



Province of Alberta

PUBLIC SECTOR PENSION PLANS ACT

**PUBLIC SECTOR PENSION PLANS
(LEGISLATIVE PROVISIONS)
REGULATION**

Alberta Regulation 365/1993

With amendments up to and including Alberta Regulation 154/2014

Office Consolidation

© Published by Alberta Queen's Printer

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(Consolidated up to 154/2014)

ALBERTA REGULATION 365/93

Public Sector Pension Plans Act

PUBLIC SECTOR PENSION PLANS (LEGISLATIVE PROVISIONS) REGULATION

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Part 1
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Interpretation

1(1) In this Part,

- (a) “employee nominee” has the meaning assigned to it in section 1(a) of Schedule 1, 2, 3, 4 or 5, as the case may be;
- (b) “employer nominee” has the meaning assigned to it in section 1(b) of Schedule 1, 2, 3, 4 or 5, as the case may be;
- (c) repealed AR 144/2001 s3.

(2) Interpretation provisions in the applicable plan rules apply with respect to the interpretation of this Regulation, as this Regulation relates to the Plan in question.

AR 365/93 s1;144/2001

Interpretation in relation to plan rules

2 To enhance the readability of all the plan rules and the Schedules to this Regulation and the capacity for cross-referencing,

- (a) provisions in different plan rules and Schedules to this Regulation that are identical or similar or that correspond to each other as they relate to different pension plans, and

- (b) provisions in Subdivisions A and B of the Divisions of Part 5 of the plan rules that are identical or similar or that correspond to each other, as they relate to different periods of time,

are given identical or almost identical enactment numberings and letterings, even if this means breaking the normal sequential numbering and lettering system for regulations.

Application

3(1) This Part applies to all the pension plans referred to in section 1(a), (b), (d) and (e) of the Act.

(2) The Schedules to this Regulation contain provisions that are each unique to the pension plan dealt with.

AR 365/93 s3;144/2001;383/2003

Application of new EPPA to new UAPP

3.1 With reference to section 2(a) of the *Employment Pension Plans Act* (SA 2012 cE-8.1), that Act applies to the new Universities Academic Pension Plan referred to in section 1(c) of the *Public Sector Pension Plans Act*.

AR 154/2014 s166

Application of EPPA provisions to active Plans

3.2(1) For the purposes of applying the plan rules under Schedules 1, 2, 4 and 5 of the Act,

- (a) “funding requirements” means the minimum funding requirements, but excluding any requirements for the funding of solvency deficiencies, of the *Employment Pension Plans Act* (RSA 2000 cE-8) and the *Employment Pension Plans Regulation* (AR 35/2000), as that legislation was in force immediately before the commencement of section 160(3) of the *Employment Pension Plans Act* (SA 2012 cE-8.1);
- (b) “solvency deficiencies” means a solvency deficiency (as it relates to a defined benefit component within the meaning of and calculated according to the *Employment Pension Plans Regulation* (AR 35/2000) under the *Employment Pension Plans Act* (RSA 2000 cE-8) as that legislation was in force immediately before the commencement of section 160(3) of the *Employment Pension Plans Act* (SA 2012 cE 8.1).

AR 154/2014 s166

Application of EPPA to all Plans

3.3 For the purposes of section 6(3)(a) of Schedules 1, 2, 4, 5 and 6 of the Act, the assets of the plan fund are to be invested in accordance with the *Employment Pension Plans Act* (SA 2012 cE-8.1) and the regulations under it.

AR 154/2014 s166

4 Repealed AR 242/97 s2.

Term of office of Board members

5(1) Subject to subsection (2), a member of a Board holds office for the term fixed in relation to that member by the Lieutenant Governor in Council.

(2) A member of a Board may be removed or suspended only by the Lieutenant Governor in Council on the written recommendation of the body or of all the bodies that nominated the member or its or their successors.

Internal Board rules

6(1) A Board may make rules respecting the calling of and the conduct of business at its meetings.

(2) Without limiting subsection (1), a Board may adopt a process that provides that a Board member may vote and otherwise participate in a meeting to the same extent as if personally present by means of a telephonic or other communication facility that permits all persons participating in the meeting to communicate adequately with each other during the meeting.

(3) If the process referred to in subsection (2) is properly applied, then, for the purposes of this section, there is deemed to be a meeting if there is otherwise no actual meeting at law and all the Board members who are lawfully participating by one of those means at the time the vote on the resolution is taken are deemed to be present at that time at a meeting actually or deemed to be held, as the case may be, to deal with the proposed resolution.

(4) Section 17 of the *Interpretation Act* does not apply to the Boards.

AR 365/93 s6;155/2012

Chair and vice-chair of Board

7(1) A Board shall elect its chair and vice-chair for a 2-year term.

- (2) The offices of chair and vice-chair of a Board are to rotate every 2 years between employer nominees on the one hand and employee nominees on the other.
- (3) At any one time, the offices of chair and vice-chair are to be occupied by one employer nominee and one employee nominee.
- (4) The vice-chair shall act as chair when the chair is absent or unable to act.

Remuneration

7.1(1) Remuneration is to be paid, as plan costs,

- (a) in the case of the Public Service Pension Board, to or on behalf of all members, including the chair, of the Board who are not employees of the Crown or of the Alberta Union of Provincial Employees, and
- (b) in the case of the other 3 Boards, to or on behalf of all members, including the chair, of each Board,

at the rate payable under section 1 or 2, as the case may be, of Part A of Schedule 1 to the Committee Remuneration Order that is in force from time to time (O.C. 84/2005 at the time of the enactment of this subsection).

- (2) Remuneration is to be paid, as plan costs, to or on behalf of all members of the Board's Investment Committee who are not also members of the Board at the rate equal to twice the amount payable under section 1 of Part A of Schedule 1 to the Order in Council referred to in subsection (1).
- (3) The members of the Board's Investment Committee who are not members of the Board are entitled to be paid, as plan costs, travelling and living expenses in accordance with section 3 of Part A of Schedule 1 to the Order in Council referred to in subsection (1).
- (4) Unless the Minister of Finance otherwise directs the Board in writing, where remuneration is payable under this section to or on behalf of an employee of the Crown, it belongs to the Crown and is to be paid to the Minister of Finance.

AR 100/2005 s2;68/2008;31/2012

Expenses of Board members

8 The members of a Board are entitled to be paid, as plan costs, travelling and living expenses in accordance with the *Public Service Subsistence, Travel and Moving Expenses Regulation* under the *Public Service Act*.

AR 365/93 s8;224/2000

Indemnification

8.1(1) Each Plan indemnifies a member of the respective Board for any damages or legal and other expenses incurred in defending an administrative or civil claim against that Board member.

(2) Each Plan indemnifies the respective Board for any damages or legal and other expenses incurred in defending an administrative or civil claim against that Board.

(3) Subject to subsections (1) and (2), an indemnification under this section covers

- (a) anything done by the Board member or Board, as the case may be, in good faith, or
- (b) any omission on his part to act provided that he has acted in good faith generally,

in the exercise and performance of his or its powers, duties and functions under the Act or in relation to the respective Plan.

(4) The costs of an indemnification under this section are to be paid from the respective plan fund.

(5) Repealed AR 293/95 s2.

(6) To the extent that the payment of damages or legal and other expenses incurred in defending any claim against the Local Authorities Pension Plan Board of Trustees or the Universities Academic Pension Board or the management Employees Pension Board, or its members, is covered by the indemnity given by section 20 or 40 or 41(2) of Schedule 1 or by section 20 or 34 of Schedule 3 or by section 24.9 of Schedule 5, as the case may be, to this Regulation, an indemnification by this section only applies

- (a) if all remedies reasonably available for the enforcement of that first-mentioned indemnity have been exhausted, and
- (b) to the extent of any shortfall not recoverable under those reasonably available remedies.

AR 317/94 s2;293/95;293/96;197/97;198/97;236/99;254/99

Indemnification of Investment Committee (if any) members

8.2(1) In addition to indemnifications under section 8.1, each Plan that has an Investment Committee indemnifies an individual

- (a) who, in the opinion of the Board, possesses specialized skills, and
- (b) who is appointed a member of the Investment Committee of that Plan's Board by the Board,

for any damages or legal and other expenses incurred in defending an administrative or civil claim against that individual.

(2) Subject to subsection (1), an indemnification under that subsection covers

- (a) anything done by the individual in good faith, or
- (b) any omission on that individual's part to act provided that he or she has acted in good faith generally,

in the performance of duties as a member of the Investment Committee.

(3) The costs of an indemnification under this section are to be paid from the plan fund.

AR 100/2005 s3

Employer's report

9(1) The Minister may require any employer to provide to him, within the time specified by the Minister, information that is required by the Minister to enable him to fulfil his functions under the Act, the plan rules or this Regulation.

(2) Repealed AR 116/99 s2.

(3) Repealed AR 116/99 s2.

AR 365/93 s9;116/99

10 Repealed AR 221/2007 s2.

Minister in relation to EPPA

11 The Minister, in the capacity of administrator of a Plan, is bound by those provisions of the *Employment Pension Plans Act* and the regulations under it that are applicable to the Plan.

Beneficiaries

12(1) Any person on whose death a benefit is payable is a participant for the purposes of section 71 of the *Wills and Succession Act*.

(2) When a benefit is paid to a surviving pension partner, or the personal representative of an estate by virtue of the operation of section 86(3) of the plan rules or section 99, as it incorporates section 86(3), of those plan rules, the payment is validly made as against the Plan, the Minister, the Minister of Finance and the Crown notwithstanding that a designation is filed under the Plan after the payment is made, and the person who would have been entitled under the designation has no right to any benefit as a result of the designation.

(3) A benefit paid on the death of any person otherwise than to the personal representative of a deceased's estate is not part of the estate of the deceased and is not subject to the claims of his creditors.

(4) The right of any person under section 71 of the *Wills and Succession Act* to a benefit is subject to any rights given by Division 1 or 2 of Part 5 of the plan rules to any other person.

AR 365/93 s12;8/2002;100/2002;270/2002;68/2008;31/2012

13 Repealed AR 365/93 s13.

Liability of benefits to legal process

14 A person's interest in a benefit is not subject to garnishee proceedings, attachment, seizure or any legal process.

Liability of Crown and prohibition against extra-statutory benefits or remedies

15(1) The Minister of Finance and the Minister shall not provide, and a person is not entitled to, any benefits or any other remedy at law or in equity relating to a benefit unless that benefit or remedy is expressly provided for in and permitted by the applicable Plan or this Regulation.

(2) An employer is not an agent of the Minister, the Minister of Finance, the relevant Board or the Crown for any purpose connected with the Plan or this Regulation.

(3) Without limiting subsection (1) or (2), no action lies against the Minister, the Minister of Finance, a Board or the Crown in respect of

- (a) any representation made, or any other information provided, by any person to any other person in respect of benefits or other entitlements under the Plan or this Regulation, or
- (b) any failure to provide any information in connection with the Plan, or to provide it on time.

AR 365/93 s15;270/2002;68/2008;31/2012

Rights and obligations under former Act

16(1) A person is not entitled to any benefit or other right provided for by or under the former Act except so far as the benefit or right is provided for by or under the Plan or this Regulation.

(2) Subsection (1) does not affect the amount of any benefit payment of which commenced before the commencement of this section.

16.1 Repealed AR 270/2002 s3.

Part 2 Transfers Between Plans

Portability arrangements between LAPP, PSPP, MEPP and Teachers' Plans

16.15(1) Pursuant to applicable provisions of sections 12(g.1) of Schedules 1 and 2 and section 12(1)(g.1) of Schedule 5 to the Act and subject to subsection (1.1), the Minister may establish a portability arrangement between any 2 of the Local Authorities Pension Plan, the Public Service Pension Plan, the Management Employees Pension Plan and both (but not separately) the Teachers' Pension Plan and the Private School Teachers' Pension Plan for the purpose of enabling the transfer of pension entitlements with respect to an eligible participant or former participant.

(1.1) A portability arrangement under subsection (1) is to be made

- (a) as it affects the Teachers' Pension Plan and the Private School Teachers' Pension Plan (together) and another pension plan referred to in subsection (1), by an agreement between the Teachers' Pension Plans Board of Trustees and the Minister under this section and sections 58 of Schedules 1 and 2 to the *Teachers' and Private School Teachers' Pension Plans* (AR 203/95), and
- (b) if the Teachers' Pension Plan and the Private School Teachers' Pension Plan are not involved, by order of the

Minister after consulting with the pension boards for the plans involved.

(2) An order under subsection (1.1)(b) is to be treated as incorporated by reference in this Part.

AR 235/2005 s3;221/2007

16.2 Repealed AR 144/2001 s6.

16.3 Repealed AR 144/2001 s6.

16.4 Repealed AR 144/2001 s6.

16.41 Repealed AR 144/2001 s6.

16.5 Repealed AR 144/2001 s6.

16.6 Repealed AR 144/2001 s6.

16.7 Repealed AR 144/2001 s6.

16.8 Repealed AR 144/2001 s6.

16.9 Repealed AR 144/2001 s6.

17 Repealed AR 144/2001 s6.

17.1 Repealed AR 144/2001 s6.

18 Repealed AR 144/2001 s6.

19 Repealed AR 144/2001 s6.

19.1 to 19.17 Repealed AR 150/2011 s5.

Interpretation of sections 19.21 to 19.28

19.2 In sections 19.21 to 19.28,

- (a) “exporting Plan” means the Plan referred to in section 19.22(2) or (5) from which persons so referred to are transferring;
- (b) “importing Plan” means the Plan referred to in section 19.22(2) or (5) to which persons so referred to are transferring;
- (c) “time of transfer” means, with reference to arrangements that are ending, the end of the day, being no later than December 31, 2011, that is specified in relation to the employer in question in the relevant order referred to in section 19.22(3)(b) or (6)(b), as the case may be, and with reference to arrangements that are beginning, the beginning of the next day.

AR 150/2011 s6

Bulk transfer arrangements in general

19.21 Pursuant to sections 12(g.1) of Schedules 1 and 2 to the Act, the transfers provided for in sections 19.22 to 19.28 are made as at the time of transfer, except to the extent that another time is provided for in relation to a transfer of assets in an order made under section 19.25.

AR 150/2011 s6

Transfers of exporting Plan participants**19.22(1)** In

- (a) subsections (2) to (4), “employee” and “participant” mean an employee and a participant, respectively, within the meaning of the *Public Service Pension Plan* (AR 368/93), and
- (b) subsections (5), (6) and (except where the context otherwise requires) (7), “employee” and “participant” mean an employee and a participant, respectively, within the meaning of the *Local Authorities Pension Plan* (AR 366/93),

and in subsections (8) and (9), each such word has whichever of those meanings is appropriate to the context.

(2) The individuals identified in subsection (3) are transferred from the Public Service Pension Plan to the Local Authorities Pension Plan, provided that they were participants at the time of transfer and did not terminate or die at or as at the time of transfer.

(3) The individuals referred to in subsection (2), taking into account the effect of subsection (8), are employees employed by an

employer within the meaning of the *Public Service Pension Plan* (AR 368/93) if they became employed at the time of transfer by an employer that

- (a) is participating as such in the Local Authorities Pension Plan, and
- (b) is specified (and with effect from immediately following the end of the day specified) in an order made by the Minister after consulting with the Boards of the Local Authorities and Public Service Pension Plans,

but excluding any such individuals who fall within subsection (4).

(4) The excluded individuals referred to in subsection (3) are individuals

- (a) who were in receipt of pensions in respect of their own pensionable service from the Local Authorities Pension Plan immediately before the time of transfer,
- (b) where potentially applicable with respect to the respective employer within the meaning of the Public Service Pension Plan, who, as at the time of transfer, have combined pensionable service in a related plan,
- (c) who fall within section 32.1(2) of the *Public Service Pension Plan* (AR 368/93),
- (d) who, as at the time of transfer,
 - (i) were ineligible to be participants of the Local Authorities Pension Plan, or
 - (ii) were also participants by virtue of employment with other employers within the meaning of the *Public Service Pension Plan* (AR 368/93) whose employees are not the subject of a transfer under subsection (2).

(5) The individuals identified in subsection (6) are transferred from the Local Authorities Pension Plan to the Public Service Pension Plan, provided that they were participants at the time of transfer and did not terminate or die at or as at the time of transfer.

(6) The individuals referred to in subsection (5), taking into account the effect of subsection (8), are employees employed by an employer within the meaning of the *Local Authorities Pension Plan* (AR 366/93) if they became employed at the time of transfer by an employer that

- (a) is participating as such in the Public Service Pension Plan, and

- (b) is specified (and with effect from immediately following the end of the day specified) in an order made by the Minister after consulting with the Boards of the Public Service and Local Authorities Pension Plans,

but excluding any such individuals who fall within subsection (7).

(7) The excluded individuals referred to in subsection (6) are individuals who, as at the time of transfer,

- (a) were ineligible to be participants of the Public Service Pension Plan, or
- (b) were also participants by virtue of employment with other employers within the meaning of the *Local Authorities Pension Plan* (AR 366/93) whose employees are not the subject of a transfer under subsection (5).

(8) If applicable, the Minister's order referred to in subsection (3) or (6) may also specify only a group of the employer's employees that is to be transferred.

(9) The current employer of a group of employees referred to in subsection (3) or (6) shall provide to the Minister a written list of those employees as soon as possible following the time of transfer.

AR 150/2011 s6

Persons and entitlements affected

19.23(1) A transfer under section 19.22 affects benefits, entitlements and obligations in relation to

- (a) persons transferred under that section,
- (b) pension partners or former pension partners of persons referred to in clause (a) who, at the time of transfer, had entitlements to benefits arising under matrimonial property orders filed with the Minister with respect to those persons, and
- (c) persons prospectively or potentially entitled to benefits under the Plan accrued to the time of transfer through persons referred to in clause (a) or (b).

(2) As at the time of transfer, with respect to persons referred to in subsection (1),

- (a) they cease participation or prospective or potential coverage under the exporting Plan and commence participation or prospective or potential coverage, as the case may be, under the importing Plan,

- (b) subject to this section, all benefits and entitlements, and liabilities arising from them, are transferred from the exporting Plan to the importing Plan, and
- (c) designations of beneficiaries made in relation to the exporting Plan have the same effect, if any, in relation to the importing Plan as they would have had in relation to the exporting Plan.

(3) On the transfer, the importing Plan shall treat each participant of the exporting Plan transferring as if all the transferred exporting Plan pensionable service had been accumulated under the importing Plan, and

- (a) transferred pensionable service credited to the time of transfer under the exporting Plan counts as pensionable service of equal length and is to be treated in the same manner under the importing Plan,
- (b) pensionable salaries treated as earned to the time of transfer under the exporting Plan count as pensionable salaries for the purposes of determining benefits under the importing Plan,
- (c) employee contributions credited under the exporting Plan are to be credited in the same amount and in the same manner under the importing Plan,
- (d) where a transferring participant of the exporting Plan has made arrangements, or has formally applied to make arrangements, to acquire service as pensionable service pursuant to the exporting Plan but has not fully paid for the service being acquired or so applied for as at the time of transfer, the same terms and conditions for acquiring that service, to the extent that it is transferred, continue under the importing Plan as were in effect under the exporting Plan,
- (e) where a transferring participant commenced a period of qualifying leave without salary under and within the meaning (section 14(8)) of the exporting Plan in circumstances where section 14(3) or (4), as the case may be, of the plan rules of the exporting Plan potentially applies and clause (d) does not apply, then section 14 of the importing Plan's plan rules is to be treated as applying with respect to the whole of that period of qualifying leave, with the employer under the importing Plan being liable for any contributions payable under section 15 of those plan rules and with the importing Plan rates applying,

- (f) section 67 of the importing Plan's plan rules is to apply with respect to employee contributions referred to in section 67(1) of the exporting Plan's plan rules, and all pensionable service transferred, other than the prior service underlying those contributions, is to be treated as current service for which current service contributions have been paid under the importing Plan, and
- (g) if the Local Authorities Pension Plan is the exporting Plan, a transferring participant who was vested under and within the meaning of the exporting Plan's plan rules is to be treated as vested under and within the meaning of the importing Plan's plan rules, regardless of whether that would otherwise be so or not.

(4) If the Local Authorities Pension Plan is the exporting Plan and the transferring participant had a period of probationary service within the meaning of that Plan's plan rules with respect to which subsection (3)(d) does not apply and, as at the time of transfer, a period of 5 years has not yet elapsed since the end of that probationary service, then, before the earlier of 5 years after the end of the probationary service and 180 days after the later of the enactment of this subsection and the time of transfer, the transferring participant may invoke section 14.1 of the exporting Plan's plan rules as if that section, and any supporting provisions, were in the importing Plan's plan rules and regardless of the change of employer.

(5) If the aggregate of a person's pensionable service in the exporting Plan and the importing Plan in any calendar year would, if all the first-mentioned service were transferred, exceed one year, the pensionable service that is transferable is limited to the amount by which the aggregate service in the 2 Plans in that calendar year would equal one year, taking into account all the importing Plan pensionable service, with the entitlements related to the excess pensionable service not transferred being determined under the plan rules of the exporting Plan as if there had been a termination.

(6) To the extent that any service in the exporting Plan, other than service covered by subsection (4) or (5), could not be lawfully recognized as pensionable service under the importing Plan if transferred there, that service is not to be transferred and the entitlements related to the pensionable service not transferred are to be determined under the plan rules of the exporting Plan as if there had been a termination.

AR 150/2011 s6

Transfer of records and documents

19.24 As soon as practicable following the time of transfer, the Minister, as administrator of the exporting Plan, shall transfer to

the Minister, as administrator of the importing Plan, those records and documents, including full contribution, pensionable service and pensionable salary histories and designations of beneficiaries, that the Minister holds and that pertain to the transferring persons.

AR 150/2011 s6

Transfers of assets

19.25(1) The Minister of Finance shall transfer from the exporting Plan to the importing Plan, in accordance with an order made under subsection (2), assets in respect of all the employees contemplated by section 19.22(3) or (6), as the case may be, who were transferred as at a specific time of transfer.

(2) After consulting with the Boards of the importing and exporting Plans, the Minister shall make orders respecting the transfers referred to in subsection (1), including any provisions considered to be necessary or expedient to effectuate each such transfer.

(3) An order under subsection (2) may specify the terms and conditions for payment of any shortfall amount to the importing Plan.

AR 150/2011 s6;31/2012

Orders under this Part

19.26(1) An order made under this Part is to be treated as incorporated by reference into this Part.

(2) The Minister shall, as soon as is reasonably practicable, have any order made under section 19.22(3)(b) or (6)(b) published in Part I of The Alberta Gazette.

AR 150/2011 s6

References in matrimonial property orders

19.27 Where there is a reference to the exporting Plan in a matrimonial property order in respect of a transferring person, that reference is to be treated, with effect from the time of transfer, as a reference to the importing Plan.

AR 150/2011 s6

Transitional

19.28 Without limiting the effect of section 35(1) of the *Interpretation Act*, a transaction that was initiated under any of sections 19.1 to 19.17 (repealed) but that had not been completed before the commencement of sections 5 and 6 of the *Public Sector Pension Plans (Reciprocal Bulk Transfers, 2011) Amendment*

Regulation is to continue and to be completed under those sections as if they were not repealed.

AR 150/2011 s6

Part 3

Division and Distribution of Benefits on Relationship Breakdown

20 Repealed AR 154/2014 s166.

Interpretation

21(1) In this Part,

- (a) “Closed Management Plan” means the pension plan referred to in section 1(f) of the Act;
- (b) “Court” means the Court of Queen’s Bench;
- (c) “delayed division” means a division where the distribution is to be delayed under section 30(1)(c)(ii);
- (d) “division date” means
 - (i) where the participant pension partner’s pension commencement occurred before the making of the matrimonial property order, the time when that order is made,
 - (ii) where there is a delayed division, the participant pension partner’s event date, or
 - (iii) in any other case, the end date;
- (e) “division factor” means the fraction constituting the proportion of the total pre-division benefit that is awarded or given to the non-participant pension partner in the matrimonial property order;
- (f) “end date” means the time marking the end of the period of joint accrual;
- (g) “event date” means the time
 - (i) as of when the participant pension partner, having terminated, is paid a lump sum or has a lump sum transferred,
 - (ii) when the participant pension partner commences a pension,

- (iii) when the participant pension partner dies, or
 - (iv) as of when the participant pension partner transfers the pension entitlement to another registered pension plan under a reciprocal agreement or other transfer arrangement,

whichever event occurs first;
- (h) “file” means file under section 37;
- (i) “matrimonial property order” or “order” means a matrimonial property order within the meaning of the *Matrimonial Property Act*, or a similar order enforceable in Alberta of a court outside Alberta, that affects the payment or distribution of a pension partner’s benefits and, to avoid doubt, includes a consent order of the Court adopting an agreement entered into between pension partners in proceedings under the *Matrimonial Property Act* providing for the division and distribution of a benefit;
- (j) “non-participant pension partner’s share” means the share referred to in section 29;
- (k) “participant pension partner” means, in relation to the Plan, the pension partner who is or was the participant in question, and “non-participant pension partner” means the other pension partner;
- (l) “pension partner” means a pension partner or former pension partner (within the meaning of the rules of the Closed Management Plan (as affected by section 2(3) of Schedule 6) in the case of that Plan) to whom this Part applies by virtue of section 22;
- (m) “pensionable age” means, in relation to the participant pension partner and
- (i) in relation to the Local Authorities Pension Plan and the Public Service Pension Plan, the age of 65 years,
 - (ii) in relation to the Management Employees Pension Plan, the age of 60 years, and
 - (iii) in relation to the Special Forces Pension Plan and the Closed Management Plan, the age of 55 years;
- (n) “period of joint accrual” means the period whose beginning and end are specified in the matrimonial property order in accordance with section 25(1)(a);

- (o) “Plan” means the applicable pension plan referred to in section 22(1);
- (p) “plan rules” means the plan rules of the Plan in question and, in the case of the Closed Management Plan, means the rules of that Plan, as contained in Schedule 6 to the Act, the regulations thereunder and the old plan within the meaning of that Schedule;
- (q) “total entitlement” means the total benefit, or the value of that benefit, accrued to the participant pension partner, calculated in accordance with section 27;
- (r) “total pre-division benefit” means the proportion of the total benefit, or the value of that proportion, that is accrued during the period of joint accrual, calculated in accordance with section 28.

(2) For the purposes of this Part, a participant pension partner is vested at the relevant time if that person, were he to terminate at that time, would be entitled to receive a pension immediately or in the future.

(3) Where, under this Part, a commuted value is to be paid or transferred, then in construing this Part in relation to the Closed Management Plan, the relevant provisions in the *Management Employees Pension Plan* (AR 367/93) are to be treated as applying to the Closed Management Plan.

(4) Subject to subsection (3), where a term from the plan rules of the Management Employees Pension Plan applies by virtue of section 1(2) and that term is not used in the Closed Management Plan, then, for the purposes of this Part, the term is to be treated as having the equivalent meaning under the Closed Management Plan or as close to it as the comparative contexts allow.

(5) To avoid uncertainty, for the purposes of this Part, pensionable service accumulated by the participant pension partner during the period of joint accrual includes

- (a) all pensionable service that is credited to the participant pension partner before the end date by reason of a transfer into the Plan of money under a reciprocal agreement or other transfer arrangement and that relates to service performed during the period of joint accrual, and
- (b) all other prior service to the extent that it was paid for during the period of joint accrual,

but does not include any other prior service.

AR 383/2003 s4;262/2006;318/2009

Application of this Part

22(1) This Part applies to all the pension plans referred to in section 3(1) and also to the Closed Management Plan.

(2) Subject to section 33, this Part applies with respect to the division and distribution of benefits where, as between pension partners, a matrimonial property order is filed with the Minister, and this Part applies notwithstanding any other provision of the Act, the regulations and the plan rules, and notwithstanding any other rule of law or equity to the contrary, except that section 13 prevails over this Part to the extent of inconsistencies between them.

(3) This Part applies only with respect to a matrimonial property order made on or after June 24, 2003.

AR 383/2003 s4

Prevalence of this Part in relation to benefits

23(1) Notwithstanding the *Matrimonial Property Act* or any other rule of law or equity to the contrary, the Court shall not make a matrimonial property order dividing or distributing a benefit or any portion of a benefit except in a manner that complies with this Part.

(2) Nothing in subsection (1) prevents the Court from distributing, under the *Matrimonial Property Act*, property that is not a benefit in a manner that takes account of how a benefit is to be divided or distributed in compliance with this Part.

AR 383/2003 s4

Effect of matrimonial property orders

24 Subject to this Part, the entitlement of any person to a benefit is subject to entitlements arising under a matrimonial property order filed with the Minister.

AR 383/2003 s4

Requirements for matrimonial property orders

25 A matrimonial property order must specify

- (a) the beginning and end of the period that the benefit is considered to have jointly accrued for the purposes of the *Matrimonial Property Act*,
- (b) whether or not there is to be a delayed division, and
- (c) the division factor, which must not exceed 50%.

AR 383/2003 s4

Division and distribution of benefits generally

26 Benefits must be divided between the pension partners, and the non-participant pension partner's share distributed, in accordance with this Part and, subject to the foregoing, in accordance with the applicable matrimonial property order.

AR 383/2003 s4

Total entitlement

27 The total entitlement, to be calculated as of division date,

- (a) if the participant pension partner is not then vested, is equal to the value of the participant pension partner's employee contributions,
- (b) if the participant pension partner has already commenced to receive a pension, is the pension itself,
- (c) if the non-participant pension partner is entitled to choose and chooses a delayed division, is the commuted value of the participant pension partner's pension or the value of any other benefit as at the event date, and includes the employee contribution excess, if any, or
- (d) if the participant pension partner is then vested and has not yet commenced to receive a pension and the non-participant pension partner is not entitled to or does not choose a delayed division, is equal to the commuted value of the pension, calculated as if the participant pension partner had terminated at the end date and on the assumption that the participant pension partner will commence to receive the pension
 - (i) if pensionable age has not yet been reached, at pensionable age, or
 - (ii) if pensionable age has already been reached,
 - (A) on the date mentioned in the matrimonial property order, if such a date is so mentioned, or
 - (B) if not so mentioned, on the day following the day on which the order is made.

AR 383/2003 s4

Total pre-division benefit

28 The total pre-division benefit is to be calculated, as of the division date, according to the following formula:

$$A = B \times \frac{C}{D}$$

where

A = the total pre-division benefit

B = the total entitlement

C = the aggregate of all the pensionable service accumulated by the participant pension partner in the period of joint accrual

D = the participant pension partner's total pensionable service.

AR 383/2003 s4

Non-participant pension partner's share

29(1) The non-participant pension partner's share is to be calculated as the total pre-division benefit multiplied by the division factor.

(2) Where the non-participant pension partner's share is paid or transferred after the division date, interest is to be paid on it or it is to be re-computed in the same manner as the plan rules require, where applicable, in the case of a benefit paid or transferred after termination.

AR 383/2003 s4

Distribution of non-participant pension partner's share

30(1) The non-participant pension partner's share shall,

- (a) if the participant pension partner was not vested at the end date, and at the non-participant pension partner's option, either be paid as a lump sum or transferred to a retirement savings vehicle belonging to the non-participant pension partner,
- (b) if at the end date the participant pension partner was vested but was not yet within 10 years of pensionable age and has not yet commenced to receive a pension, be transferred to a retirement savings vehicle belonging to the non-participant pension partner, or
- (c) if at the end date the participant pension partner was vested and was within 10 years of or had already attained pensionable age and has not yet commenced to receive a pension, at the non-participant pension partner's option, either

- (i) be transferred to a vehicle referred to in clause (b), or
 - (ii) be paid or so transferred at the participant pension partner's event date.
- (2) Notwithstanding subsection (1), if and to the extent that the non-participant pension partner's share were a benefit under the plan rules which the plan rules would treat
- (a) as locked in, the share is locked in, or
 - (b) as not locked in, the share is not locked in.
- (3) Notwithstanding subsections (1) and (2), the non-participant pension partner's share under the Closed Management Plan is not locked in except to the extent that it is based on commuted value.
- (4) Notwithstanding subsection (1), where a pension has already commenced to be paid at the time the matrimonial property order is made, the non-participant pension partner's share is to be paid directly to the non-participant pension partner in the form of a pension which, for the purposes of the Plan, is a portion of the participant's pension partner's pension.

AR 383/2003 s4

Adjustment of participant pension partner's benefit

- 31(1)** References in this section to the participant pension partner's benefit, if the event date is that individual's death, are to the benefit payable on the death.
- (2) After the division date, the Minister shall adjust the participant pension partner's benefit using the relevant calculations set out in this section.
- (3) If the participant pension partner's pension commencement occurred before the making of the matrimonial property order or in the event of a delayed division, the participant pension partner's benefit as at the division date shall be decreased by the amount of the total pre-division benefit multiplied by the division factor.
- (4) If subsection (3) does not apply, the participant pension partner's benefit shall be reduced at the participant pension partner's event date to take into account the non-participant pension partner's share in accordance with subsections (5) to (7).
- (5) If the participant pension partner is not vested at the event date, the participant pension partner's benefit shall be reduced by the sum of the non-participant pension partner's share at the end date and interest thereon from the end date to the event date.

(6) If the participant pension partner's benefit is a pension, the pension shall be reduced by A where

$$A = B \times C \times D \times E$$

B = the total pre-division benefit, calculated on the assumption (whether so or not) that the participant pension partner was vested at the end date

C = the division factor

D = the factor, equal to or greater than 1, representing the compound effect of the annual cost of living increases, if any, between the end date and the event date, based on actual inflation measured annually in that period, with cost-of-living increases being determined using a formula that is consistent with the assumption for cost-of-living increases applying after termination and prior to pension commencement inherent in the commuted value calculation under the Plan

E = the factor representing the reduction to be applied when pension commencement occurs before pensionable age that is certified by an actuary and approved in writing by the Minister for the purposes of this provision in respect of the Plan.

(7) If the participant pension partner is vested at the event date and the participant pension partner's benefit is a lump sum or transferable amount, that amount, excluding any employee contribution excess, shall be adjusted by multiplying it by the ratio of $(F-A)/F$, where

F = the pension that would have been payable had a pension rather than a lump sum or transfer been chosen, calculated as if the participant pension partner had terminated on the event date and on the assumption that the participant pension partner would have commenced to receive the pension on attaining the age of 55 years or at the event date, if later,

and

A = the amount A, as set out in subsection (6).

AR 383/2003 s4

Bar against further claims

32 If the full amount of the non-participant pension partner's share has been distributed pursuant to this Part,

- (a) that pension partner has no further entitlement to any benefit or any other right under the Plan, and
- (b) the Minister and the Plan have no further obligation to that pension partner and have no liability to either pension partner or any other person by reason only of the fact that the matrimonial property order was complied with.

AR 383/2003 s4

Disclosure of information

33(1) In this section, references to pension partners, participant pension partners or non-participant pension partners include pension partners or former pension partners, within the meaning of the plan rules, who are or were married to each other, where a matrimonial property order is being contemplated.

(2) The Minister shall provide to both pension partners, as soon as reasonably practicable after receiving both a written request for it from either and proof that is satisfactory to the Minister of their matrimonial relationship, a written statement specifying

- (a) an estimate of the total entitlement, calculated however as of the date of the request rather than the division date, or such earlier date as is specified in the request,
- (b) the date on which the participant pension partner became a participant,
- (c) the amount of pensionable service accumulated by the participant pension partner up to the date referred to in clause (a) and, if applicable, the amount of pensionable service accumulated during the period of joint accrual,
- (d) the date, if applicable, on which the participant pension partner terminated, and
- (e) other information whose disclosure is contemplated by subsection (5), on request for it.

(3) The Minister is not required to provide the statement referred to in subsection (2) more than once in a calendar year.

(4) The Minister shall provide to the participant pension partner, as soon as reasonably practicable after the division takes place, a written statement containing

- (a) the date the division became effective, and
- (b) a summary and description of the remaining benefits to which the participant pension partner will be entitled after

the distribution of the non-participant pension partner's share.

(5) A non-participant pension partner is a prescribed person for the purposes of section 9.2(2)(d) of the Act to the extent that the Minister considers that the employment information (within the meaning of section 9.2(1) of the Act) is required

- (a) to determine the entitlement under this Part of a married or formerly married individual referred to in subsection (1), or
- (b) to complete the division and distribution pursuant to a filed matrimonial property order.

AR 383/2003 s4

Application to Court for clarification, etc.

34(1) If, on the filing of a matrimonial property order, the Minister is unable to comply with it because it is incomplete, it does not comply with this Part or there is doubt as to what exactly the Minister must do to comply with it, the Minister may apply to the Court to redress the situation arising from that inability so to comply.

(2) An application under subsection (1) must be supported by an affidavit and must be made on 7 days' notice or any shorter period that the Court allows.

(3) The costs of an application under subsection (1) are to be borne by both or either of the pension partners, as decided by the Court and, to the extent that any such costs are paid by the Minister, the Minister has a right of action in debt against the pension partner or pension partners for the costs, according to the Court's decision on the costs.

AR 383/2003 s4;164/2010

Assignment and protection from execution, etc.

35(1) The division or distribution of a benefit under a matrimonial property order does not constitute an assignment, charge, anticipation, giving as security or surrender of an interest of or in the benefit or any rights for the purposes of the plan rules.

(2) Section 14 applies with respect to both pension partners' shares.

AR 383/2003 s4

Fees

36 Subject to section 34(3), the Minister shall charge no fee for any services under this Part.

AR 383/2003 s4

Filing of documents with Minister

37 For the purposes of this Part, a matrimonial property order is filed only if it or a certified copy of it is served on the Minister by

- (a) leaving it at an office of the Alberta Pensions Administration Corporation and receiving a receipt for its delivery signed by any of that corporation's employees, or
- (b) by sending it by registered or certified mail to an office of that corporation.

AR 383/2003 s4

Schedules**Schedule 1****Local Authorities Pension Plan - Specific Provisions****Part 1
General Provisions****Interpretation**

1 In this Schedule,

- (a) "employee nominee" means a member of the Board who was nominated under section 3(b);
- (b) "employer nominee" means a member of the Board who was nominated under section 3(a).

Application

2 This Schedule relates to the Local Authorities Pension Plan (referred to as "the Plan").

AR 365/93 Sched.1 s2;113/2001

Delegation of administration powers and duties

2.05 Subject to the Act, without affecting the Minister's responsibilities under the Act, the Regulations or the plan rules, the Minister may in writing delegate to any corporations that are wholly owned by the Crown those specific powers and duties in

relation to the administration of the Plan that are given by any such legislation to the Minister and that are specified in the delegation.

AR 228/2005 s2

Application of plan rules from prior date

2.1 A provision of the plan rules that deals with

- (a) participation, including who are or are not employees,
- (a.1) repealed AR 113/2001 s3,
- (b) salaries,
- (c) reciprocal agreements, and
- (d) any provision required by the tax rules

may be made to apply with effect from a date specified in those plan rules that is prior to that on which they are filed under the *Regulations Act*.

AR 146/98 s2;182/98;155/2000

Composition of Board

3 The Board is to consist of

- (a) six persons nominated by employers or organizations representing employers or a combination of both,
- (b) six persons nominated by employees or organizations representing employees or a combination of both,
- (c) one person nominated by former employees or an organization representing them, and
- (d) one person nominated by the Minister of Finance, acting for the Crown,

and appointed by the Lieutenant Governor in Council.

AR 365/93 Sched.1 s3;270/2002;68/2008;31/2012

Internal Board rules — quorum and resolutions

3.05(1) In this section,

- (a) “plan rule resolution” means a resolution that constitutes or would, if passed, constitute a recommendation under section 4(2) of the Act Schedule;

- (b) “present” means, with reference to a Board member at a meeting, present at the meeting at the time when the vote on the resolution was taken;
 - (c) “resolution” means a resolution of the Board;
 - (d) “super majority” means a majority at a level specified in subsection (4)(a).
- (2)** Notwithstanding section 6 of the portion of this Regulation preceding this Schedule,
- (a) repealed AR 155/2012 s3,
 - (b) the Board’s quorum rule and the rules relating to the passing of resolutions and related matters are as set out in this section, and
 - (c) subject to section 6(2) and (3) of the portion of this Regulation preceding this Schedule, the Board may not make any resolution dealing with those rules on quorum or the passing of resolutions.
- (3)** The quorum at a meeting of the Board is 7 Board members.
- (4)** A resolution is passed;
- (a) in the case of a plan rule resolution, only
 - (i) if it is passed by at least 2/3 of the Board members present, and
 - (ii) the Board members present include at least 4 employee nominees and at least 4 employer nominees,
 - or
 - (b) if it is not a plan rule resolution, and subject to section 15(2) of the Act Schedule, if it is passed by a majority of the Board members present.
- (5)** A vacancy in the membership of the Board does not
- (a) invalidate the constitution of the Board if the number of members is not less than a quorum, or
 - (b) subject to subsections (3) and (4), impair the right of the members of the Board to act.
- (6)** The Board shall ensure that there is indicated in the minutes of a meeting at which a plan rule resolution was voted on all

information necessary to determine whether or not the requirements of this section for a super majority were met with respect to that resolution, including

- (a) the number of votes for and against the motion for the plan rule resolution, with abstentions, and how each such vote was cast (including abstentions) by each Board member present, and
- (b) whether those Board members were employee nominees, employer nominees or individuals referred to in section 3(c) or (d).

(7) and (8) Repealed AR 155/2012 s3.

(9) The Crown shall not submit to the Lieutenant Governor in Council any proposed regulation for enactment under section 4(2) of the Act Schedule unless it is satisfied that the Board has certified that the applicable plan rule resolution was duly passed with a super majority.

AR 15/2010 s2;155/2012

3.1 Repealed AR 100/2005 s4.

Current service contribution rates

4 In setting the contribution rates for current service under section 5(2) of the Act Schedule for the Plan, the Board shall set them so that

- (a) the current service cost is shared by employers and employees, and
- (b) the employers' contribution rate exceeds the rate set for employees by 1% of pensionable salary.

Employer's annual or triennial report

4.1(1) An employer shall

- (a) annually provide to the Minister, before the date specified by the Minister, an independent auditor's opinion on matters established by the Minister with respect to the employer's compliance with his obligations under the Plan during the relevant period, or
- (b) at least once every 3 years or more frequently if so required by the Minister and before the end of the triennium or the date specified by the Minister, as the case may be, provide to the Minister a report that has been

prepared by an independent accountant or another person acceptable to the Minister, with respect to the employer's compliance with his obligations under the Plan during the relevant period and on such matters as the Minister has specified by written notice to employers generally.

(2) Where the information required under subsection (1)(a) or a report complying with subsection (1)(b) is not received within the time specified by the Minister or before the end of the triennium or the date specified by the Minister, as the case may be, the Minister may order that an audit be conducted at the employer's expense or a report that does so comply with subsection (1)(b), as the case may be, be made at the employer's expense.

(3) In this section, "accountant" means a person who is permitted under the laws of Alberta to engage, on a fee for service basis and not under anyone's supervision, in public accounting practice, within the meaning of the *Regulated Accounting Profession Act*, in respect of work that is intended to be relied on by a third party.

AR 116/99 s3;113/2001;262/2006

6 Repealed AR 146/98 s3.

7 Repealed AR 146/98 s3.

8 Repealed AR 146/98 s3.

Part 2 Employer Withdrawals

Application

9 This Part establishes, in addition to section 14 of the Act Schedule, the bases for the withdrawal of employers from the Plan under that section, the method by which such withdrawals are to be made and other terms and conditions for such withdrawals.

AR 197/97 s3

General Definitions

10 In this Part,

- (a) "actuarial valuation methods and assumptions" means the actuarial cost methods and assumptions used by the Plan's actuary in the actuarial valuation report for funding purposes, but with assets being valued at market value, that is coincident with or that most recently precedes the time of withdrawal;

- (b) repealed AR 113/2001 s5;
- (c) “market value” means the amount that the Minister of Finance, using generally accepted accounting principles, including the accounting recommendations of the Canadian Institute of Chartered Accountants set out in the Handbook published by that Institute, as amended from time to time, determines to represent the value of the assets or investments that would be agreed on in an arm’s length transaction between knowledgeable and willing parties who are under no compulsion to act;
- (d) “other plan” has the meaning assigned to “the other plan” in section 14(1) of the Act Schedule;
- (e) “Plan’s assets” means the assets of the Plan, as determined and reflected in the Plan’s most recent audited financial statements coincident with or preceding the time of withdrawal and updated, if necessary, to the time of withdrawal;
- (f) “Plan’s liabilities” means the Plan’s liabilities in respect of all service recognized as pensionable service and all benefits in place;
- (g), (h) repealed AR 113/2001 s5;
- (i) “time of withdrawal” means the effective time of a withdrawal specified in the notice given under section 14(1) or, if applicable, agreed under section 13(1);
- (j) “withdrawal” means the withdrawal of an employer from the Plan under section 14 of the Act Schedule and includes the consequential transfer of a portion of the liabilities and assets of the Plan under that section;
- (k) “withdrawing employer” means an employer who has given notice under section 14(1), and includes any successor to that employer;
- (l) “withdrawing participant” means a withdrawing person described in section 12(1)(a);
- (m) “withdrawing person” means a person falling within section 12(1)(a), (c.1) or (d).

AR 197/97 s3;113/2001;270/2002;68/2008;31/2012

Required characteristics of other plan

11(1) The other plan must, in addition to meeting the requirements of section 14(1) of the Act Schedule,

- (a) provide for the benefits and entitlements provided for by Part 5 of the plan rules to withdrawing participants or for benefits and entitlements that are not less favourable for those persons in respect of
 - (i) pensionable service accumulated to the time of withdrawal, and
 - (ii) pensionable salaries earned during participation in the Plan and in the other plan,
 - (b) provide in effect that all service of or with respect to withdrawing persons that counts as pensionable service for the purposes of determining eligibility for benefits under the Plan is to count as pensionable service for those purposes under the other plan, and
 - (e) provide to persons referred to in section 12(1)(c.1) the protection afforded by section 13 of this Regulation (preceding this Schedule).
- (2)** The other plan must also provide in effect that
- (a) the legal owners of the pension fund of the other plan are to hold all the assets transferred from the Plan to the other plan and all investment income and capital appreciation derived from those assets in trust, and to use them, for the sole purposes of providing benefits and entitlements under the other plan to withdrawing persons and to meet the other plan's administration costs that relate to those benefits and entitlements and any payments payable from the pension fund of the other plan under any indemnity provided for in the Act Schedule or this Part, until all of those benefits, entitlements and costs have been discharged or satisfied in their entirety, and
 - (b) subject to clause (a), those assets, investment income and capital appreciation belong beneficially to the withdrawing persons.
- (3)** To avoid any doubt, benefits and entitlements are not less favourable, for the purposes of subsection (1)(a), by reason only of their being provided by means of defined contribution provisions within the meaning of the *Employment Pension Plans Act* (SA 2012 cE-8.1) if
- (a) the arrangements under those defined contribution provisions are agreed to in writing by each withdrawing participant who elects to participate in the other plan under those defined contribution arrangements, and

- (b) the benefits and entitlements provided to each such withdrawing participant are of equivalent value to those benefits and entitlements to which the participant would be entitled if he did not agree to those arrangements.

AR 197/97 s3;154/2014

Employees, etc. withdrawn

12(1) Subject to this section, on a withdrawal, the withdrawing employer withdraws from the Plan only in relation to

- (a) persons who were participants and who were employees of that employer immediately before the time of withdrawal and who do not terminate with effect as at, or die at, the time of withdrawal,
- (c.1) spouses or former spouses of persons referred to in clause (a) who, immediately before the time of withdrawal, have entitlements to benefits arising under matrimonial property orders filed with the Minister with respect to those persons, and
- (d) persons prospectively or potentially entitled to benefits under the Plan accrued to the time of withdrawal through persons referred to in clause (a) or (c.1).

(2) A person who

- (a) falls within subsection (1)(a), and
- (b) was, immediately before the time of withdrawal, also accruing pensionable service with another employer who is not a withdrawing employer,

remains a participant of the Plan as well as becoming a member of the other plan.

(4) A person referred to in subsection (2)

- (a) withdraws from the Plan in relation to service performed or treated by the Board as performed before the time of withdrawal with the withdrawing employer, and
- (b) remains in the Plan in relation to service performed or treated by the Board as performed before the time of withdrawal with the employer remaining in the Plan.

(5) Where there are 2 or more withdrawing employers involved withdrawing to 2 or more other plans, a person referred to in subsection (1)(a) becomes a member of both or all of the other plans to the respective extent decided by the Board.

(6) The Board shall make any decisions required by subsection (4) or (5) on the basis which, in its opinion, most closely reflects the overall intent of this Part.

AR 197/97 s3

Timing

13(1) The time of withdrawal must occur as at the end of a calendar year unless the Board and the withdrawing employer agree in writing that it is to occur as at the end of another day specified in the agreement.

(2) Subject to section 12, withdrawing participants cease to be participants immediately before the time of withdrawal and become members of the other plan immediately after that time, and other withdrawing persons cease to have their current, prospective or potential entitlements under this Plan and assume their respective entitlements, if any, under the other plan at those respective times.

AR 197/97/s3

Information and disclosure

14(1) An employer who wishes to withdraw from the Plan must give written notice of the intention to withdraw, specifying when the withdrawal is intended to become effective,

- (a) to the Minister and the Board at least 12 months in advance, and
- (b) to each potential withdrawing participant at least 9 months in advance.

(2) At least 9 months before the time of withdrawal, the Board must report in writing to the withdrawing employer the Board's estimation, as at the time of withdrawal and with respect to that employer, of

- (a) the apportionment of the Plan's assets that will be determined on the basis set out in section 17, and
- (b) the apportionment of the Plan's liabilities.

(2.1) At least 6 months before the time of withdrawal, the withdrawing employer must provide written notice to each potential withdrawing participant regarding the withdrawal containing

- (a) a summary of the other plan, including the relevant benefits and entitlements under that plan,

- (b) a description of the conditions that the other plan is required by section 11 to meet and a certification by the withdrawing employer that the other plan meets those requirements, and
 - (c) repealed AR 113/2001 s6,
 - (d) the name of the withdrawing employer's representative who can provide more information to potential withdrawing participants on request.
- (3)** At least 3 months before the time of withdrawal, the withdrawing employer must submit to the Board and the Minister, in writing,
- (a) confirmation by the employer of the decision to withdraw,
 - (b) certification by the other plan's actuary that the other plan meets the requirements of section 11(1),
 - (c) a copy of the indemnity for the Crown given by that employer under section 14(5) of the Act Schedule,
 - (e) a written opinion of the legal adviser of the withdrawing employer to the effect that the other plan meets the requirements of section 11(2),
 - (f) certification by the employer that the disclosure required by subsection (2.1) has been made,
 - (g) a copy of the notice given under subsection (2.1), and
 - (h) certification by the employer that the proposed withdrawal has the support of a majority of the potential withdrawing participants.
- (4)** At the earliest practicable time, the Board must
- (a) report in writing to the withdrawing employer, with respect to that employer, the final apportionment of the Plan's assets under section 17 and of the Plan's liabilities, and
 - (b) provide to the withdrawing employer a copy of the actuarial valuation referred to in section 16(1),
- and, as soon as practicable thereafter, the withdrawing employer must provide to the Minister and the Board a certificate agreeing to that apportionment.
- (5)** If the withdrawing employer so requests, the Board must forthwith provide to that employer the data and working papers

used for calculating the apportionments of assets and liabilities referred to in subsections (2) and (4).

(6) For the purposes of subsections (2) and (4), the Plan's liabilities following the provisional and final apportionments are to be taken as the amount "B" as defined in section 16(1)(b).

(7) At the earliest practicable time, the withdrawing employer must submit to the Board and the Minister a copy of the indemnity for the Crown given by the legal owners of the pension fund of the other plan under section 14(5) of the Act Schedule.

AR 197/97 s3;113/2001

Completion of purchases of service

14.1(1) Where a withdrawing participant made arrangements to acquire service as pensionable service before the time of withdrawal, has not fully paid for the service being acquired and wishes to transfer the service not yet paid for to the other plan, payment must be made for that unacquired service before the time of withdrawal.

(2) No service that has not been paid for may be transferred to the other plan.

(3) At least 6 months before the time of withdrawal, the Minister must give written notice to each potential withdrawing participant who has made arrangements to acquire service as pensionable service and has not fully paid for the service being acquired, of the obligation to pay outstanding amounts for that service prior to the time of withdrawal in order to receive appropriate credit as a result of such payment.

AR 197/97 s3

Application fee and withdrawal costs

15(1) The Minister of Finance may charge the plan fund for all reasonable costs, including the cost referred to in section 23 but excluding any plan costs, incurred by the Minister, the Board and the Minister of Finance before the completion or withdrawal of the withdrawal, with respect to the withdrawal or proposed withdrawal.

(2) The withdrawing employer

- (a) on applying for the withdrawal must pay the plan fund a fee on account of the costs chargeable under subsection (1), in an amount equal to \$50 times the number of withdrawing participants anticipated, to a maximum of \$5000, and

(b) is further liable to the plan fund for any costs charged to the plan fund under subsection (1) that exceed in amount the amount of that fee.

(3) Subject to subsection (6), the costs for which the withdrawing employer is liable under subsection (2)(b) are to be deducted from the assets apportioned to the withdrawing employer under section 17 in accordance with section 17(4) and (5).

(4) If the withdrawal is withdrawn, the withdrawing employer must reimburse the plan fund for any costs incurred with respect to the examination of the proposed withdrawal for which the employer is liable under subsection (2)(b), in which case the withdrawing employer must pay those costs within 30 days of being charged for them by the Minister of Finance.

(5) Repealed AR 113/2001 s7.

(6) As an alternative to having assets reduced as referred to in subsection (3), the withdrawing employer may elect in writing to the Minister of Finance, at least 3 months before the time of withdrawal, to reimburse the plan fund directly for the costs for which the employer is liable under subsection (2)(b), in which case the employer must pay those costs within 30 days of being charged for them by the Minister of Finance.

(7) The Minister of Finance shall repay from the plan fund an amount equal to the amount, if any, by which the application fee paid under subsection (2)(a) exceeds the total amount ultimately chargeable under subsection (1).

AR 197/97 s3;113/2001;270/2002;68/2008;31/2012

Definitions for calculation purposes

16(1) The following letters designate the amounts used in the calculations under section 17 as determined in a written actuarial valuation that is prepared for the purposes of the withdrawal as at the time of withdrawal on the basis of the actuarial valuation methods and assumptions and that is approved by the Board:

- (a) "A" means the Plan's liabilities;
- (b) "B" means the Plan's liabilities, so far as they relate to the withdrawing persons;
- (c), (d) repealed AR 113/2001 s8;
- (e) "E" means the market value of the Plan's assets;
- (f) repealed AR 113/2001 s8;

(g) “G” means the decimalized fraction (rounded to 5 decimal places) representing the ratio, determined immediately before the time of withdrawal, of the aggregate annualized pensionable salaries of the withdrawing participants to those of all withdrawing participants and other participants who do not terminate with effect as at, or die at, the time of withdrawal.

(2) For the purposes of subsection (1), except so far as they relate to the withdrawing persons,

(a) repealed AR 113/2001 s8,

(b) the Plan’s liabilities include the amount, if any, by which liabilities in respect of service that is in the course of being purchased over time and that, at the time of withdrawal, has not yet been paid for exceed the present value of the outstanding contributions in respect of that service.

(3) Repealed AR 113/2001 s8.

AR 197/97 s3;113/2001;234/2001

Formulas for apportionment of assets

17(1) Subject to subsection (4), the Plan’s assets that are to be apportioned to the withdrawing employer as at the time of withdrawal are as follows:

(a) if A is less than or equal to E, $\frac{B}{A} \times E$, or

(b) if A exceeds E, $B - [(A-E) \times G]$.

(2), (3) Repealed AR 113/2001 s9.

(4) Unless section 15(6) applies, the assets to be apportioned to the withdrawing employer under subsection (1) are to be reduced by an amount equal to the costs referred to in section 15(2)(b).

(5) Repealed AR 113/2001 s9.

AR 197/97 s3;113/2001;234/2001

17.1, 17.2 Repealed AR 113/2001 s10.

Order in Council effectuating withdrawal

17.3 The Lieutenant Governor in Council may, if satisfied that section 14 of the Act Schedule and this Part have been met, order the withdrawal with effect as at the time of withdrawal.

AR 197/97 s3

Apportionment and transfer

18(1) Before the time of withdrawal, the Board shall estimate the assets to be apportioned to the withdrawing employer as at the time of withdrawal on the basis set out in section 17.

(2) At and as at the time of withdrawal, the Minister of Finance shall make an initial transfer to the pension fund of the other plan of an amount equal to 80% of the estimated apportionment.

(3) At the earliest practicable time after the finalization of data, the Board shall determine the final apportionment of assets to the withdrawing employer, as at the time of withdrawal, on the basis set out in section 17 and, once the withdrawing employer has provided the certificate under section 14(4), the transfer under subsection (4) or the return of excess under subsection (5) shall be made forthwith.

(4) If the amount determined under subsection (3) exceeds the amount transferred under subsection (2), the Minister of Finance shall transfer the remainder of the apportionment, with interest from the time of withdrawal to the date of payment, from the plan fund to the pension fund of the other plan.

(5) If the amount determined under subsection (3) is less than the amount transferred under subsection (2), the legal owners of the other plan's pension fund shall return the excess, with interest from the time of withdrawal to the date of payment, from the pension fund of the other plan to the plan fund in the form of cash or, with the consent of the Minister of Finance, specific assets equal in market value to the amount required, or a combination of both.

(6) Interest under subsection (4) or (5) is payable on the basis of the market rate of return earned by the plan fund, net of those investment costs that are specified by the Minister of Finance for that purpose, from the time of withdrawal until the latest date up to which that rate is available, and on the basis of the rate of return earned by the Consolidated Cash Investment Trust Fund for the remainder of the period to the date of payment.

(7) The transfers from the plan fund under subsections (2) and (4) are to consist of such specific assets and to be in such of the following forms as is decided by the Minister of Finance after consulting with the Board, namely

- (a) in cash,
- (b) on the basis of a prorated interest in the investments of the plan fund valued at market value, or
- (c) as a combination of the forms set out in clauses (a) and (b),

and where the transfer would require a significant liquidation of the assets in a pooled fund, the transfer may include securities held by the pooled fund.

(8) Where any assets transferred under subsection (2) or (4) are interests in a pooled fund, the other plan must redeem those interests in accordance with the guidelines established for the pooled fund within one year of the date of the transaction under subsection (4) or (5) or within such longer period as is agreed in writing between the withdrawing employer and the Minister of Finance.

(9) The guidelines referred to in subsection (8) are exempt from the *Regulations Act*.

(10) The assets and liabilities attributable to the withdrawing employer as at the time of withdrawal become final when, and may not change after, the transaction described in subsection (4) or (5) is completed.

AR 197/97 s3;270/2002;68/2008;31/2012

Application to withdrawing persons accruing multiple service

19 Where

- (a) subsections (2) and (4) or subsection (5) of section 12 apply, or
- (b) any other similar circumstances that give rise to doubt as to a person's pension coverage or potential coverage under this Part arise,

any apportionment or other separation or division that needs to be done under this Part as between the Plan and the other plan or plans or between the other plans must be done on a basis that is approved by the Board and that most closely reflects the overall intent of this Part.

AR 197/97 s3

Indemnification

20(1) The withdrawing employer and the legal owners of the pension fund of the other plan indemnify

- (a) the Board and the members of the Board for any damages or legal and other expenses incurred in defending any claim against the Board or any Board member that arises directly or indirectly from the withdrawal, and
 - (b) the plan fund and the Plan's administrator and trustee for any claims made by any person that arise directly or indirectly from the withdrawal.
- (2) Subject to subsection (1), an indemnification by subsection (1)(a) covers anything done by the Board or Board member, as the case may be, in good faith in the exercise of powers, duties and functions under section 14 of the Act Schedule or this Part.
- (3) To the extent permissible by law, any liability under an indemnity under this section by the other pension fund's legal owners is to be met from that pension fund itself.
- (4) To the extent permissible by law, any liability in respect of the withdrawal effected by Order in Council numbered O.C. 533/2000 under an indemnity under this section by the other pension fund's legal owners is to be met from that pension fund itself.

AR 197/97 s3;27/2001

Agreement to alter time limits

21 Notwithstanding anything in this Part, where a provision of this Part requires anything to be done within a certain period or by a specified time prior to the time of withdrawal, the Minister, the Board and the withdrawing employer may enter into a written agreement altering the time before which that thing must be done.

AR 197/97 s3

Transfer of records and documents

23 As soon as is practicable, the Minister shall transfer to the administrator of the other plan, at the withdrawing employer's cost, those documents and records that the Minister holds as the administrator of the Plan, that pertain to withdrawing persons and that are needed for the administration of the other plan.

AR 197/97 s3

References in matrimonial property orders

24 Where there is a reference to the Plan in a matrimonial property order in respect of a withdrawing person, that reference is to be treated, with effect from the time of withdrawal, as a reference to the other plan.

AR 197/97 s3

Part 3 Withdrawal of Telus Edmonton - Continuing Provisions

Application

25 Without limiting the effect of section 35 of the *Interpretation Act*, TELUS Edmonton's having withdrawn from participation in and ceased to be an employer for the purposes of the Plan at the end of 1997 and a portion of the Plan's liabilities and assets having been transferred to the other plan pursuant to section 14.1 of the Act Schedule, this Part contains provisions respecting its withdrawal that continue in effect.

AR 198/97 s3;146/2001;262/2006

General definitions

26 In this Part,

- (a) "other plan" means a registered pension plan, other than the Plan, to which the *Pension Benefits Standards Act, 1985* (Canada) applies;
- (b) "TELUS Edmonton" means any or all of the corporations individually and collectively referred to as "TELUS Edmonton" in section 116.1 of the plan rules (expired), and includes its or their successors;
- (c) "this Part" includes the provisions of this Part as it was before its repeal and replacement in 2001;
- (d) "withdrawal" means the withdrawal of TELUS Edmonton from the Plan under section 14.1 of the Act Schedule and this Part and includes the consequential transfer of a portion of the liabilities and assets of the Plan under those provisions.

AR 198/97 s3;146/2001

Indemnification

27(1) TELUS Edmonton and the legal owner of the pension fund of the other plan indemnify

- (a) the Board and the members of the Board for any damages or legal and other expenses incurred in defending any claim against the Board or any Board member that arises directly or indirectly from the withdrawal, and
- (b) the plan fund and the Plan's administrator and trustee for any claims made by any person that arises directly or indirectly from the withdrawal.

(2) Subject to subsection (1), an indemnification by subsection (1)(a) covers anything done by the Board or Board member, as the case may be, in good faith in the exercise of powers, duties and functions under section 14.1 of the Act Schedule or this Part.

AR 198/97 s3;146/2001

References in matrimonial property orders

28 Where there is a reference to the Plan in a matrimonial property order in respect of a withdrawing person, that reference is to be treated as a reference to the other plan.

AR 198/97 s3;146/2001

29 to 46 Repealed AR 146/2001 s2.

Part 4 Repealed AR 365/93 Sched.1 s50.

Schedule 2

Public Service Pension Plan - Specific Provisions

Part 1 General Provisions

Interpretation

1 In this Schedule,

- (a) “employee nominee” means a member of the Board who was nominated under section 3(b);
- (b) “employer nominee” means a member of the Board who was nominated under section 3(a).

Application

2 This Schedule relates to the Public Service Pension Plan (referred to as “the Plan”).

Application of plan rules from prior date

2.1 A provision of the plan rules that deals with

- (a) participation, including who are or are not employees,
- (b) salaries,
- (c) reciprocal agreements, and
- (d) any provision required by the tax rules

may be made to apply with effect from a date specified in those plan rules that is prior to that on which they are filed under the *Regulations Act*.

AR 146/98 s2;155/2000

Composition of Board

3 The Board is to consist of

- (a) three persons nominated by the Government, and
- (b) three persons nominated by the Alberta Union of Provincial Employees,

and appointed by the Lieutenant Governor in Council.

Internal Board rules — quorum and resolutions

3.05(1) In this section,

- (a) “plan rule resolution” means a resolution that constitutes or would, if passed, constitute a recommendation under section 4(2), or the making of a plan rule under section 5(2), of the Act Schedule;
- (b) “present” means, with reference to a Board member at a meeting, present at the meeting at the time when the vote on the resolution was taken;
- (c) “resolution” means a resolution of the Board;
- (d) “super majority” means a majority at a level specified in subsection (4)(a).

(2) Notwithstanding section 6 of the portion of this Regulation preceding Schedule 1,

- (b) the Board’s quorum rule and the rules relating to the passing of resolutions and related matters are as set out in this section, and
- (c) subject to section 6(2) and (3) of the portion of this Regulation preceding Schedule 1, the Board may not make any resolution dealing with those rules on quorum or the passing of resolutions.

(3) The quorum at a meeting of the Board is 3 Board members.

(4) A resolution is passed,

- (a) in the case of a plan rule resolution, only

- (i) if it is passed by a majority of the Board members present with at least one employee and one employer nominee voting in favour of the resolution, and
 - (ii) the Board members present include at least 2 employee nominees and at least 2 employer nominees,
- or
- (b) if it is not a plan rule resolution, if it is passed by a majority of the Board members present.
- (5)** A vacancy in the membership of the Board does not
- (a) invalidate the constitution of the Board if the number of members is not less than a quorum, or
 - (b) subject to subsections (3) and (4), impair the right of the members of the Board to act.
- (6)** The Board shall ensure that there is indicated in the minutes of a meeting at which a resolution was voted on all information necessary to determine whether or not the requirements of this section for the relevant majority under subsection (4) were met with respect to that resolution, including
- (a) the number of votes for and against the motion for the resolution, with abstentions, and how each such vote was cast (including abstentions) by each Board member present, and
 - (b) whether those Board members were employee nominees or employer nominees.
- (9)** The Crown shall not submit to the Lieutenant Governor in Council any proposed regulation for enactment under section 4(2) of the Act Schedule unless it is satisfied that the Board has certified that the applicable plan rule resolution was duly passed with a super majority.

AR 155/2012 s4

3.1 Repealed AR 100/2005 s4.

Current service contribution rates

4(1) For the purposes of the setting of contribution rates for current service under section 5(2) of the Act Schedule, the minimum solvency requirements referred to in section 1(1)(b) of the Act Schedule apply only to benefits in respect of service after 1991.

(2) For the purposes of subsection (1), the Minister shall ensure that a separate accounting is made and maintained of assets in respect of service after 1991.

AR 147/99 s2

Employer's periodic report

4.1(1) An employer shall, at least once every 3 years or more frequently if so required by the Minister and before the end of the triennium or the date specified by the Minister as the case may be, provide to the Minister a report that has been prepared by an independent accountant or another person acceptable to the Minister, with respect to the employer's compliance with his obligations under the Plan during the relevant period and on such matters as the Minister has specified by written notice to employers generally.

(2) Where a report complying with subsection (1) is not received before the end of the triennium or the date specified by the Minister as the case may be, the Minister may order that a report that does so comply be conducted at the employer's expense.

(3) In subsection (1), "accountant" means a person who is permitted under the laws of Alberta to engage, on a fee for service basis and not under anyone's supervision, in public accounting practice, within the meaning of the *Regulated Accounting Profession Act*, in respect of work that is intended to be relied on by a third party.

AR 116/99 s4;262/2006

4.2 Repealed AR 100/2005 s5.

7 Repealed AR 146/98 s4.

Part 2.05 Transfer Agreement with Exited MEPP Employers

Interpretation

24.05(1) In this Part,

- (a) "active member" means, in relation to the other plan, the equivalent of a participant under the Plan;
- (b) "agreement" means
 - (i) a transfer agreement, or

- (ii) in relation to a particular transferred person, the transfer agreement applicable to that person,

provided for in section 24.055(1), including any amendments made to it;
- (c) “effective date of the agreement” means the time the agreement is entered into or such later time as the agreement provides for it to become effective;
- (d) “employer” means an exited MEPP employer;
- (e) “other plan” means the registered pension plan or plans established by an exited MEPP employer for a group comprising or including its workers employed by it who were employees within the meaning of MEPP and were affected by the exit referred to in clause (d), and includes any successor plan;
- (f) “promoted persons” means, in relation to an exited MEPP employer,
 - (i) persons who ceased to be employees and became active members of the other plan at the time of that employer’s exit from MEPP, and
 - (ii) other persons engaged to work for that employer who, as a result of being appointed by that employer to employer management positions within the meaning of section 3(5.4) of the plan rules, ceased to be employees after that time of exit and immediately became active members of the other plan;
- (g) “promotion date” means the time at which a transferred person became an active member of the other plan;
- (h) “transferred person” means any of the promoted persons in respect of whom a transfer is made or to be made under the terms of the agreement.

(2) For the purposes of this Part, benefit improvements referred to in section 30.2(2) of the plan rules are to be considered pension entitlements.

AR 11/2006 s2

Transfer agreement

24.055(1) Subject to this section, the Minister may, after consulting with the Board, enter into a transfer agreement, not being a reciprocal agreement, with an exited MEPP employer to

transfer the pension entitlements from the Plan to the other plan in respect of some or all of its promoted persons.

(2) An agreement must provide in effect that the transfer of pension entitlements is mandatory for all promoted persons who ceased to be employees on or after the effective date of the agreement.

(3) Promoted persons who ceased to be employees prior to the effective date of the agreement are eligible for the transfer of the pension entitlements if, but only if, they are so eligible under the criteria, if any, established by the agreement.

(4) An agreement must provide for the matters required by this Part to be included in it.

AR 11/2006 s2

Amount and timing of asset transfer

24.06(1) With effect from the later of a transferred person's promotion date and the effective date of the agreement, the Plan becomes liable to transfer to the other plan the value of that person's pension entitlements, with the amount and timing of the transfer as set out in this section.

(2) The amount to be transferred under an agreement in respect of a transferred person is to be equal to the going concern liabilities, within the meaning of the *Employment Pension Plans Regulation* (AR 35/2000), in respect of that person's pension entitlements, as determined by the Plan's actuary as at the asset transfer calculation date.

(3) The going concern liabilities referred to in subsection (2) are to be calculated using the actuarial cost methods and assumptions in the actuarial valuation report that was most recently approved by the Board for funding purposes as at the asset transfer calculation date and so as to include a salary projection from the day before the promotion date as if the transferred person, as at the promotion date, had not ceased to be an employee.

(4) The asset transfer calculation date in respect of a transferred person is to be the time set out in the agreement.

(5) If the actual transfer to the other plan occurs after the asset transfer calculation date, interest is payable on the amount determined under subsections (2) to (4) at the market rate of return of the plan fund, net of investment costs, as determined by the Minister, from the asset transfer calculation date to the latest date to which that rate is available, and, for the remainder of the period to the date of payment, using the 91-day Canada Treasury Bill rate, as determined by the Minister.

AR 11/2006 s2

Indemnities

24.07(1) Before the effective date of the agreement, the exited MEPP employer and the legal owners of the pension fund of the other plan must indemnify the Crown in a written form acceptable to the Minister with respect to any claim that may be made by any person that arises directly or indirectly from the transfer.

(2) The legal owners of the pension fund of the other plan indemnify

- (a) the Board and the past, present and future members of the Board for any damages and legal and other expenses incurred in defending any claim that may be made by any person against any of them that arises directly or indirectly from the transfer, and
- (b) the Plan for any claims that arise directly or indirectly from the transfer.

(3) To the extent permissible by law, any liability under an indemnity under this section by the other pension fund's legal owners is to be met from that pension fund itself.

AR 11/2006 s2

Extinguishing of rights

24.075 With effect from the later of a transferred person's promotion date and the effective date of the agreement,

- (a) all entitlements in respect of that person in relation to the Plan are extinguished, and
- (b) the Plan is to have no liability in respect of that person except the liability referred to in section 24.06 and, with that exception, the pension fund of the other plan is to assume all such liability.

AR 11/2006 s2

Required provisions in other plan

24.08(1) With respect to transferred persons, the other plan must

- (a) provide for the benefits and entitlements provided for by the plan rules and Part 3 of the Regulations in effect as at the later of the effective date of the agreement and their promotion dates, or for benefits and entitlements that are not less favourable in respect of
 - (i) their pensionable service accumulated to the promotion date, and
 - (ii) their pensionable salaries earned during participation in the Plan and in the other plan,
- (b) provide in effect that all their service that counts as combined pensionable service for the purposes of determining eligibility for benefits under the Plan is to count for the same purposes under the other plan, and
- (c) provide for the protection of the rights of their pension partners arising from matrimonial property orders or agreements to the extent that the latter remain entitled to shares in the transferred pension entitlements.

(2) To avoid any doubt, benefits and entitlements are not less favourable, for the purposes of subsection (1)(a), by reason only of their being provided by means of defined contribution provisions within the meaning of the *Employment Pension Plans Act* (SA 2012 cE-8.1) if

- (a) the arrangements under those defined contribution provisions are agreed to in writing by each transferred person who elects to participate in the other plan under those defined contribution arrangements, and
- (b) the benefits and entitlements provided to each transferred person are of equivalent value to those benefits and entitlements to which the person would be entitled if he did not agree to those arrangements.

(3) Before the effective date of the agreement, the exited MEPP employer in question must submit to the Board and the Minister written certification by the other plan's actuary that the other plan meets all the requirements of this section.

AR 11/2006 s2;154/2014

Transfer of records

24.09 The Minister shall provide the administrator of the other plan records needed by the other plan to effectuate fully the transfers.

AR 11/2006 s2

Schedule 3**Universities Academic Pension Plan - Specific Provisions****Part 1
General Provisions****Interpretation**

1 In this Schedule,

- (a) “employee nominee” means a member of the Board who was nominated under section 3(1)(b) or by the academic staff associations referred to in, and under, section 3(1)(c);
- (b) “employer nominee” means a member of the Board who was nominated under section 3(1)(a) or by the Boards of Governors referred to in, and under, section 3(1)(c).

Application

2 The Schedule relates to the Universities Academic Pension Plan (referred to as “the Plan”).

Application of plan rules from prior date

2.1 A provision of the plan rules that deals with

- (a) participation, including who are or are not employees,
- (b) salaries,
- (c) reciprocal agreements, and
- (d) any provision required by the tax rules

may be made to apply with effect from a date specified in those plan rules that is prior to that on which they are filed under the *Regulations Act*.

AR 155/2000 s3

Composition of Board

3(1) The Board is to consist of

- (a) one person nominated by each of the Boards of Governors of the University of Alberta, the University of Calgary and the University of Lethbridge,
- (b) one person nominated by each of the academic staff associations of the University of Alberta, the University of Calgary and the University of Lethbridge,
- (c) two persons nominated by the academic staff associations and the Boards of Governors of the Banff Centre and Athabasca University on a basis determined by the Minister,
- (d) one person nominated by the Provincial Treasurer, on the Crown's behalf,

and appointed by the Lieutenant Governor in Council.

(2) An appointment under subsection (1)(c) must result in an equality of nominees on the Board as between academic staff associations on the one hand and Boards of Governors on the other, but in no case is this subsection to be construed as requiring any revocation of an appointment in the event of any vacancy occurring on the Board.

Remuneration

3.1(1) Remuneration is to be paid to or on behalf of all members and the chair of the Board.

(2) The rates of the remuneration payable are to be the same as those payable under Part A of Schedule 1 to the Committee Remuneration Order (O.C. 769/93).

(3) Unless the Provincial Treasurer otherwise directs the Board in writing, where remuneration is payable under this section to or on behalf of an employee of the Crown, it belongs to the Crown and is to be paid to the Provincial Treasurer.

AR 163/94 s2;208/94

Current service contribution rates

4(1) For the purposes of the setting of contribution rates for current service under section 5(2) of the Act Schedule, the minimum solvency requirements referred to in section 1(1)(b) of the Act Schedule apply only to benefits in respect of service after 1991.

(2) For the purposes of subsection (1), the Minister shall ensure that a separate accounting is made and maintained of assets in respect of service after 1991.

(3) In setting the contribution rates for current service under section 5(2) of the Act Schedule for the Plan, the Board shall set them

- (a) so that the current service cost is shared by employers and employees in the proportions specified by them, and
- (b) based on a specified percentage of pensionable salary.

AR 365/93 Sched.3 s4;147/99

Employer's periodic report

4.1(1) An employer shall, at least once every 3 years or more frequently if so required by the Minister and before the end of the triennium or the date specified by the Minister as the case may be, provide to the Minister a report that has been prepared by an independent accountant or another person acceptable to the Minister, with respect to the employer's compliance with his obligations under the Plan during the relevant period and on such matters as the Minister has specified by written notice to employers generally.

(2) Where a report complying with subsection (1) is not received before the end of the triennium or the date specified by the Minister as the case may be, the Minister may order that a report that does so comply be conducted at the employer's expense.

(3) In subsection (1), "accountant" means a person who is permitted under the laws of Alberta to engage, on a fee for service basis and not under anyone's supervision, in exclusive accounting practice, within the meaning of the *Chartered Accountants Act*, in respect of work that is intended to be relied on by a third party.

AR 116/99 s4

Indemnification of Investment Committee members

4.2(1) In addition to indemnifications under section 8.1 in the portion of this Regulation preceding Schedule 1, the Plan indemnifies an individual

- (a) who, in the opinion of the Board, possesses specialized skills, and
- (b) who is appointed a member of the Investment Committee of the Board by the Board,

for any damages or legal and other expenses incurred in defending an administrative or civil claim against that individual.

(2) Subject to subsection (1), an indemnification under that subsection covers

- (a) anything done by the individual in good faith, or
- (b) any omission on his part to act provided that he has acted in good faith generally,

in the performance of his duties as a member of the Investment Committee.

(3) The costs of an indemnification under this section are to be paid from the plan fund.

AR 246/99 s2

Rights and obligations under earlier plans

5(1) No person is entitled to any benefit or other right provided for by or under the University of Alberta Plan, the Retirement System or the Lethbridge Plan except so far as the benefit or right is provided for by or under the Plan.

(2) Subsection (1) does not affect the amount of any benefit payment of which commenced before the commencement of this section.

(3) No rights or benefits provided for either expressly or by implication under Parts II and V of the University of Alberta Plan are affected or terminated by the Plan.

(4) Section 113.1(3) of the plan rules applies notwithstanding subsection (3).

6 Repealed AR 146/98 s5.

8 Repealed AR 146/98 s5.

Part 2 Employer Withdrawals

Application

9 This Part establishes, in addition to section 14 of the Act Schedule, the general bases for the apportionment of the Plan's liabilities and assets on the withdrawal of employers from the Plan and for the transfer of those apportioned liabilities and assets from the Plan under that section, and related matters.

AR 293/96 s3

General definitions

10 In this Part,

- (a) “actuarial valuation methods and assumptions” means the actuarial cost methods and assumptions used by the Plan’s actuary in the actuarial valuation report for funding purposes, but with assets being valued at market value, that is coincident with or that most recently precedes the time of withdrawal;
- (b) “additional contributions” means additional contributions paid or payable to the other plan under the order made under section 14(8)(b) of the Act Schedule;
- (c) “market value” means the amount that the Provincial Treasurer, using generally accepted accounting principles, including the accounting recommendations of the Canadian Institute of Chartered Accountants set out in the Handbook published by that Institute, as amended from time to time, determines to represent the value of the assets or investments that would be agreed on in an arm’s length transaction between knowledgeable and willing parties who are under no compulsion to act;
- (d) “other plan” means one of the other pension plans within the meaning of section 14(1)(a) of the Act Schedule;
- (e) “post-1991 assets” means the Plan’s assets in respect of the post-1991 liability;
- (f) “post-1991 liability” means the Plan’s liabilities in respect of all service recognized as pensionable service and all benefits in place, less the pre-1992 liability;
- (g) “pre-1992 assets” means the Plan’s assets in respect of the pre-1992 liability;
- (h) “pre-1992 liability” means the Plan’s liabilities in respect of all service that was recognized as pensionable service, and all the benefits that were in place, as at December 31, 1991;
- (i) “time of withdrawal” means the effective time of a withdrawal specified in the notice referred to in section 14(1) or, if applicable, agreed under section 13(1);
- (j) “withdrawal” has the meaning assigned to it in section 14(1)(b) of the Act Schedule;
- (k) “withdrawing employer” means an employer who has given notice under section 14(6)(b) of the Act Schedule;
- (l) “withdrawing participant” means a person who is a participant and an employee of the withdrawing employer

immediately before the time of withdrawal and who does not terminate or become a participant of the related plan with effect as at, or die at, the time of withdrawal;

- (m) “withdrawing person” means a person falling within section 12(1)(a), (b), (c) or (d).

AR 293/96 s3

Required characteristics of other plan

11(1) The other plan must, in addition to meeting the requirements of section 14(1)(a) of the Act Schedule,

- (a) provide for the benefits and entitlements provided for by Part 5 of the plan rules to withdrawing participants or for benefits and entitlements that are not less favourable for those persons in respect of
- (i) service performed before the time of withdrawal and
- (A) that was acquired as pensionable service before then, or
- (B) which, immediately before the time of withdrawal, was in the course of being purchased over time under the plan rules, on payment for the service,
- and
- (ii) pensionable salaries earned during participation in the Plan and in the other plan,
- (b) provide in effect that all service of or with respect to withdrawing persons that counts as combined pensionable service for the purposes of determining eligibility for benefits under the Plan is to count for the same purposes in effect under the other plan,
- (c) in the case of withdrawing persons who made arrangements to acquire service as pensionable service before the time of withdrawal and have not fully paid for the service being acquired, the arrangements made by them with the Plan are to continue to have full effect with the other plan as if they had been originally entered into with the other plan, under the same terms and conditions, and
- (d) put into effect section 14(7)(c) and (d) of the Act Schedule.

- (2) The other plan must also provide in effect that
- (a) the other plan's trustee is to hold all the assets transferred from the Plan to the other plan, all additional contributions paid and all investment income and capital appreciation derived from those assets and contributions in trust, and to use them, for the sole purposes of providing benefits and entitlements under the other plan and to meet the other plan's administration costs and any payments payable from the pension fund of the other plan under any indemnity provided for in the Act Schedule or this Part, and
 - (b) subject to clause (a), those assets, additional contributions, investment income and capital appreciation belong beneficially to the persons entitled to benefits under the other plan.
- (3) To avoid any doubt, benefits and entitlements are not less favourable, for the purposes of subsection (1)(a), by reason only of their being provided by means of defined contribution provisions within the meaning of the *Employment Pension Plans Act* if
- (a) the arrangements under those defined contribution provisions are agreed to in writing by each withdrawing participant who elects to participate in the other plan under those defined contribution arrangements, and
 - (b) the benefits and entitlements provided to each such withdrawing participant are of equivalent value to those benefits and entitlements to which the participant would be entitled if he did not agree to those arrangements.

AR 293/96 s3;321/2000

Employees, etc. withdrawn

- 12(1)** Subject to this section, on a withdrawal, the withdrawing employer withdraws from the Plan only in relation to
- (a) persons who were employees of that employer immediately before the time of withdrawal,
 - (b) persons who, immediately before the time of withdrawal, were former participants with remaining entitlements to benefits under the Plan and who had been employees of the withdrawing employer immediately before their most recent termination,
 - (c) persons who, immediately before the time of withdrawal, were entitled to benefits which had arisen on the death of, or from an assignment under a matrimonial property order

relating to, a person who had been an employee of the withdrawing employer immediately before death or his most recent termination, as the case may be, and

- (d) persons currently, prospectively or potentially entitled to benefits under the Plan accrued to the time of withdrawal through persons referred to in clause (a), (b) or (c).

(2) A person who

- (a) falls within subsection (1)(a), and
- (b) was, immediately before the time of withdrawal, also accruing pensionable service with another employer who is not a withdrawing employer,

remains a participant of the Plan as well as becoming a member of the other plan.

(3) A former employee

- (a) who falls within subsection (1)(b) or through whom a person falls within subsection (1)(c) or (d), and
- (b) who was, immediately before the most recent termination or death, as the case may be, referred to in that clause, also accruing pensionable service with another employer who is not a withdrawing employer,

is to be treated as having accrued pensionable service with the withdrawing employer and the employer remaining in the Plan to the respective extents decided by the Board.

(4) A person referred to in subsection (2)

- (a) withdraws from the Plan in relation to service performed or treated by the Board as performed before the time of withdrawal with the withdrawing employer, and
- (b) remains in the Plan in relation to service performed or treated by the Board as performed before the time of withdrawal with the employer remaining in the Plan.

(5) Where there are 2 or more withdrawing employers involved withdrawing to 2 or more other plans, a person who was an employee of 2 or more of those employers immediately before the time of withdrawal becomes a member of, and that person or a former employee, as regards any such employer, referred to in subsection (3) is to be treated as having accrued pensionable service that counts for the purposes of, both or all of the other plans to the respective extents decided by the Board.

(6) The Board shall make any decisions required by subsection (3), (4) or (5) on the basis which, in its opinion, most closely reflects the overall intent of this Part.

AR 293/96 s3

Timing

13(1) The time of withdrawal must occur as at the end of a calendar year unless the Board and the withdrawing employer agree in writing that it is to occur as at the end of another day specified in the agreement.

(2) Subject to section 12, withdrawing participants cease to be participants immediately before the time of withdrawal and become members of the other plan immediately after that time, and other withdrawing persons cease to have their current, prospective or potential entitlements under this Plan and assume their respective entitlements under the other plan at those respective times.

AR 293/96 s3

Information and disclosure

14(1) A withdrawing employer must, in the notice required by section 14(6)(b) of the Act Schedule, specify when the withdrawal is intended to become effective.

(2) At least 9 months before the time of withdrawal, the Board must report in writing to all employers the Board's estimation, as at the time of withdrawal, of the apportionments between the withdrawing employer and the other employers of

- (a) the pre-1992 and post-1991 assets that will be determined on the basis set out in section 17, and
- (b) the pre-1992 and post-1991 liabilities.

(3) At least 3 months before the time of withdrawal, the withdrawing employer must submit to the Board and the Minister, in writing,

- (a) confirmation by the employer of the decision to withdraw,
- (b) certification by the other plan's actuary that the other plan meets the requirements of section 11,
- (c) a copy of the indemnity for the Crown given by that employer under section 14(6)(d) of the Act Schedule, and
- (d) copies of the written consent of the academic staff association, if any, required by section 14(6)(a) of the Act Schedule.

- (4) At the earliest practicable time, the Board must
- (a) report in writing to the withdrawing employer and to the other employers the final apportionment of the pre-1992 and post-1991 assets under section 17 and of the pre-1992 and post-1991 liabilities, and
 - (b) provide to them copies of the actuarial valuation referred to in section 16(1),

and, as soon as practicable thereafter, the withdrawing employer must provide to the Minister and the Board a certificate agreeing to that apportionment.

(5) If the withdrawing employer so requests, the Board must forthwith provide to that employer the data and working papers used for calculating the apportionments of assets and liabilities referred to in subsections (2) and (4).

(6) For the purposes of subsections (2) and (4), the pre-1992 and the post-1991 liabilities following the provisional and final apportionments are to be taken as the amounts “B” and “D”, as defined in section 16(1)(b) and (d), respectively.

(7) At the earliest practicable time, but before the final transfer of assets,

- (a) the withdrawing employer must submit to the Board and the Minister a copy of the indemnity for the Crown given by the legal owner of the pension fund of the other plan, and the acceptances given by the employer and that fund owner, under section 14(6)(d) and (e) respectively of the Act Schedule, and
- (b) the Board must send the Minister a copy of its acceptance given under that section 14(6)(e).

AR 293/96 s3

Withdrawal costs

15(1) The Provincial Treasurer may charge the plan fund for all reasonable costs, excluding any plan costs, incurred by the Minister, the Board and the Provincial Treasurer before the completion or withdrawal of the withdrawal, with respect to the withdrawal or proposed withdrawal.

(2) The withdrawing employer is liable to the plan fund for any costs charged to the plan fund under subsection (1).

(3) The costs for which the withdrawing employer is liable under subsection (2) are to be deducted from the assets apportioned to the

withdrawing employer under section 17 in accordance with section 17(4) and (5).

(4) If the withdrawal is withdrawn, instead of the employer having sole liability under subsection (2), the withdrawing employer and the corresponding academic staff association, if any, become liable, on a joint and several basis, to reimburse the plan fund for any costs incurred with respect to the examination of the proposed withdrawal for which the employer is made liable by subsection (2), in which case the withdrawing employer and that association must pay those costs on and within 30 days of being charged for them or for a portion of them by the Provincial Treasurer.

(5) Transactions under this section involving the plan fund must be applied to its post-1991 assets.

AR 293/96 s3

Definitions for calculation purposes

16(1) The following letters designate the amounts used in the calculations under section 17 as determined in a written actuarial valuation that is prepared for the purposes of the withdrawal as at the time of withdrawal on the basis of the actuarial valuation methods and assumptions and that is approved by the Board:

- (a) "A" means the pre-1992 liability;
- (b) "B" means the pre-1992 liability, so far as it relates to the withdrawing persons;
- (c) "C" means the post-1991 liability;
- (d) "D" means the post-1991 liability, so far as it relates to the withdrawing persons;
- (e) "E" means the market value of the pre-1992 assets;
- (f) "F" means the market value of the post-1991 assets;
- (g) "G" means the decimalized fraction (rounded to 5 decimal places) representing the ratio, determined immediately before the time of withdrawal, of the aggregate annualized salaries of the withdrawing participants to those of all withdrawing participants and other participants who do not terminate or become participants of and under the related plan with effect as at, or die at, the time of withdrawal.

(2) For the purposes of subsection (1),

- (a) a pre-1992 liability includes the amount, if any, by which liabilities in respect of service for which a written application to purchase it was made before 1992 and that is in the course of being purchased over time and that, at the time of withdrawal, has not yet been paid for exceed the present value of the outstanding contributions in respect of that service, and
- (b) a post-1991 liability includes the amount, if any, by which liabilities in respect of other service that is in the course of being purchased over time and that, at the time of withdrawal, has not yet been paid for exceed the present value of the outstanding contributions in respect of that service.

(3) Section 9(8) of the Act Schedule applies to the extent that the actuarial valuation referred to in subsection (1) applies with respect to the Plan's unfunded liability referred to in section 9(1) of the Act Schedule.

AR 293/96 s3

Formulas for apportionment of assets

17(1) The assets to be apportioned to the withdrawing employer as at the time of withdrawal are equal to the sum of the results of the apportionments under this section.

(2) If A exceeds E, the pre-1992 assets to be apportioned to the withdrawing employer as at time of withdrawal are

$$B - [(A - E) \times G],$$

or, if A is less than or equal to E, they are

$$\frac{B}{A} \times E.$$

(3) If C exceeds F, the post-1991 assets to be apportioned to the withdrawing employer as at the time of withdrawal are

$$D - [(C - F) \times G],$$

or, if C is less than or equal to F, they are

$$\frac{D}{C} \times F.$$

(4) The post-1991 assets to be apportioned to the withdrawing employer under subsection (3) are to be reduced by an amount equal to the costs referred to in section 15(2).

(5) If the costs referred to in subsection (4), when finalized, exceed the post-1991 assets to be apportioned to the withdrawing employer under subsection (3), no post-1991 assets are to be apportioned to the withdrawing employer, and the withdrawing employer must pay an amount equal to the excess to the plan fund within 30 days of being charged for them by the Provincial Treasurer.

AR 293/96 s3

Apportionment and transfer

18(1) Before the time of withdrawal, the Board shall estimate the assets to be apportioned to the withdrawing employer as at the time of withdrawal on the basis set out in section 17.

(2) The Lieutenant Governor in Council shall order an initial transfer to the pension fund of the other plan, as at the time of withdrawal, of an amount equal to 90% of the estimated apportionment.

(3) At the earliest practicable time after the finalization of data, the Board shall determine the final apportionment of assets to the withdrawing employer, as at the time of withdrawal, on the basis set out in section 17 and, once the withdrawing employer has provided the certificate under section 14(4), the order under subsection (4) or the return of excess under subsection (5) shall be made forthwith.

(4) If the amount determined under subsection (3) exceeds the amount transferred under subsection (2), the Lieutenant Governor in Council shall order the transfer of the remainder of the apportionment, with interest from the time of withdrawal to the date of payment, from the plan fund to the pension fund of the other plan.

(5) If the amount determined under subsection (3) is less than the amount transferred under subsection (2), the legal owner of the other plan's pension fund shall return the excess, with interest from the time of withdrawal to the date of payment, from the pension fund of the other plan to the plan fund in the form of cash or, with the consent of the Provincial Treasurer, specific assets equal in market value to the amount required, or a combination of both.

(6) Interest under subsection (4) or (5) is payable on the basis of the market rate of return earned by the plan fund, net of those investment costs that are specified by the Provincial Treasurer for that purpose, from the time of withdrawal until the latest date up to which that rate is available, and on the basis of the rate of return

earned by the Consolidated Cash Investment Trust Fund for the remainder of the period to the date of payment.

(7) The transfers from the plan fund under subsections (2) and (4) are to consist of such specific assets and to be in such of the following forms as is decided by the Provincial Treasurer after consulting with the Board, namely

- (a) in cash,
- (b) on the basis of a prorated interest in the investments of the plan fund valued at market value, or
- (c) as a combination of the forms set out in clauses (a) and (b),

and where the transfer would require a significant liquidation of the assets in a pooled fund, the transfer may include securities held by the pooled fund.

(8) Where any assets transferred under subsection (2) or (4) are interests in a pooled fund, the other plan must redeem those interests in accordance with the guidelines established for the pooled fund within one year of the date of the transaction under subsection (4) or (5) or within such longer period as is agreed in writing between the withdrawing employer and the Provincial Treasurer.

(9) The guidelines referred to in subsection (8) are exempt from the *Regulations Act*.

(10) The assets and liabilities attributable to the withdrawing employer become final when, and may not change after, the transaction described in subsection (4) or (5) is completed.

AR 293/96 s3

Application to withdrawing persons accruing multiple service

19 Where

- (a) subsections (2) and (4) or subsection (3) or (5) of section 12 apply, or
- (b) any other similar circumstances that give rise to doubt as to a person's pension coverage or potential coverage under this Part arise,

any apportionment or other separation or division that needs to be done under this Part as between the Plan and the other plan or plans or between the other plans must be done on a basis that is approved

by the Board and that most closely reflects the overall intent of this Part.

AR 293/96 s3

Indemnification

20(1) The withdrawing employer and the legal owner of the pension fund of the other plan indemnify

- (a) the Board and the members of the Board for any damages or legal and other expenses incurred in defending any claim against the Board, or any Board member that arises directly or indirectly from the withdrawal, and
- (b) the Plan fund and the Plan's administrator and trustee for any claim made after completion of the withdrawal.

(2) Subject to subsection (1), an indemnification by subsection (1)(a) covers anything done by the Board or Board member, as the case may be, in good faith in the exercise of powers, duties and functions under section 14 of the Act Schedule or this Part.

(3) To the extent permissible by law, any liability under an indemnity under this section by the other pension fund's legal owners is to be met from that pension fund itself.

AR 293/96 s3;321/2000

Agreement to alter time limits

21 Notwithstanding anything in this Part, where a provision of this Part requires anything to be done within a certain period or by a specified time prior to the time of withdrawal, the Minister, the Board and the withdrawing employer may enter into a written agreement altering the time before which that thing must be done.

AR 293/96 s3

Transitional - predecessor plan benefits

22 For the purposes of section 16(1), pre-1992 liabilities must be reduced to reflect benefit reductions described in section 113.1(1) and (2) of the plan rules.

AR 293/96 s3

Part 3 Termination of the Whole Plan

Application

23 This Part establishes, in addition to section 15 of the Act Schedule, the general bases for the apportionment of the Plan's liabilities and assets on the termination of the whole Plan and for

the transfer of those apportioned liabilities and assets from the Plan under that section, and related matters.

AR 293/96 s3

General definitions

24 In this Part,

- (a) “actuarial valuation methods and assumptions” means the actuarial cost methods and assumptions used by the Plan’s actuary in the actuarial valuation report for funding purposes, but with assets being valued at market value, that is coincident with or that most recently precedes the time of wind-up;
- (b) “additional contributions” means additional contributions paid or payable to the other plan under the order made under section 15(7)(c) of the Act Schedule;
- (c) “market value” means the amount that the Provincial Treasurer, using generally accepted accounting principles, including the accounting recommendations of the Canadian Institute of Chartered Accountants set out in the Handbook published by that Institute, as amended from time to time, determines to represent the value of the assets or investments that would be agreed on in an arm’s length transaction between knowledgeable and willing parties who are under no compulsion to act;
- (d) “employers” means the employers, within the meaning of the plan rules, participating in the Plan as such immediately before the time of wind-up;
- (e) “other pension plans” has the meaning assigned to it in section 15(1)(a) of the Act Schedule, and “other plan” means any one of the other pension plans;
- (f) “other plan’s member” means, with reference to the other plan or plans referred to in section 26, a person falling within section 26(1)(a), (b), (c) or (d);
- (g) “post-1991 assets” means the Plan’s assets in respect of the post-1991 liability;
- (h) “post-1991 liability” means the Plan’s liabilities in respect of all service recognized as pensionable service and all benefits in place, less the pre-1992 liability;
- (i) “pre-1992 assets” means the Plan’s assets in respect of the pre-1992 liability;

- (j) “pre-1992 liability” means the Plan’s liabilities in respect of all service that was recognized as pensionable service, and all the benefits that were in place, as at December 31, 1991;
- (k) “time of wind-up” means the effective time of the wind-up, being the effective time of the declaration under section 15(7)(d) of the Act Schedule;
- (l) “transferring participant” means a person who was a participant and an employee of an employer immediately before the time of wind-up and who did not terminate or become a participant of and under the related plan with effect as at, or die at, the time of wind-up;
- (m) “wind-up” means termination as defined in section 15(1)(b) of the Act Schedule.

AR 293/96 s3

Required characteristics of other pension plans

25(1) Each of the other pension plans must, in addition to meeting the requirements of section 15(1)(a) of the Act Schedule,

- (a) provide for the benefits and entitlements provided for by Part 5 of the plan rules to transferring participants who are to be members of the other plan or for benefits and entitlements that are not less favourable for those persons in respect of
 - (i) service performed before the time of wind-up and
 - (A) that was acquired as pensionable service before then, or
 - (B) which, immediately before the time of wind-up, was in the course of being purchased over time under the plan rules, on payment for the service,
 - and
 - (ii) pensionable salaries earned during participation in the Plan and in that other plan,
- (b) provide in effect that all service of or with respect to any other plan’s member that counts as combined pensionable service for the purposes of determining eligibility for benefits under the Plan is to count for the same purposes in effect under the other plan in which that person will participate or have coverage or potential coverage,

- (c) in the case of any other plan's member who made arrangements to acquire service as pensionable service before the time of wind-up and has not fully paid for the service being acquired, the arrangements so made with the Plan are to continue to have full effect with the other plan in which that person will participate or have coverage or potential coverage as if they had been originally entered into with that other plan, under the same terms and conditions, and
 - (d) put into effect section 15(6), as it incorporates section 14(7)(c) and (d), of the Act Schedule.
- (2) The other plan must also provide in effect that
- (a) that other plan's trustee is to hold all the assets transferred from the Plan to the other plan, all additional contributions paid and all investment income and capital appreciation derived from those assets and contributions in trust, and to use them, for the sole purposes of providing benefits and entitlements under the other plan and to meet the other plan's administration costs, and
 - (b) those assets, additional contributions, investment income and capital appreciation belong beneficially to the persons entitled to benefits under the other plan.
- (3) To avoid any doubt, benefits and entitlements are not less favourable, for the purposes of subsection (1)(a), by reason only of their being provided by means of defined contribution provisions within the meaning of the *Employment Pension Plans Act* if
- (a) the arrangements under those defined contribution provisions are agreed to in writing by each withdrawing participant who elects to participate in the other plan under those defined contribution arrangements, and
 - (b) the benefits and entitlements provided to each such withdrawing participant are of equivalent value to those benefits and entitlements to which the participant would be entitled if he did not agree to those arrangements.

AR 293/96 s3

Effect on employees, etc.

26(1) Subject to this section, on a wind-up an employer commences participation as such in, and the following persons commence participation in, or coverage or potential coverage by, the other plan into which that employer is transferring:

- (a) persons who were employees of that employer immediately before the time of wind-up;
 - (b) persons who, immediately before the time of wind-up, were former participants with remaining entitlements to benefits under the Plan and who had been employees of that employer immediately before their most recent termination;
 - (c) persons who, immediately before the time of wind-up, were entitled to benefits which had arisen on the death of, or from an assignment under a matrimonial property order relating to, a person who had been an employee of that employer immediately before death or his most recent termination, as the case may be;
 - (d) persons currently, prospectively or potentially entitled to benefits under the Plan accrued to the time of wind-up through persons referred to in clause (a), (b) or (c).
- (2)** Where, in respect of any other plan's member, there are 2 or more employers involved transferring to 2 or more other plans,
- (a) a person referred to in subsection (1)(a) becomes a member of, and
 - (b) that person or a former employee who falls within subsection (1)(b) or through whom a person falls within subsection (1)(c) or (d) is to be treated as having accrued pensionable service that counts for the purposes of,
- both or all of the other plans to the respective extents decided by the Board.
- (3)** The Board shall make any decision required by subsection (2) on the basis which, in its opinion, most closely reflects the overall intent of this Part.

AR 293/96 s3

Timing

27 Transferring participants become members of the other plan, and the other plan's members who are not transferring participants assume their respective entitlements under the other plan, immediately after the time of wind-up.

AR 293/96 s3

Information and disclosure

28(1) The Minister must, in the notice required by section 15(5)(a) of the Act Schedule, specify when the wind-up is intended to become effective.

(2) At least 9 months before the projected time of wind-up, the Board must report in writing to the employers the Board's estimation, as at the projected time of wind-up, of the apportionments between the employers of

- (a) the pre-1992 and post-1991 assets that will be determined on the basis set out in section 31, and
- (b) the pre-1992 and post-1991 liabilities.

(3) At least 3 months before the projected time of wind-up, each employer must submit to the Board and the Minister, in writing,

- (a) certification by the other plan's actuary that the other plan meets the requirements of section 25, and
- (b) a copy of the indemnity for the Crown given by that employer under section 15(5)(c), as it incorporates section 14(6)(d), of the Act Schedule.

(4) At the earliest practicable time, the Board must

- (a) report in writing to the employers the final apportionment of the pre-1992 and post-1991 assets under section 31 and of the pre-1992 and post-1991 liabilities, and
- (b) provide to them copies of the actuarial valuation referred to in section 30(1),

and, as soon as practicable thereafter, the employers must provide to the Minister and the Board certificates agreeing to that apportionment.

(5) If an employer so requests, the Board must forthwith provide to that employer the data and working papers used for calculating the apportionments of assets and liabilities referred to in subsections (2) and (4).

(6) For the purposes of subsections (2) and (4), the pre-1992 and the post-1991 liabilities following the provisional and final apportionments are to be taken as the amounts "B" and "D", as defined in section 30(1)(b) and (d), respectively.

(7) At the earliest practicable time, but before the final transfer of assets,

- (a) each employer must submit to the Board and the Minister a copy of the indemnity for the Crown given by the legal owner of the pension fund of the other plan, and the acceptances given by the employer and that fund owner, under section 15(5)(c), as it incorporates section 14(6)(d) and (e) respectively, of the Act Schedule, and
- (b) the Board must send the Minister a copy of its acceptance given on the wind-up with reference to that section 14(6)(e).

AR 293/96 s3

Wind-up costs

29(1) The Provincial Treasurer may charge the plan fund for all reasonable costs, excluding any plan costs, incurred by the Minister, the Board and the Provincial Treasurer with respect to the wind-up or proposed wind-up.

(2) Transactions under this section involving the plan fund must be applied to its post-1991 assets.

AR 293/96 s3

Definitions for calculation purposes

30(1) The following letters designate the amounts used in the calculations under section 31 as determined in a written actuarial valuation that is prepared for the purposes of the wind-up as at the time of wind-up on the basis of the actuarial valuation methods and assumptions and that is approved by the Board:

- (a) "A" means the pre-1992 liability;
- (b) "B" means the pre-1992 liability, so far as it relates to the other plan's members relative to each employer;
- (c) "C" means the post-1991 liability;
- (d) "D" means the post-1991 liability, so far as it relates to the other plan's members relative to each employer;
- (e) "E" means the market value of the pre-1992 assets;
- (f) "F" means the market value of the post-1991 assets, reduced by costs to be charged under section 29;
- (g) "G" means the decimalized fraction (rounded to 5 decimal places) representing the ratio, determined immediately before the time of wind-up, of the aggregate annualized salaries of the transferring participants relative to each

employer to those of all transferring participants relative to all employers.

(2) For the purposes of subsection (1),

- (a) a pre-1992 liability includes the amount, if any, by which liabilities in respect of service for which a written application to purchase it was made before 1992, that is in the course of being purchased over time and that, at the time of wind-up, has not yet been paid for exceed the present value of the outstanding contributions in respect of that service, and
- (b) a post-1991 liability includes the amount, if any, by which liabilities in respect of other service that is in the course of being purchased over time and that, at the time of wind-up, has not yet been paid for exceed the present value of the outstanding contributions in respect of that service.

(3) Section 9(8) of the Act Schedule applies to the extent that the actuarial valuation referred to in subsection (1) applies with respect to the Plan's unfunded liability referred to in section 9(1) of the Act Schedule.

AR 293/96 s3

Formulas for apportionment of assets

31(1) The assets to be apportioned to each employer as at the time of wind-up are equal to the sum of the results of the apportionments under this section.

(2) If A exceeds E, the pre-1992 assets to be apportioned to each employer as at the time of wind-up are

$$B - [(A - E) \times G],$$

or, if A is less than or equal to E, they are

$$\frac{B}{A} \times E.$$

(3) If C exceeds F, the post-1991 assets to be apportioned to each employer as at the time of wind-up are

$$D - [(C - F) \times G],$$

or, if C is less than or equal to F, they are

$$\frac{D}{C} \times F.$$

AR 293/96 s3

Apportionment and transfer

32(1) Before the time of wind-up, the Board shall estimate the assets to be apportioned to each employer and to each of the other pension plans, if more than one, as at the time of wind-up, on the basis set out in section 31.

(2) The Lieutenant Governor in Council shall, pursuant to section 15(7) of the Act Schedule, order the initial transfer to the pension fund of each of the other pension plans, as at the time of wind-up, of an amount equal to at least 90% of the estimated apportionment applicable to that other plan.

(3) At the earliest practicable time after the finalization of data, the Lieutenant Governor in Council shall determine the final apportionment of assets to each employer, as at the time of wind-up, on the basis set out in section 31 and, once all the employers have provided the certificates under section 28(4), the order under subsection (4) or the return of excess under subsection (5) shall be made forthwith.

(4) If the sum of the amounts determined under subsection (3) that are transferable to any of the other pension plans exceeds the amount transferred to that plan under subsection (2), the Lieutenant Governor in Council shall, pursuant to section 15(7) of the Act Schedule, order the transfer of the remainder of the apportionment, with interest from the time of wind-up to the date of payment, from the plan fund to the pension fund of that other plan.

(5) If the sum of the amounts determined under subsection (3) that are transferable to any of the other pension plans is less than the amount transferred to that plan under subsection (2), the legal owner of that other plan's pension fund shall return the excess, with interest from the time of wind-up to the date of payment, from the pension fund of the other plan to the plan fund in the form of cash or, with the consent of the Provincial Treasurer, specific assets equal in market value to the amount required, or a combination of both.

(6) Interest under subsection (4) or (5) is payable on the basis of the market rate of return earned by the plan fund, net of those investment costs that are specified by the Provincial Treasurer for that purpose, from the time of wind-up to the date of payment.

(7) The transfers from the plan fund under subsections (2) and (4) are to consist of such specific assets and to be in such of the following forms as is decided by the Provincial Treasurer after consulting with the Board, namely

- (a) in cash,

- (b) on the basis of a prorated interest in the investments of the plan fund valued at market value, or
- (c) as a combination of the forms set out in clauses (a) and (b),

and where the transfer would require a significant liquidation of the assets in a pooled fund, the transfer may include securities held by the pooled fund.

(8) Where any assets transferred under subsection (2) or (4) are interests in a pooled fund, the other plan must redeem those interests in accordance with the guidelines established for the pooled fund within one year of the date of the transaction under subsection (4) or (5) or within such longer period as is agreed in writing between the employers and the Provincial Treasurer.

(9) The guidelines referred to in subsection (8) are exempt from the *Regulations Act*.

(10) The assets and liabilities attributable to each employer become final when, and may not change after, the transactions described in subsection (4) or (5) are completed.

AR 293/96 s3

Application to other plan's members accruing multiple service

33 Where

- (a) section 26(2) applies, or
- (b) any other similar circumstances that give rise to doubt as to a person's pension coverage or potential coverage under this Part arise,

any apportionment or other separation or division that needs to be done under this Part as between 2 or more of the other pension plans must be done on a basis that is approved by the Board and that most closely reflects the overall intent of this Part.

AR 293/96 s3

Indemnification

34(1) The employers and the legal owners of the pension funds of the other plans indemnify

- (a) the Board and the members of the Board for any damages or legal and other expenses incurred in defending any claim against the Board or any Board member that arises directly or indirectly from the plan termination, and

- (b) the Plan fund and the Plan's administrator and trustee for any claim made after the wind-up.

(2) Subject to subsection (1), an indemnification by subsection (1)(a) covers anything done by the Board or Board member, as the case may be, in good faith in the exercise of powers, duties and functions under section 15 of the Act Schedule or this Part.

AR 293/96 s3

Agreement to alter time limits

35 Notwithstanding anything in this Part, where a provision of this Part requires anything to be done within a certain period or by a specified time prior to the time of wind-up, the Minister, the Board and the employers may enter into a written agreement altering the time before which that thing must be done.

AR 293/96 s3

Transitional - predecessor plan benefits

36 For the purposes of section 30(1), pre-1992 liabilities must be reduced to reflect benefit reductions described in section 113.1(1) and (2) of the plan rules.

AR 293/96 s3

Schedule 4

Special Forces Pension Plan - Specific Provisions

Interpretation

1 In this Schedule,

- (a) "employee nominee" means a member of the Board who was nominated under section 3(d), (e) or (f);
- (b) "employer nominee" means a member of the Board who was nominated under section 3(a), (b) or (c).

Application

2 This Schedule relates to the Special Forces Pension Plan (referred to as "the Plan").

Application of plan rules from prior date

2.1 A provision of the plan rules that deals with

- (a) participation, including who are or are not employees,
- (b) salaries,

- (b.1) repealed AR 262/2006 s7,
- (c) reciprocal agreements, and
- (d) any provision required by the tax rules

may be made to apply with effect from a date specified in those plan rules that is prior to that on which they are filed under the *Regulations Act*.

AR 146/98 s3;155/2000;262/2006

Composition of Board

3 The Board is to consist of

- (a) one person nominated by the City of Edmonton or nominated as that city's nominee on the Board by an organization representing that city,
- (b) one person nominated by the City of Calgary or nominated as that city's nominee on the Board by an organization representing that city,
- (c) one person nominated by other employers or nominated as their nominee on the Board by an organization representing them,
- (d) one person, who is a member of the police force of Edmonton, nominated by the Police Association of Edmonton or an organization representing it,
- (e) one person, who is a member of the police force of Calgary, nominated by the Police Association of Calgary or an organization representing it,
- (f) one person, who is a member of the police force of another employer municipality, nominated by the employees of other employers or an organization representing those employees, and
- (g) one person nominated by the Minister of Finance, acting for the Crown,

and appointed by the Lieutenant Governor in Council.

AR 365/93 Sched.4 s3;270/2002;68/2008;31/2012

Internal Board rules — quorum and resolutions

3.05(1) In this section,

- (a) “plan rule resolution” means a resolution that constitutes or would, if passed, constitute a recommendation under section 4(2) of the Act Schedule;
 - (b) “present” means, with reference to a Board member at a meeting, present at the meeting at the time when the vote on the resolution was taken;
 - (c) “resolution” means a resolution of the Board;
 - (d) “super majority” means a majority at a level specified in subsection (4)(a).
- (2)** Notwithstanding section 6 of the portion of this Regulation preceding Schedule 1,
- (b) the Board’s quorum rule and the rules relating to the passing of resolutions and related matters are as set out in this section, and
 - (c) subject to section 6(2) and (3) of the portion of this Regulation preceding Schedule 1, the Board may not make any resolution dealing with those rules on quorum or the passing of resolutions.
- (3)** The quorum at a meeting of the Board is 4 Board members.
- (4)** A resolution is passed,
- (a) in the case of a plan rule resolution, only
 - (i) if it is passed by a majority of the Board members present with at least one employee and one employer nominee voting in favour of the resolution, and
 - (ii) the Board members present include at least 2 employee nominees and at least 2 employer nominees,
- or
- (b) if it is not a plan rule resolution, if it is passed by a majority of the Board members present.
- (5)** A vacancy in the membership of the Board does not
- (a) invalidate the constitution of the Board if the number of members is not less than a quorum, or
 - (b) subject to subsections (3) and (4), impair the right of the members of the Board to act.

(6) The Board shall ensure that there is indicated in the minutes of a meeting at which a resolution was voted on all information necessary to determine whether or not the requirements of this section for the relevant majority under subsection (4) were met with respect to that resolution, including

- (a) the number of votes for and against the motion for the resolution, with abstentions, and how each such vote was cast (including abstentions) by each Board member present, and
- (b) whether those Board members were employee nominees or employer nominees.

(9) The Crown shall not submit to the Lieutenant Governor in Council any proposed regulation for enactment under section 4(2) of the Act Schedule unless it is satisfied that the Board has certified that the applicable plan rule resolution was duly passed with a super majority.

AR 155/2012 s5

3.1 Repealed AR 100/2005 s4.

Current service contribution rates

4(1) For the purposes of the setting of contribution rates for current service under section 5(2) of the Act Schedule and of the determination of whether or not the condition set out in section 4(10)(c) of the Act Schedule is met, the minimum solvency requirements referred to in section 1(1)(b) of the Act Schedule apply only to benefits in respect of service after 1991.

(2) For the purposes of subsection (1), the Minister shall ensure that a separate accounting is made and maintained of assets in respect of service after 1991.

(3) In setting the contribution rates for current service under section 5(2) of the Act Schedule for the Plan, the Board shall set them so that

- (a) the current service cost is shared by employers and employees, and
- (b) the employers' contribution rate exceeds the rate set for employees by 1.1% of pensionable salary.

AR 365/93 Sched.4 s4;147/99

Employer's periodic report

4.1(1) An employer shall, at least once every 3 years or more frequently if so required by the Minister and before the end of the triennium or the date specified by the Minister as the case may be, provide to the Minister a report that has been prepared by an independent accountant or another person acceptable to the Minister, with respect to the employer's compliance with his obligations under the Plan during the relevant period and on such matters as the Minister has specified by written notice to employers generally.

(2) Where a report complying with subsection (1) is not received before the end of the triennium or the date specified by the Minister as the case may be, the Minister may order that a report that does so comply be conducted at the employer's expense.

(3) In subsection (1), "accountant" means a person who is permitted under the laws of Alberta to engage, on a fee for service basis and not under anyone's supervision, in public accounting practice, within the meaning of the *Regulated Accounting Profession Act*, in respect of work that is intended to be relied on by a third party.

AR 116/99 s4;262/2006

7 Repealed AR 146/98 s6.

Schedule 5**Management Employees Pension Plan - Specific Provisions****Part 1
General Provisions****Interpretation**

1 In this Schedule,

- (a) "employee nominee" means a member of the Board who was nominated under section 3(1)(b);
- (b) "employer nominee" means a member of the Board who was nominated under section 3(1)(a).

Application

2 This Schedule relates to the Management Employees Pension Plan (referred to as "the Plan").

Application of plan rules from prior date

2.1 A provision of the plan rules that deals with

- (a) participation, including who are or are not employees,
- (b) salaries,
- (c) reciprocal agreements, and
- (d) any provision required by the tax rules

may be made to apply with effect from a date specified in those plan rules that is prior to that on which they are filed under the *Regulations Act*.

AR 146/98 s2;155/2000

Composition of Board

3(1) The Board is to consist of

- (a) three persons nominated by the Government,
- (b) three persons nominated by employees or organizations representing employees, or a combination of both, and
- (c) one person nominated by the Public Service Commissioner,

and appointed by the Lieutenant Governor in Council.

(2) The member nominated under subsection (1)(c) has no vote.

Internal Board rules — quorum and resolutions

3.05(1) In this section,

- (b) “present” means, with reference to a Board member at a meeting, present at the meeting at the time when the vote on the resolution was taken;
- (c) “resolution” means a resolution of the Board.

(1.1) The Board member referred to in section 3(1)(c) is not to count for any of the purposes (including presence) of this section.

(2) Notwithstanding section 6 of the portion of this Regulation preceding Schedule 1,

- (b) the Board’s quorum rule and the rules relating to the passing of resolutions and related matters are as set out in this section, and

(c) subject to section 6(2) and (3) of the portion of this Regulation preceding Schedule 1, the Board may not make any resolution dealing with those rules on quorum or the passing of resolutions.

(3) The quorum at a meeting of the Board is 3 Board members.

(4) A resolution is passed if it is passed by a majority of the Board members present.

(5) A vacancy in the membership of the Board does not

(a) invalidate the constitution of the Board if the number of members is not less than a quorum, or

(b) subject to subsections (3) and (4), impair the right of the members of the Board to act.

3.1 Repealed AR 100/2005 s4.

Current service contribution rates

4(1) For the purposes of the setting of contribution rates for current service under section 5(2) of the Act Schedule, the minimum solvency requirements referred to in section 1(1)(b) of the Act Schedule apply only to benefits in respect of service after 1991.

(2) For the purposes of subsection (1), the Minister shall ensure that a separate accounting is made and maintained of assets in respect of service after 1991.

AR 147/99 s5

Employer's periodic report

4.1(1) An employer shall, at least once every 3 years or more frequently if so required by the Minister and before the end of the triennium or the date specified by the Minister as the case may be, provide to the Minister a report that has been prepared by an independent accountant or another person acceptable to the Minister, with respect to the employer's compliance with his obligations under the Plan during the relevant period and on such matters as the Minister has specified by written notice to employers generally.

(2) Where a report complying with subsection (1) is not received before the end of the triennium or the date specified by the Minister as the case may be, the Minister may order that a report that does so comply be conducted at the employer's expense.

(3) In subsection (1), “accountant” means a person who is permitted under the laws of Alberta to engage, on a fee for service basis and not under anyone’s supervision, in public accounting practice, within the meaning of the *Regulated Accounting Profession Act*, in respect of work that is intended to be relied on by a third party.

AR 116/99 s4;262/2006

4.2 Repealed AR 100/2005 s5.

Part 2.1

Exit of Alberta Treasury Branches

Application

24.1 Whereas Alberta Treasury Branches are to exit from the Plan with effect from the end of 1998, this Part establishes, pursuant to section 12(1)(j) and (1.1) of the Act Schedule, the basis for that employer’s exit from the Plan to another registered pension plan established by it, the method by which the exit is to be made and other terms and conditions for the exit.

AR 236/99 s3

General definitions

24.2 In this Part,

- (a) “employer” means Alberta Treasury Branches, established by the *Alberta Treasury Branches Act*;
- (b) “exit” means the exit of the employer from the Plan under this Part, and includes the consequential transfer of a portion of the Plan’s liabilities and assets;
- (c) “exiting participant” means an exiting person described in section 24.4(a);
- (d) “exiting person” means a person falling within section 24.4(a), (b) or (c);
- (e) “market value” means the amount that the Minister of Finance and Enterprise, using generally accepted accounting principles, including the accounting recommendations of the Canadian Institute of Chartered Accountants set out in the Handbook published by that Institute, as amended from time to time, determines to represent the value of the assets or investments that would be agreed on in an arm’s length transaction between knowledgeable and willing parties who are under no compulsion to act;

- (f) “other plan” means the other registered pension plan referred to in section 24.1;
- (g) “time of exit” means the end of 1998;
- (h) “time of transfer” means the time when the asset transfer is made pursuant to the order referred to in section 24.83.
AR 236/99 s3;270/2002;68/2008

Required characteristics of other plan**24.3(1)** The other plan must

- (a) provide for the benefits and entitlements provided for by Part 5 of the plan rules to exiting participants or for benefits and entitlements that are not less favourable for those persons in respect of
 - (i) pensionable service accumulated to the time of exit, and
 - (ii) pensionable salaries earned during participation in the Plan and in the other plan,
- (b) provide in effect that all service of or with respect to exiting persons that counts as combined pensionable service for the purposes of determining eligibility for benefits under the Plan is to count for the same purposes in effect under the other plan,
- (c) provide to persons referred to in section 24.4(b) the protection afforded by section 13 of this Regulation (preceding Schedule 1), and
- (d) acknowledge the effect of section 12(1.3) of the Act Schedule.

(2) The other plan must also provide in effect that

- (a) the legal owners of the pension fund of the other plan are to hold all the assets transferred from the Plan to the other plan and all investment income and capital appreciation derived from those assets in trust, and to use them, for the sole purposes of providing benefits and entitlements under the other plan and to meet the other plan’s administration costs, and
- (b) those assets, investment income and capital appreciation belong beneficially to the persons entitled to benefits under the other plan.

(3) To avoid any doubt, benefits and entitlements are not less favourable, for the purposes of subsection (1)(a), by reason only of their being provided by means of defined contribution provisions within the meaning of the *Employment Pension Plans Act* (SA 2012 cE-8.1) if

- (a) the arrangements under those defined contribution provisions are agreed to in writing by each exiting participant who elects to participate in the other plan under those defined contribution arrangements, and
- (b) the benefits and entitlements provided to each such exiting participant are of equivalent value to those benefits and entitlements to which the participant would be entitled if he did not agree to those arrangements, with the valuations being determined as at the date the exiting participant elects to participate under those arrangements.

AR 236/99 s3;154/2014

Employees, etc. exit

24.4 The employer exits the Plan only in relation to

- (a) persons who were participants and who were employees of the employer immediately before the time of exit and who do not terminate with effect as at, or die at, the time of exit,
- (b) spouses or former spouses of persons referred to in clause (a) who, immediately before the time of exit, have entitlements to benefits arising under matrimonial property orders filed with the Minister with respect to those persons, and
- (c) persons prospectively or potentially entitled to benefits under the Plan accrued to the time of exit through persons referred to in clause (a) or (b).

AR 236/99 s3

Effect of exit

24.5 With effect as at the time of exit,

- (a) the employer is to be treated as having ceased participation as such in the Plan and as having commenced participation as such in the other plan,
- (b) exiting persons are to be treated as having ceased participation or prospective or potential coverage under the Plan and as having commenced participation or

prospective or potential coverage, as the case may be, under the other plan,

- (c) all benefits and entitlements in respect of exiting persons are to be treated as having been transferred from the Plan to the other plan, and
- (d) liabilities for benefits and entitlements in respect of exiting persons are to be treated as having been transferred from the Plan to the other plan.

AR 236/99 s3

Information and disclosure

24.6(1) At the earliest practicable time, the Minister, after consulting with the Board, must report in writing to the employer the Minister's estimation, as at the time of exit and with respect to the employer, of the apportionment of the Plan's assets and liabilities that will be determined on the basis set out in section 24.82.

(2) Before the time of transfer and as soon as practicable, the employer must provide written notice to each exiting participant regarding the exit containing

- (a) a summary of the other plan, including the relevant benefits and entitlements under that plan,
- (b) a description of the conditions that the other plan is required by section 24.3 to meet and a certification by the employer that the other plan meets those requirements, and
- (c) the name of the employer's representative who can provide more information to exiting participants on request.

(3) Before the time of transfer and as soon as practicable in each case, the employer must submit to the Minister, in writing,

- (a) certification by the other plan's actuary that the other plan meets the requirements of section 24.3(1),
- (b) a written opinion of the legal adviser of the employer to the effect that the other plan meets the requirements of section 24.3(2),
- (c) certification by the employer that the disclosure required by subsection (2) has been made, and
- (d) a copy of the notice given under subsection (2).

- (4) At the earliest practicable time, the Minister must provide to the employer copies of the actuarial valuations referred to in section 24.81.
- (5) If the employer so requests, the Minister must forthwith provide it with the data and working papers that relate to the calculations under sections 24.81, 24.82 and 24.85.

AR 236/99 s3

Completion of purchases of service

24.7(1) Where an exiting participant made arrangements to acquire service as pensionable service before the time of exit, has not fully paid for the service being acquired and wishes to transfer the service not yet paid for to the other plan, payment must be made for that unacquired service before the time of exit.

(2) No service that has not been paid for may be transferred to the other plan.

AR 236/99 s3

Exit costs

24.8(1) The Minister of Finance and Enterprise may charge the plan fund for all reasonable costs, including the cost referred to in section 24.91 but excluding any plan costs, incurred by the Minister, the Board and the Minister of Finance and Enterprise before the completion of the exit, with respect to the exit.

(2) The employer is liable to the plan fund for any costs charged to the plan fund under subsection (1).

(3) Subject to subsection (4), the costs for which the employer is liable under subsection (2) are to be deducted from the assets apportioned to the employer under section 24.82 in accordance with section 24.82(2).

(4) As an alternative to having assets reduced as referred to in subsection (3), the employer may elect in writing to the Minister of Finance and Enterprise, as soon as practicable and in any case before the time of transfer, to reimburse the plan fund directly for the costs for which the employer is liable under subsection (2), in which case the employer must pay those costs within 30 days of being charged for them by the Minister of Finance and Enterprise.

AR 236/99 s3;270/2002;68/2008

Definitions for calculation purposes

24.81(1) The following letters designate the amounts used in the calculations under this section and section 24.82, as determined in a written actuarial valuation that is prepared for the purposes of the

exit as at the time of exit and that is approved by the Minister after consultation with the Board:

- (a) “A” means the Plan’s accrued liabilities;
- (b) “B” means the Plan’s accrued liabilities in respect of the exiting persons;
- (c) “C” means the market value of the Plan’s assets.

(2) For the purposes of subsection (1)(a), except so far as they relate to the exiting persons, the Plan’s accrued liabilities include the amount, if any, by which liabilities in respect of service that is in the course of being purchased over time and that, at the time of exit, has not yet been paid for exceed the present value of the outstanding contributions in respect of that service.

(3) For the purposes of subsection (1)(a) and (b), if so warranted in the Minister’s opinion, the Plan’s accrued liabilities in respect of exiting persons are to be calculated by limiting the pensionable salaries of exiting persons to the maximum allowed by the compensation guidelines of employers to whom the *Public Service Act* applies.

(4) The letter “D”, as used in the calculation under section 24.82, means the lesser of

- (a) the amount specified in a written actuarial valuation, approved by the Minister, of accrued liabilities in the closed plan as at the time of exit in respect of members of the closed plan who, at the time of their last termination, were employees of the employer, and
- (b) the amount

$$\left(\frac{B}{A}\right) \times (C - A)$$

if positive or, if not positive, 0.

AR 236/99 s3

Amount of assets for transfer

24.82(1) The assets to be apportioned to the employer and transferred to the other plan as at the time of transfer are equal to

$$\left(\frac{B}{A} \times C\right) - D$$

plus interest from the time of exit to the time of transfer.

(2) Unless section 24.8(4) applies, the assets to be apportioned and transferred under subsection (1) are to be reduced by an amount equal to the costs referred to in section 24.8(2).

(3) The assets to be transferred from the Plan to the closed plan are equal to D plus interest from the time of exit to the time of transfer.

(4) Interest under subsections (1) and (3) is payable on the basis of the market rate of return earned by the plan fund, net of those investment costs that are specified by the Minister of Finance and Enterprise for that purpose, from the time of exit until the latest date to which that rate is available, and on the basis of the rate of return earned by the Consolidated Cash Investment Trust Fund for the remainder of the period to the time of transfer.

AR 236/99 s3;270/2002;68/2008

Order in Council effectuating transfers

24.83 The Lieutenant Governor in Council may, if satisfied that this Part has been met, order the transfers of assets referred to in section 24.82 and shall, in the orders, specify the effective dates of those transfers.

AR 236/99 s3

Nature of assets to be transferred

24.84(1) The transfers from the plan fund under section 24.83 are to consist of such specific assets and to be in such of the following forms as is decided by the Minister of Finance and Enterprise, namely

- (a) in cash,
- (b) on the basis of a prorated interest in the investments of the plan fund valued at market value, or
- (c) as a combination of the forms set out in clauses (a) and (b),

and where a transfer would require a significant liquidation of the assets in a pooled fund, the transfer may include securities held by the pooled fund.

(2) Where any assets transferred to the other plan under section 24.83 are interests in a pooled fund, the other plan must redeem those interests in accordance with the guidelines established for the pooled fund within one year of the time of transfer or within such longer period as is agreed in writing between the employer and the Minister of Finance and Enterprise.

(3) The guidelines referred to in subsection (2) are exempt from the *Regulations Act*.

AR 236/99 s3;270/2002;68/2008

Refund of excess contributions less benefit payments

24.85(1) At the earliest practicable time after the time of transfer,

- (a) if the amount resulting from the application of subsection (2) is positive, the Minister of Finance and Enterprise shall pay from the Plan to the other plan, and
- (b) if that amount is negative, the legal owners of the other plan shall pay from that plan to the Plan,

an amount equal to that amount.

(2) The amount referred to in subsection (1) is equal to the amount of

- (a) any contributions remitted after the time of exit to the Plan in respect of each calendar month representing contributions paid by the employer and exiting persons and other employees of the employer, less
- (b) any benefits paid after the time of exit from the Plan in respect of that calendar month to exiting persons and other employees of the employer,

with interest from the end of the next month to the date of the payment referred to in subsection (1), then aggregated over all the months in the period from the time of exit to the date of that payment.

(3) Interest under subsection (2) is payable on the basis of the market rate of return earned by the plan fund, net of those investment costs that are specified by the Minister of Finance and Enterprise for that purpose, from the month end referred to in subsection (2) until the latest date to which that rate is available and on the basis of the rate of return earned by the Consolidated Cash Investment Trust Fund for the remainder of the period referred to in subsection (2).

AR 236/99 s3;270/2002;68/2008

Indemnification

24.9(1) Before any assets are transferred under this Part, the employer and the legal owners of the pension fund of the other plan must indemnify the Crown in a written form acceptable to the Minister with respect to any claims that may be made by any

person that arise directly or indirectly from the exit, including the fact of the exit's being retroactive.

(2) The legal owners of the pension fund of the other plan indemnify

- (a) the Board and the members of the Board for any damages or legal and other expenses incurred in defending any claim against the Board or any Board member that arises directly or indirectly from the exit, and
- (b) the plan fund and the Plan's administrator and trustee for any claims made by any person that arise directly or indirectly from the exit.

(3) Subject to subsection (2), an indemnification by subsection (2)(a) covers anything done by the Board or Board member, as the case may be, in good faith in the exercise of powers, duties and functions under this Part.

(4) To the extent permissible by law, any liability under an indemnity under this section by the other pension fund's legal owners is to be met from that pension fund itself.

AR 236/99 s3

Transfer of documents and records

24.91 As soon as is practicable, the Minister shall transfer to the administrator of the other plan, at the employer's cost, those documents and records that the Minister holds as the administrator of the Plan, that pertain to exiting persons and other employees of and relating to that employer and that are needed for the administration of the other plan.

AR 236/99 s3

References in matrimonial property orders

24.92 Where there is a reference to the Plan in a matrimonial property order in respect of an exiting person, that reference is to be treated, with effect from the time of exit, as a reference to the other plan.

AR 236/99 s3

Liability for benefits

24.93 The Crown is to have no liability in respect of benefits to be provided by the other plan and the pension fund of the other plan is to assume all such liability.

AR 236/99 s3

Extinguishment of rights

24.94 On the exit, all the rights of the employer and of exiting persons and other employees of and relating to that employer in relation to the Plan are extinguished.

AR 236/99 s3

Schedule 6**Public Service Management (Closed Membership)
Pension Plan Provisions****Pension suspension**

1(1) In this section, references to sections 22 and 23 are to be taken to refer to those sections of the *Public Service Management Pension Plan Regulation* (AR 311/85), as those sections had been saved and were applicable to the Plan before and as at the end of 2000.

(2) Once a pension has commenced, it may not be suspended for any reason.

(3) Subsection (2) does not affect the ongoing validity of a pension suspension effected before 2001 under section 22(1) (but not under section 23), as provided for in subsection (4).

(4) Subject to subsection (5), section 22(1) continues to apply with respect to pension suspensions effected under it before 2001 so long as the person continues, without interruption, to make current service contributions within the meaning of and to the permanent plan or the Public Service Pension Plan.

(5) A person whose pension was, as at the end of 2000, under suspension pursuant to section 22(1) may, within 120 days of the enactment of this section, apply in writing to the Minister not to have subsection (4) apply to that person at all, in which case subsection (4) does not so apply and payment of the pension recommences with effect from January 1, 2001, with interest at the applicable rate referred to in section 79(1)(b) of the permanent plan.

(6) Where, as at the end of 2000, a pension was under suspension under section 23, payment of the pension is to recommence as at January 1, 2001, with interest at the rate referred to in subsection (5).

(7) Sections 22(2) and (3) and 23 are to be treated as not applying after 2000.

(8) This section applies with respect to all pensionable service, whether before or after the end of 1991.

AR 288/2003 s2

Spousal and pension partner references

2(1) In this section,

- (a) “Act” means the *Public Service Management Pension Plan Act*, SA 1984 cP-34.1 (repealed),
- (b) “legislation” means the Act, the Principal Regulation and the Ministerial Regulation,
- (c) “Ministerial Regulation” means the *Public Service Management Pension Plan (Ministerial) Regulation* (AR 312/85) (repealed), and
- (d) “Principal Regulation” means the *Public Service Management Pension Plan Regulation* (AR 311/85) (repealed),

as those enactments had been saved and were applicable to the Plan before and as at the end of January 22, 2002.

(2) The legislation is to be treated as having been changed, applying this section.

(3) The whole of the legislation is to be treated as changed by deleting “spouse”, “spouse””, “Spouse”, “SPOUSE’S”, “Spouse’s” and “Spousal” and further grammatical variants of any of them, if any, wherever they occur in the legislation and replacing those terms with “pension partner”, “pension partner””, “Pension Partner”, “PENSION PARTNER’S”, “Pension Partner’s” and “Pension partner” and the appropriate grammatical variants, respectively.

(4) Section 1(1)(s)(ii) of the Act is to be treated as changed by deleting “of the opposite sex”.

(5) Section 34 of the Act is to be treated as changed by inserting “and to the extent applicable” after “section 42”.

AR 318/2009 s3



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