made under this Section must be further increased by one and a quarter per cent effective January 1st in each of 2012, 2013, 2014 and 2015.

(2) A superannuation allowance or other allowance that commences payment under this Act on or after January 1, 2011, but before January 1, 2014, must be increased by one and a quarter per cent, or a lesser percentage in accordance with subsection (3) or (4), on January 1st of the immediately following calendar year, and thereafter the superannuation allowance or other allowance together with accumulated cost-of-living adjustments made under this Section must be further increased by one and a quarter per cent effective January 1st in each succeeding year until and including January 1, 2015.

(3) For any superannuation allowance or other allowance that commences payment under this Act on or after January 1, 2010, but before January 1, 2015, where the date payment commences is other than January 1st, the one and a quarter per cent cost-of-living increase referred to in subsections (1) and (2), and applicable to the next following January 1st, must be reduced so as to be proportionate to the part of the calendar year for which the allowance is paid.

(4) Subsection (3) does not apply to an allowance that commences payment to the survivor of an employee in receipt of a superannuation allowance under this Act unless that employee died in the calendar year during which the allowance commenced payment to the employee, in which case the cost-of-living increase referred to in subsections (1) and (2), and applicable to the next following January 1st, must be reduced so as to be proportionate to the part of the calendar year for which an allowance is paid to the employee and the survivor. 2012, c. 4, Sch. B, s. 69.

Cost-of-living adjustments and application of surplus for 2016 to 2020

70 (1) Subject to this Act, the cost-of-living increase, if any, for the five-year cycle commencing January 1, 2016, and ending December 31, 2020, must be determined by the Trustee based on the advice of the plan's actuary and the funded ratio of the Pension Plan as at December 31, 2014, as set out in an actuarial valuation report, to be completed no later than June 30, 2015, made as at December 31, 2014.

(2) A superannuation allowance or other allowance being paid under this Act or the former Act on December 31, 2015, inclusive of any cost-of-living adjustments made by that date, must be further adjusted for the five-year cycle commencing January 1, 2016, and ending December 31, 2020, based on the Trustee's declared five-year cost-of-living increase for the period, if any, subject to the following requirements:

(a) where the funded ratio of the Pension Plan as at December 31, 2014, is below one hundred per cent, there must be no increase for cost of living during the five-year cycle commencing January 1, 2016, and ending December 31, 2020;

(b) where the funded ratio of the Pension Plan as at December 31, 2014, is at least one hundred per cent and below one hundred and ten per cent, the Trustee shall

(i) use the amount of the funded ratio in excess of one hundred per cent to fund a strategic reserve, with the amount of the excess funded ratio allocated to funding of the strategic reserve to be not less than the following:

FUNDED RATIO	PERCENTAGE OF FUNDED RATIO ABOVE 100% TO STRATEGIC RESERVE
100% - 100.99%	5%
101% - 101.99%	10%
102% - 102.99%	15%
103% - 103.99%	20%
104% - 104.99%	25%
105% - 105.99%	30%
106% - 106.99%	35%
107% - 107.99%	40%
108% - 108.99%	45%

109% - 109.99%

50%

and

(ii) use the balance of the amount of the funded ratio in excess of one hundred per cent to increase any superannuation allowance or other allowance being paid under this Act or the former Act on December 31, 2015, inclusive of any cost-of-living adjustments made by that date, by a percentage, which may include zero per cent, determined by the Trustee based on the actuarial valuation report referred to in subsection (1), if the funded ratio of the Pension Plan over the immediately following five-year period is forecast to be at least one hundred per cent, or by a pro-rated amount of such percentage in accordance with subsection (5) or (6), effective January 1, 2016, and thereafter the superannuation allowance or other allowance together with accumulated cost-of-living adjustments made under this Act must be further increased by the same percentage effective January 1st in each of 2017, 2018, 2019 and 2020;

(c) where the funded ratio of the Pension Plan as at December 31, 2014, is at least one hundred and ten per cent and below one hundred and twenty per cent, the Trustee shall

(i) use at least one half of the amount of the funded ratio in excess of one hundred per cent to fund a strategic reserve,

(ii) after application of the excess funded ratio in accordance with subclause (i), use at least one half of the balance of the amount of the funded ratio in excess of one hundred per cent, if any, to increase any superannuation allowance or other allowance being paid under this Act or the former Act on December 31, 2015, inclusive of any cost-of-living adjustments made by that date, by a percentage supportable by such portion of the excess funded ratio, or by a pro-rated amount of such percentage in accordance with subsection (5) or (6), effective January 1, 2016, and thereafter the superannuation allowance or other allowance together with accumulated cost-of-living adjustments made under this Act must be further increased by the same percentage effective January 1st in each of 2017, 2018, 2019 and 2020, and

(iii) after application of the excess funded ratio in accordance with subclauses (i) and (ii), use the balance of the amount of the funded ratio in excess of one hundred per cent, if any, to amend the plan regulations to decrease contribution rates or make positive adjustments to plan eligibility and benefits, or some combination of the two, effective January 1, 2016, with the allocation of this balance of the amount of the funded ratio in excess of one hundred per cent to be in the sole discretion of the Trustee;

(d) where the funded ratio of the Pension Plan as at December, 31 2014, is at least one hundred and twenty per cent, the Trustee shall

(i) use one half of the funded ratio in excess of one hundred and twenty per cent to increase any superannuation allowance or other allowance being paid under this Act or the former Act on December 31, 2015, inclusive of any cost-of-living adjustments made by that date, by a percentage supportable by such portion of the excess funded ratio, or by a pro-rated amount of such percentage in accordance with subsection (5) or (6), effective January 1, 2016, and thereafter the superannuation allowance or other allowance together with accumulated cost-of-living adjustments made under this Act must be further increased by the same percentage effective January 1st in each of 2017, 2018, 2019 and 2020,

(ii) use one half of the funded ratio in excess of one hundred and twenty per cent to amend the plan regulations to decrease contribution rates or make positive adjustments to plan eligibility and benefits, or some combination of the two, effective January 1, 2016, with the allocation of this balance of the amount of the funded ratio in excess of one hundred and twenty per cent to be in the sole discretion of the Trustee,

(iii) use at least one half of the amount of the funded ratio between one hundred per cent and one hundred and twenty per cent to fund a strategic reserve,

(iv) after application of the portion of the excess funded ratio in accordance with subclause (iii), use at least one half of the balance of the amount of the funded ratio between one hundred per cent and one hundred and twenty per cent, if any, to increase any superannuation allowance or other allowance being paid under this Act or the former Act on December 31, 2015, inclusive of any cost-of-living adjustments made by that date, by a percentage supportable by such portion of the excess funded ratio, or by a pro-rated amount of such percentage in accordance with subsection (5) or (6), effective January 1, 2016, and thereafter the superannuation allowance or other allowance together with accumulated cost-of-living adjustments made under this Act must be further increased by the same percentage effective January 1st in each of 2017, 2018, 2019 and 2020, and

(v) after application of the portion of the excess funded ratio in accordance with subclauses (iii) and (iv), use the balance of the amount of the funded ratio between one hundred per cent and one hundred and twenty per cent, if any, to amend the plan regulations to decrease contribution rates by a percentage supportable by such portion of the excess funded ratio, effective January 1, 2016,

with the allocation of the amount of the funded ratio between one hundred per cent and one hundred and twenty per cent for the purposes of subclauses (iii), (iv) and (v) to be in the sole discretion of the Trustee if not otherwise specified.

(3) The amount of annual cost-of-living increase, if any, referred to in subsection (2) and applicable to the five-year cycle commencing January 1,

2016, and ending December 31, 2020, must be declared by the Trustee within thirty days of being determined pursuant to subsection (1).

(4) A superannuation allowance or other allowance under this Act that commences payment on or after the January 1, 2016, must

(a) receive no cost-of-living increase for the calendar years 2017, 2018, 2019 and 2020 if the funded ratio of the Pension Plan as at December 31, 2014, is less than one hundred per cent; or

(b) where the funded ratio of the Pension Plan as at December 31, 2014, is at least one hundred per cent, be increased by the percentage, if any, determined by the Trustee pursuant to clause (2)(b), (c) or (d), as applicable, for the five-year cycle commencing January 1, 2016, and ending December 31, 2020, or a pro-rated amount of such percentage in accordance with subsection (5) or (6), effective January 1st of the calendar year immediately following the calendar year in which the allowance commenced payment, and thereafter the superannuation allowance or other allowance together with accumulated cost-of-living adjustments made under this Section must be further increased by the same percentage effective January 1st in each succeeding year until and including January 1, 2020.

(5) Where the date on which a superannuation allowance or other allowance payable under this Act commences payment after January 1, 2015, but before January 1, 2020, is other than January 1st, the percentage cost-of-living increase determined by the Trustee pursuant to clause (2)(b), (c) or (d), as applicable, for the five-year cycle commencing January 1, 2016, and ending December 31, 2020, and applicable to the next following January 1st, must be reduced so as to be proportionate to the part of the calendar year for which the allowance is paid.

(6) Subsection (5) does not apply to an allowance that commences payment to the survivor of an employee in receipt of a superannuation allowance under this Act unless that employee died in the calendar year that the allowance commenced payment to the employee, in which case the cost-of-living increase referred to in clause (2)(b), (c) or (d), as applicable, for the five-year cycle commencing January 1, 2016, and ending December 31, 2020, and applicable to the next following January 1st, must be reduced so as to be proportionate to the part of the calendar year for which an allowance is paid to the employee and the survivor.

(7) Notwithstanding anything else in this Section, the cumulative cost-of-living adjustment for the five-year cycle commencing January 1, 2016, and ending December 31, 2020, must not exceed

(a) where the funded ratio of the Pension Plan as at December 31, 2014, is at least one hundred per cent and below one hundred and ten per cent, one half of the average annual inflation rate for the five-year period ending on the date of the actuarial valuation report in respect of the five-year cycle commencing January 1, 2016, and ending December 31, 2020; or

(b) where the funded ratio of the Pension Plan as at December 31, 2014, is at least one hundred and ten per cent, the average annual inflation rate for the five-year period ending on the date of

the actuarial valuation report in respect of the five-year cycle commencing January 1, 2016, and ending December 31, 2020.

(8) Where any portion of an excess funded ratio referred to in subclause (2)(b)(ii), (c)(ii), (d)(ii) or (d)(iv) cannot be applied to a cost-of-living adjustment because of the limitation prescribed by subsection (7), that portion of the excess funded ratio shall be added to the strategic reserve notwithstanding any other provision of this Act purporting to limit the strategic reserve.

(9) Notwithstanding anything else in this Section, any positive adjustments to plan eligibility and benefits must not exceed the eligibility and benefit levels in existence as at April 1, 2010.

(10) Where any portion of an excess funded ratio referred to in subclause (2)(d)(ii) cannot be applied to positive adjustments to plan eligibility and benefits because of the limitation set out in subsection (9), that portion of the excess funded ratio must be added to the strategic reserve notwithstanding any other provision of this Act purporting to limit the strategic reserve.

(11) Where this Section requires or permits the Trustee to fund a strategic reserve, the Trustee must leave the portion of the funded ratio in excess of one hundred per cent being allocated to the strategic reserve in the Superannuation Fund.

(12) Subject to Sections 73 and 74, once determinations in respect of cost-of-living adjustments, contribution rates, funding of a strategic reserve, and plan eligibility and benefits are made for each five-year cycle, based on the five-year actuarial valuation reports, the Trustee shall have no further ability to amend any such determinations until the following five-year cycle.

(13) For the purpose of Sections 66 to 75,

(a) the funded ratio of the Pension Plan as at December 31, 2014 before any decision is taken by the Trustee must be determined assuming no cost-of-living increases for the five-year cycle commencing January 1, 2016, and ending December 31, 2020; and

(b) the funded ratio of the Pension Plan as at each of December 31, 2019, and December 31, 2024, for the purpose of assessing whether a Funding Target requirement has been satisfied, must be determined reflecting the cost-of-living increases and contribution rates set by the Trustee for the five-year cycle commencing January 1, 2016, and ending December 31, 2020. 2012, c. 4, Sch. B, s. 70.

Cost-of-living adjustments and application of surplus beyond 2020

71 The principles, timelines and processes prescribed by Section 70 apply, *mutatis mutandis*, to cost-of-living increases, if any, and to the application of any surplus in the Superannuation Fund, for each five-year cycle commencing after December 31, 2020. 2012, c. 4, Sch. B, s. 71.

No cost-of-living adjustment for deferred allowance

72 From and after January 1, 2011, a deferred allowance payable under this Act must not commence or continue to be credited with any cost-of-living

adjustment in respect of the period prior to which the allowance commences payment. 2012, c. 4, Sch. B, s. 72.

Adjustments where significant decline in funded ratio

73 (1) Notwithstanding any other provision of this Act, where, during any five-year cycle, with the advice of the plan's actuary and other relevant advisors, the Trustee at any time has reason to believe that the funded ratio of the Pension Plan has, because of the then-current economic situation or other extraordinary circumstances, declined so as to be

(a) less than one hundred per cent; and

(b) at least fifteen percentage points below the funded ratio set out in the actuarial valuation report for the five-year cycle,

the Trustee shall immediately amend the plan regulations to increase contribution rates and adjust plan eligibility and benefits, if necessary, to achieve the Funding Target based on a projection of the Pension Plan's financial position using the plan's going-concern actuarial assumptions for funding purposes and in consideration of any other actions required under this Act, with such amendments to achieve the Funding Target to be based on the funded ratio of the Pension Plan and in accordance with the actions prescribed by Section 66, 67 or 68, as applicable.

(2) For greater certainty, the increase in contribution rates and any other changes to the Pension Plan required under subsection (1) may be made by the Trustee more than once in any five-year cycle referred to in subsection (1).

(3) Notwithstanding any other provision of this Act, where, during any five-year cycle, with the advice of the plan's actuary and other relevant advisors, the Trustee at any time has reason to believe that the funded ratio of the Pension Plan has, because of the then-current economic situation or other extraordinary circumstances, declined so as to be

(a) less than one hundred per cent; and

(b) at least ten and less than fifteen percentage points below the funded ratio set out in the actuarial valuation report for the five-year cycle,

the Trustee may amend the plan regulations to increase contribution rates and adjust plan eligibility and benefits to achieve the Funding Target based on a projection of the Pension Plan's financial position using the plan's going-concern actuarial assumptions for funding purposes and in consideration of any other actions required under this Act, with such amendments to achieve the Funding Target to be based on the funded ratio of the Pension Plan and in accordance with the actions prescribed by Section 66, 67 or 68, as applicable.

(4) For greater certainty, the increase in contribution rates and any other changes to the Pension Plan permitted under subsection (3) may be made by the Trustee more than once in any five-year cycle referred to in subsection (3).

(5) For greater certainty, any adjustment in plan eligibility and benefits pursuant to subsections (1), (2), (3) and (4) is in the discretion of the Trustee.

(6) The Trustee shall promptly notify all affected employees and employers of any change to contribution rates and plan eligibility and benefits determined by the Trustee. 2012, c. 4, Sch. B, s. 73.

Cost-of-living adjustments where significant decline in funded ratio

74 (1) Notwithstanding any other provision of this Act, during any five-year cycle commencing on or after January 1, 2016, where, with the advice of the plan's actuary and other relevant advisors, the Trustee at any time has reason to believe that the funded ratio of the Pension Plan has, because of the then-current economic situation or other extraordinary circumstances, declined so as to be

(a) less than one hundred per cent; and

(b) fifteen percentage points or more below the funded ratio set out in the actuarial valuation report for that five-year cycle,

the Trustee shall declare the annual cost-of-living increase effective the next following January 1st to be zero.

(2) Where the Trustee declares an annual cost-of-living increase to be zero under subsection (1), the Trustee shall monitor the economic situation or other extraordinary circumstances that prompted the declaration and may, with the advice of the plan's actuary and other relevant advisors, declare further scheduled cost-of-living increases within that five-year cycle to also be zero.

(3) An annual cost-of-living increase payable but for subsections (1) and (2) does not accumulate and is not otherwise payable at a future time. 2012, c. 4, Sch. B, s. 74.

Cost-of-living adjustments

75 (1) A superannuation allowance or other allowance being paid under this Act or the former Act on December 31, 2010, or that commences payment after December 31, 2010, must be adjusted for cost of living in accordance only with Sections 69 to 72 and 74.

(2) Notwithstanding any prior enactment, or any contract, agreement, order or representation relating to, fixing or in any manner referencing a cost-of-living adjustment applicable to any superannuation allowance or other allowance under this Act or the former Act, the amount of any such cost-of-living adjustment must be determined solely in accordance with Sections 69 to 72 and 74.

(3) No person has or may maintain any cause of action or claim against the Province, the Minister, the Trustee or any other person arising from or in relation to a prior enactment, contract, agreement, order or representation referred to in subsection (2). 2012, c. 4, Sch. B, s. 75.

REFERENCE TO ARBITRATION PANEL

Appointment

76 (1) Where the Trustee is required to

(a) amend contribution rates or plan benefits, or some combination thereof, under Section 66, 67, 68 or 73; or

(b) make a determination regarding the application of any surplus in the Superannuation Fund under Section 70 or 71,

and the directors are unable to reach a decision within ninety days following the earliest date upon which the Board could reasonably have commenced consideration of the options, the Chair shall forthwith notify the Government directors and non-Government directors in writing of the initiation of the arbitration process prescribed by this Section and require each of those groups of directors to, within ten days, appoint a person to act as a member of the arbitration panel.

(2) Where the non-Government directors are unable to unanimously agree on the appointment of a person to the arbitration panel within the period specified in subsection (1), a majority of the non-Government directors shall make the appointment within the next following ten days, failing which the Superintendent of Pensions for the Province shall appoint a person from the list referred to in subsection (3), or otherwise in the discretion of the Superintendent if there are no names on the list, to act as the member of the panel representing the non-Government directors.

(3) The two persons appointed to act as members of the arbitration panel shall, within ten days of the date the second person is appointed, appoint a third person to act as a member and chair of the arbitration panel from a list maintained by the Government directors and non-Government directors of qualified and acceptable individuals who are experts in respect of the funding of public pension plans in Canada.

(4) Where the two members of the arbitration panel appointed under subsection (1) and, where necessary, subsection (2) fail to appoint a person as the third member of the panel and chair within the period specified in subsection (3), the Chair shall forthwith notify the Superintendent of Pensions for the Province and the Superintendent shall appoint a person from the list referred to in subsection (3), or otherwise in the discretion of the Superintendent if there are no names on the list, to act as the third member and chair of the panel.

(5) Where the Superintendent of Pensions for the Province is required under subsection (4) to appoint a person as the third member and chair of the arbitration panel and there are no names on the list referred to in subsection (3), the Superintendent shall conduct a search of individuals who are experts in respect of the funding of public pension plans in Canada and appoint one such person to act as the third member and chair of the panel.

(6) No person may be appointed a member of an arbitration panel who

- (a) is or was a director or Chair;
- (b) has any direct pecuniary interest in the matters coming before the panel;
- (c) is acting or has, within the immediately preceding six months, acted as a solicitor, counsel or agent of the Trustee, the Chair, any director or any party that appointed a director; or
- (d) is or was an employee of the Administrator. 2012, c. 4, Sch. B, s. 76.

Duties and jurisdiction

77 (1) Where three persons are appointed to act as members of an arbitration panel, the Chair, by notice in writing to the chair of the panel, shall

(a) establish the members as an arbitration panel for the purposes of this Section; and

(b) provide to the chair of the panel a list of the options considered by the Trustee to achieve the requirements referred to in subsection 76(1), and which the Chair wishes to refer to the arbitration panel, together with identification of the issues encountered by the Trustee and the reasons for its inability to make the decisions.

(2) The arbitration panel has the jurisdiction to determine and render a decision only in respect of those matters referred to it by the Chair.

(3) The arbitration panel shall avail itself of expert actuarial advice and such other advice as it considers appropriate.

(4) The arbitration panel may set its own procedure but shall give full opportunity to the Chair, the Government directors and the non-Government directors to be heard.

(5) In the conduct of proceedings before it and in rendering a decision, the arbitration panel

(a) shall apply fiduciary principles; and

(b) may consider any factor that to it appears to be relevant.

(6) An arbitration panel remains constituted until it is dissolved by the Chair by notice in writing to the chair of the arbitration panel. 2012, c. 4, Sch. B, s. 77.

Replacement of member or chair

78 (1) Where a member of an arbitration panel ceases to act by reason of resignation, death or otherwise before the panel has completed its work,

(a) the directors responsible for the appointment of the member shall, within ten days of the member so ceasing to act, appoint a replacement and provide written notice to the other members of the panel and the Chair of the name and address of the replacement member; or

(b) where the directors responsible for the appointment fail to appoint a replacement director or provide written notice in accordance with clause (a), the Superintendent of Pensions for the Province shall appoint as a replacement such person as the Superintendent considers suitable, and the arbitration panel shall continue to function as if the replacement member were a member of the panel from the beginning.

(2) Where the chair of an arbitration panel is unable to enter on or to carry on his or her duties so as to enable the panel to render a decision within the time specified in subsection 79(1), a replacement chair and third member of the

panel must forthwith be appointed in accordance with subsections 76(3) to (5) and the arbitration must begin *de novo*. 2012, c. 4, Sch. B, s. 78.

Decision

79 (1) The arbitration panel shall reach a decision appropriate to achieve the requirements referred to in subsection 76(1) within ninety days of being engaged to do so, and shall communicate its decision in writing to the Chair forthwith.

(2) The decision of the arbitration panel made pursuant to subsection (1) is

(a) subject to the limitations set out in subsections 88(1) and (2);

(b) binding on all members and former members, and any party deriving a benefit through a member or former member; and

(c) a decision of the Trustee for the purpose of this Act,

and the Trustee shall forthwith implement the arbitration panel's decision including, if necessary, by amending the plan regulations.

(3) The decision of the majority of the members of the arbitration panel is the decision of the panel, but where there is no majority, the decision of the chair of the panel is the decision of the panel. 2012, c. 4, Sch. B, s. 79.

Remuneration and expenses

80 The reasonable remuneration and expenses of the members of the arbitration panel must be fixed by the Chair and paid out of the Superannuation Fund. 2012, c. 4, Sch. B, s. 80.

CANADA PENSION PLAN

Integration of allowance with Canada Pension Plan

81 (1) The superannuation allowance earned under the Pension Plan by a member or former member who participates in and has contributed to the *Canada Pension Plan* must be integrated with the pension benefits earned under the *Canada Pension Plan* and must be calculated as prescribed by the plan regulations.

(2) A survivor allowance payable under the Pension Plan to a spousal, child or dependant survivor of a member or former member who participated in and contributed to the *Canada Pension Plan* must be integrated with the pension benefits earned under the *Canada Pension Plan* and must be calculated as prescribed by the plan regulations.

(3) For the purpose of subsection (1), a person who is not exempt from participation in the *Canada Pension Plan* is deemed to be entitled to commencement of a pension under the *Canada Pension Plan* at age sixty-five, regardless of whether the person applies for and receives a pension under the *Canada Pension Plan* at that time. 2012, c. 4, Sch. B, s. 81.

SUPPLEMENTARY PENSIONS

Entitlement to supplementary pension

82 Subject to Section 84, where an employee retires or has retired pursuant to the terms of the Pension Plan and the pension calculated under the terms of the Pension Plan without reference to the maximum pension rules under the *Income Tax Act* (Canada) is greater than the maximum retirement benefit prescribed by that Act, the employee is entitled to a supplementary pension equal to the difference between the two, on the same terms and conditions as the pension payable pursuant to the rules of the Pension Plan and that Act. 2012, c. 4, Sch. B, s. 82.

Payment of supplementary pension

83 The cost of a supplementary pension under to Section 82 is not payable from the Superannuation Fund but must be paid

(a) where the employee is employed by the Province or a school board, from the General Revenue Fund of the Province; or

(b) where the employee is employed by an employer other than the Province or a school board, directly by the employer. 2012, c. 4, Sch. B, s. 83.

Pension contributions by employer

84 Notwithstanding any provision of this Act, the pension contributions made by the Province or any other employer to the Superannuation Fund in respect of an employee must be made only on those salaries up to a level equal to the salaries upon which the maximum pension payable pursuant to the *Income Tax Act* (Canada) is calculated. 2012, c. 4, Sch. B, s. 84.

Application of Section 82

85 (1) Notwithstanding Section 82 and clause 83(b), an employer, other than the Province or a school board, may advise the Minister and the Trustee, in writing, at any time that Section 82 does not apply to its employees, in which case the limitation on Pension Plan contributions referred to in Section 84 applies to the employer and its employees.

(2) An employer may, with the written consent of the Minister, subject to the *Income Tax Act* (Canada) and in accordance with the terms and conditions prescribed by the regulations made under Section 86, revoke its notice under subsection (1). 2012, c. 4, Sch. B, s. 85.

Supplementary pension regulations

86 (1) The Governor in Council may make regulations

(a) respecting supplementary pensions under Sections 82 to 85;

(b) defining any word or expression used but not defined in Sections 82 to 85;

(c) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of Sections 82 to 85.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2012, c. 4, Sch. B, s. 86.

PLAN REGULATIONS

Regulations by Governor in Council

- 87 (1) The Governor in Council may make regulations
- (a) prescribing contribution rates and plan eligibility and benefits;
 - (b) prescribing a rate or rates of interest and the manner of calculating the same for the purpose of this Act and the regulations;
 - (c) designating any person or member of a class of persons as a special class, and establishing a maximum salary from which contributions may be made and paid into the Superannuation Fund in respect of that special class;
 - (d) prescribing which years of contributions may be used in determining a superannuation allowance payable under this Act and the regulations;
 - (e) fixing payment periods and determining the terms and conditions for the purchase of prior service;
 - (f) prescribing a class or classes of part-time employees to be employees for the purpose of this Act and the regulations, and prescribing for such employees the calculation of
 - (i) contributions to the Superannuation Fund,
 - (ii) service for determining entitlement to a superannuation allowance, and
 - (iii) service and salary for determining the amount of the superannuation allowance;
 - (g) determining whether, and to what extent and under what conditions,
 - (i) employment of an employee by any employer is prescribed as employment for the purpose of this Act and the regulations,
 - (ii) transfers or payments may be made from the Superannuation Fund to another pension fund, or to the Superannuation Fund from another pension fund,
 - (iii) a person or member of a class of persons is deemed to be and to have been an employee for the purpose of this Act and the regulations,
 - (iv) a survivor allowance may be paid to such person as the Trustee directs to hold in trust for the benefit of a person entitled to such allowance who has not attained the age of nineteen years or who is not capable of managing the person's own affairs by reason of disability, illness or other cause,
 - (v) an allowance may be divided between spouses,

(vi) an allowance or other payment from the Superannuation Fund may be made in the situation of a member or former member dying

(A) before becoming eligible to receive a superannuation allowance,

(B) before retiring, or

(C) while in receipt of a superannuation allowance;

(h) prescribing the maximum number of years of pensionable service for the purpose of Section 57;

(i) prescribing anything that, by this Act, is required to be prescribed or is to be determined or regulated by the regulations;

(j) defining any word or expression used but not defined in this Act;

(k) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) A regulation made by the Governor in Council under subsection (1) that affects contribution rates or plan eligibility and benefits is subject to the *Income Tax Act* (Canada) and the limitations prescribed by subsection 88(1).

(3) In the event of a conflict between a regulation made under clause (1)(i) and Section 57, the regulation made under clause (1)(i) prevails.

(4) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2012, c. 4, Sch. B, s. 87.

Regulations by Trustee

88 (1) Immediately following the making of the initial regulations by the Governor in Council under Section 87, the Trustee shall, subject to subsection (2), assume the power conferred upon the Governor in Council to make and amend regulations in respect of the matters set out in clauses 87(1)(a) to (i), and the Governor in Council has no continuing power to make and amend regulations under those clauses.

(2) The Trustee, upon assuming the power to make and amend regulations under clauses 87(1)(a) to (i), is subject to the following limitations:

(a) the Trustee may only amend contribution rates and plan eligibility and benefits in accordance with the authority to do so provided to it under Sections 66 to 75;

(b) any change in

(i) the percentage rate of accrual of benefit per year of service, or

(ii) the formula for determination of highest average salary,

used for the purpose of calculating the amount of an allowance must not affect the percentage rate of accrual of benefit per year of service or the formula for determination of highest average salary that was applicable immediately before the change came into effect;

(c) any change to eligibility criteria for receiving a superannuation allowance or deferred allowance must not take effect until at least one hundred and twenty days following the issuance of a general notification by the Trustee to all members and former members of record;

(d) any change to eligibility criteria for receiving a superannuation allowance or deferred allowance applies to any member or former member who, on or before the last day of the notification period referred to in clause (c), has not both

(i) met the eligibility criteria in place immediately before the change such that the member or former member became entitled to receive a superannuation allowance or deferred allowance, and

(ii) elected, by written notice sent to and actually received by the Administrator, to immediately commence receipt of the allowance;

(e) the Trustee may not amend the base benefit amount, inclusive of any accumulated cost-of-living adjustments, of a superannuation allowance that has commenced payment, but may only determine prospective cost-of-living adjustments applicable to a superannuation allowance in accordance with the authority to do so under Sections 66 to 75.

(3) Notwithstanding clause (2)(b), upon a change being made in the percentage rate of accrual of benefit per year of service, the calculation of the amount of a superannuation allowance must be based on the sum of

(a) the highest average salary, determined in accordance with the plan regulations, attributable to the period immediately preceding the effective date of the change in the percentage rate of accrual of benefit, multiplied by the years of pensionable service for that period and the percentage rate of accrual of benefit applicable to that period; and

(b) the highest average salary, determined in accordance with the plan regulations, attributable to the period from and after the effective date of the change in the percentage rate of accrual of benefit, multiplied by the years of pensionable service for that period and the percentage rate of accrual of benefit applicable to that period.

(4) Notwithstanding clause (2)(b), upon a change being made in the formula for determination of highest average salary, the calculation of the amount of a superannuation allowance must be based on the sum of

(a) the highest average salary, based on the formula for determining highest average salary attributable to the period immediately preceding the effective date of the change in such formula, multiplied by the years of pensionable service for that period and the percentage rate of accrual of benefit applicable to that period; and

(b) the highest average salary, based on the formula for determining highest average salary attributable to the period from and after the effective date of the change in such formula, multiplied by the years of pensionable service for that period and the percentage rate of accrual of benefit applicable to that period.

(5) Where identified thresholds have been met under Section 70 such that the Trustee is able to make positive adjustments to plan eligibility and benefits, the Trustee may restore, in such increments, for such past periods, and on such terms as the Trustee considers appropriate,

(a) the percentage rate of accrual of benefit per year of service or the formula for determination of highest average salary, or both; or

(b) such other plan eligibility and benefits as may have been reduced.

(6) The exercise by the Trustee of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*. 2012, c. 4, Sch. B, s. 88.

REPEAL, CONSEQUENTIAL AMENDMENTS,
TRANSITIONAL AND COMING INTO FORCE

Repeal

89 The former Act is repealed. 2012, c. 4, Sch. B, s. 89.

Members' Retiring Allowances Act amended

90 amendment

Registry Act amended

91 amendment

Deemed application of Act

92 For greater certainty, where, by any enactment, a person is or is deemed to be a person employed in the public service of the Province for the purpose of this Act or the former Act or the former Act applies to a person, this Act applies to that person. 2012, c. 4, Sch. B, s. 92.

Effective date

93 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2012, c. 4, Sch. B, s. 93.

Proclaimed (except s. 60) - March 28, 2013
In force - April 1, 2013

s. 60 proclaimed - April 15, 2014
In force - April 15, 2014