

Ontario Public Service Employees' Union Pension Plan

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ARTICLE 1
INTRODUCTION

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

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

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 The *Public Service Pension Act* repealed the *Public Service Superannuation Act*, as amended, and the pension plan which had been established thereunder was continued under the new legislation.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

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

Pursuant to a Letter of Agreement dated January 25, 2013, the Sponsors of the OPSEU Pension Plan agreed to expand Plan membership by permitting certain classes of employees at employers delivering a public service and/or performing a public function to maintain membership in or join the Plan. This is subject to the employer meeting the conditions and eligibility requirements described in that Letter of Agreement.

Pursuant to a Letter of Agreement dated April 19, 2018, the Sponsors of the OPSEU Pension Plan agreed to expand Plan membership by permitting certain broader public sector, not-for-profit and other specified employers to participate in a separate component of the OPSEU Pension Plan, OPTrust Select, in respect of certain classes of employees of such employers. This is subject to the employer meeting the conditions and eligibility requirements set out in Schedule A to the OPSEU Pension Plan and the Letter of Agreement. OPTrust Select does not apply to employers that participate in the main component of the OPSEU Pension Plan nor to the employees of such employers unless specifically indicated in the main component of the OPSEU Pension Plan.

ARTICLE 2
DEFINITIONS

In this document,

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

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

"Authorized Employer" means an employer delivering a public service and/or performing a function on behalf of the Ontario Government in a circumstance where some level of Government accountability is retained, or as otherwise agreed to by the Sponsors, and where the employer has entered into a Participation Agreement with the Board;

"average annual salary" means the average of the member's annual salary rates during the period of sixty sequential months of membership in the Plan that produces the highest average. If a member has less than 60 months of membership in the Plan, 'average annual salary' means the average of the member's annual salary rates while a member of the Plan;

"average year's maximum pensionable earnings", with respect to any member or former member, means the average of the Year's Maximum Pensionable Earnings under the *Canada Pension Plan* for the year in which the member or former member ceases or ceased to be a member of the Plan and for each of the four preceding years;

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

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

"bridging benefit" means a benefit under a collective agreement applying to an employer in the Plan whereby a member who receives a notice of layoff is entitled to take one or more leaves of absence for the purpose of bridging to a date on which the member can retire on an actuarially unreduced pension.

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

"Central Collective Agreement" means the collective agreement in force between OPSEU and the Crown in respect of the members of the Ontario Public Service, as amended from time to time.

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

- is under the age of eighteen years; or
- has attained eighteen years of age, and is continuously in full time attendance at a secondary school or, immediately following secondary school, for up to five years continuously in full time attendance at a post-secondary educational institution that is recognized as such by the Board; or
- is found by the Board to be dependent on the member or former member or the spouse of a member or former member for financial support by reason of a severe and prolonged mental or physical disability on the date of the member or former member's death and continuing thereafter until the earlier of the date the child dies or is no longer disabled.

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

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

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

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

"Crown" means the Crown in right of Ontario;

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

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

"eligible period of reduced pay" has the meaning as set out under the *Income Tax Act* (Canada) and the Regulations under that Act;

"divested operation" in relation to section 3.4 means:

- (i) a psychiatric hospital operated by the Ministry of Health and Long Term Care;
- (ii) the property assessment division of the Ministry of Finance;
- (iii) a public health laboratory operated by the Ministry of Health and Long Term Care; or,
- (iv) the Public Health Scientific functions of the Ministry of Health and Long Term Care.

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

"employer" means the employer (including a "Post-2012 Receiving Employer" or an "Authorized Employer") of a member (including an OPTrust Select member). Notwithstanding the foregoing, references to an employer in Articles 1 to 19 shall mean an employer who participates in the main component of the Plan (not OPTrust Select), unless specifically indicated otherwise;

"Employer's Plan Participation Date" means the date on which a Post-2012 Receiving Employer or an Authorized Employer commences to participate in the Plan, in accordance with the relevant Participation Agreement;

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

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

- (a) is entitled, either immediately or at a future time, to payment of a pension benefit under the Plan, or
- (b) is entitled to receive any other payment under the Plan. Notwithstanding the foregoing, references to a former member in Articles 1 to 19 shall mean a former member who participated in the main component of the Plan (not OPTrust Select), unless specifically indicated otherwise;

"Fund" means the OPSEU Pension Fund;

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

"leave of absence" means a period of authorized absence from employment, which does not recur on a regular basis, is measured in consecutive working hours, or consecutive working days, and has an established start date and a pre-determined or anticipated end date.

"maximum contributory salary rate" for the year is the annual salary rate for which the member's contributions calculated under Article 4 of the Plan would equal the maximum contribution limit for the year as specified under the *Income Tax Act* (Canada) or the Regulations under that Act.

"member" means a person,

- (a) who is required to join the Plan, or

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

but does not include a former member. For purposes of this definition, references to the Plan shall include OPTrust Select. Notwithstanding the foregoing, references to a member in Articles 1 to 19 shall mean a member who participates in the main component of the Plan (not OPTrust Select), unless specifically indicated otherwise;

“notice of layoff” means a notice declaring that the member’s position is surplus to requirements or other like notice made under a collective agreement governing the terms and conditions of a member’s employment but does not apply in circumstances involving the sale of a business within the meaning of the *Labour Relations Act*, as modified by the *Crown Employees Collective Bargaining Act, 1993* when a member receives a job offer with a successor employer. In the case of members governed by the Central Collective Agreement, “notice of layoff” means a notice of layoff under Article 20 of the Central Collective Agreement made March 27, 1999, or its successor provisions. For the purposes of sections 7.1A and 17.2A of the Plan, a member governed by the Central Collective Agreement is deemed to have received a notice of layoff where:

- (a) he or she has been declared surplus in accordance with sections 5.2 or 6C.2 of Appendix 18 to the Central Collective Agreement made March 27, 1999 or its successor provisions; or
- (b) in the case where the member, having attained prior to April 1, 1996 credit in the plan that when added to the member’s age equaled eighty years, declines an offer of employment with another employer pursuant to section 3 of Appendix 9 to the Central Collective Agreement made March 27, 1999 or its successor provisions.

"OPSEU" means the Ontario Public Service Employees Union;

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

"OPTrust Select" means the component of the Plan described in Schedule A and "OPTrust Select credit", "OPTrust Select employer", "OPTrust Select former member", "OPTrust Select member" and "OPTrust Select retired member" have the meanings set out in Schedule A;

"Participation Agreement" means a written agreement, in such form as is approved by the Board, between an employer and the Board to participate in the Plan under such terms and conditions as the Sponsors and the Board shall deem appropriate and if applicable shall include the Employer’s Plan Participation Date;

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

"pension" means a pension benefit that is being paid to a person under the Plan, except where specifically indicated otherwise;

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

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

"Plan" means the OPSEU Pension Plan set out in this document (including any schedules). Notwithstanding the foregoing, references to the Plan in Articles 1 to 19 shall be read to exclude OPTrust Select, unless specifically indicated otherwise;

"Plan Year" means the calendar year;

"Post-2012 Receiving Employer" means an employer delivering a public service and/or performing a function on behalf of the Ontario Government in a circumstance where some level of Government accountability is retained, or as otherwise agreed to by the Sponsors, where the Plan members have been transferred to the employer, and where the employer has entered into a Participation Agreement with the Board;

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

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

"receiving employer" means any public or private sector employer who has been designated in legislation or selected in another manner by the Crown to deliver services formerly provided by public servants appointed pursuant to section 32 of the *Public Service of Ontario Act, 2006*.

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

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

"Sponsorship Agreement" means the agreement dated April 18, 1994 between the Crown and OPSEU, as amended from time to time and including any addendums or letters of agreement executed by the Sponsors and appended thereto, providing for the establishment of the Plan;

"spouse" has the same meaning as set out in the *Pension Benefits Act*;

"temporary part-time work arrangement" means a temporary eligible period of reduced pay when the member's working hours are reduced on a temporary basis under an agreement between the member and the employer;

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

"transfer value" means:

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

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

"Trust Agreement" means the agreement made October 25, 1994 among the Crown, OPSEU and the Board as amended from time to time;

ARTICLE 3
PLAN MEMBERSHIP

3.1 Mandatory Membership

- (1) The following persons who have not attained sixty-five years of age shall become members of the Plan the later of January 1, 1993 and the date of the person's commencement of employment in accordance with this subsection:
 - (a) Effective August 20, 2007, public servants appointed pursuant to section 32 of the *Public Service of Ontario Act, 2006* other than for a fixed term and who are employed in a designated bargaining unit represented by OPSEU as set out in Order in Council 243/94. This provision does not apply to persons appointed to employment by the Crown to work in a public body where an Act of the Legislature provides for membership in another pension plan.
 - (b) Persons in a bargaining unit that is represented by OPSEU who are employed by any agency, board, commission, foundation or organization that is established under an Act of the Legislature and that was designated by order of the Lieutenant Governor in Council as one whose employees in that class were required to be members of the PSPP at any time up to and including December 31, 1992 or in a class that would have been required to be members of the PSPP at any time up to and including December 31, 1994, had the OPSEU Plan not been created and established.
 - (c) Persons who are Crown Employees and employed in a bargaining unit represented by OPSEU, if the sponsors have agreed in writing that such employees shall become members of the Plan.

- (e) Persons who are employed by the Liquor Control Board of Ontario, (or the Liquor License Board of Ontario), and in a bargaining unit represented by OPSEU.
 - (g) Persons who are employees of the Board, whether or not such persons are employed in a bargaining unit represented by OPSEU, but not including persons employed for a fixed term or limited period.
 - (h) persons employed by a receiving employer in accordance with an agreement described in section 3.4(2).
 - (i) persons who, on or before August 19, 2007 were required to be members of the pension plan in accordance with the provisions of the plan as it read on that date.
- (2) Any or all of the following groups of persons who are employed in Ontario (within the meaning of the *Pension Benefits Act*) and are designated in a Participation Agreement between the Board and a Post-2012 Receiving Employer or Authorized Employer as a class or part of a class of employees who are required to become members of the Plan, shall become members of the Plan in accordance with this subsection:
- (a) notwithstanding subsection 3.4(1), persons who are members of the Plan who are hired by a Post-2012 Receiving Employer in conjunction with a sale, assignment or other disposition of services from the Crown to the Post-2012 Receiving Employer and who continue to be represented by OPSEU;
 - (b) persons who are OPSEU-represented employees employed by a Post-2012 Receiving Employer or an Authorized Employer, other than those employed for a fixed term or limited period; and,
 - (c) persons who are management or non-bargaining unit employees who are hired by a Post-2012 Receiving Employer or an Authorized Employer on or after the Employer's Plan Participation Date, other than those employed for a fixed term or limited period.

3.2 Elective Membership

- (1) Persons to whom section 3.1 does not apply, who are employed,
 - (a) Effective August 20, 2007, by the Crown under Part III of the *Public Service of Ontario Act, 2006*;
 - (b) by an agency, board, commission, foundation or organization designated by order of the Lieutenant Governor in Council as one whose employees in a designated class were members of the PSPP at any time up to and including December 31, 1992 or would have been members of the PSPP between January 1, 1993 and December 31, 1994, had the OPSEU Plan not been created and established;
 - (c) as Crown Employees if the sponsors have agreed in writing that such employees shall become members of the Plan; or
 - (d) by an agency, board, commission, foundation, organization or public body the permanent and full-time probationary staff of which are required by any Act to be members of the PSPP.

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

Prohibited Membership:

(2) Notwithstanding clause 3.1(1)(g), employees of the Board and who were in full-time attendance at an educational institution prior to their commencement of employment with the Board who intend to return to full-time attendance at an educational institution upon termination of their employment with the Board are not entitled to be members of the Plan.

(3) Any or all of the following groups of persons to whom subsection 3.1(2) does not apply, who are employed in Ontario (within the meaning of the *Pension Benefits Act*) and are designated in a Participation Agreement between the Board and a Post-2012 Receiving Employer or an Authorized Employer as a class or part of a class of employees who are eligible to become members of the Plan, are entitled to become members of the Plan upon filing a written election to be a member with the Board:

- (a) persons who are OPSEU-represented employees employed by a Post-2012 Receiving Employer or an Authorized Employer for a fixed term or a limited period;
- (b) persons who are management or non-bargaining unit employees employed by a Post-2012 Receiving Employer or an Authorized Employer for a fixed term or a limited period; and,
- (c) persons, other than those listed in paragraph (b), who are management or non-bargaining unit employees hired by a Post-2012 Receiving Employer or an Authorized Employer before the Employer's Plan Participation Date.

3.3 Future Membership

(1) Except as provided in subsection (4), (5) and (6), in the event that OPSEU acquires bargaining rights in any manner with respect to any Crown Employees and OPSEU or the Crown Agency which employs such employees requests in writing that it become an employer in the Plan, the sponsors may agree in writing to such employees becoming members of the Plan.

(2) Where a request is made under subsection (1), the Crown shall exercise its discretion to agree or not to agree, acting reasonably, after considering the following factors:

- (a) the financial position of the Crown Agency and its capacity to meet contribution obligations;
- (b) the adequacy of information regarding the proposed new Plan members and the liabilities associated with them;
- (c) the adequacy of existing pension arrangements for the prospective Plan members;
- (d) the willingness of the Crown Agency to co-operate with the Board in meeting its employer obligations under the Plan;

- (e) the willingness of the Crown Agency to execute a participation agreement in a form set by the Board;
- (f) the extent to which the Crown Agency is or is not controlled by the Crown through legislation or agreement; and
- (g) whether pension benefits are covered by the collective agreement between OPSEU and the employer of the Crown Employees or whether they would be covered by a collective agreement if the Crown agrees to the Crown Employees becoming members of the Plan.

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

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

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

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

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

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

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

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

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

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

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

3.3A Participation of Post-2012 Receiving Employers and Authorized Employers

Subject to any prior approvals as required by the Sponsorship Agreement, if a Post-2012 Receiving Employer or Authorized Employer applies to the Board to participate in the Plan, approval of the employer's participation shall be at the sole and absolute discretion of the Board and the Post-2012 Receiving Employer or Authorized Employer shall execute a Participation Agreement prior to being permitted to participate in the Plan.

3.4 Termination of Membership

- (1) A member ceases to be a member of the Plan upon,
 - (a) death;
 - (b) termination of employment,
 - (c) termination of the office or circumstances that required or entitled him or her to be a member of the Plan; or,

- (d) attaining the latest date for contributions to a pension fund or plan as set out in the *Income Tax Act* (Canada) and its applicable regulations for the registration of pension plans and/or pension funds.

For the purposes of this subsection (1), the Plan includes OPTrust Select.

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

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

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

(4) Subsections 3.4(2) and (3) are effective from January 1, 1998.

3.5 Termination of Membership for Terminally Ill Employees

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

3.6 Persons Not entitled to be Members

(1) A person is not entitled to be a member of the Plan after the date under the *Income Tax Act* (Canada) and Regulations at which retirement benefits must commence to be paid.

(2) Notwithstanding any other provision of this Plan, an OPTrust Select retired member in receipt of a pension under OPTrust Select is not entitled to be a member of the Plan.

**ARTICLE 4
CONTRIBUTIONS**

- 4.1 Contributions to and Payments from Fund** Contributions required to be made under this Plan (including OPTrust Select) by an employer (including an OPTrust Select employer) or by any member (including an OPTrust Select member), including interest required to be paid to the Fund, shall be paid into the Fund, and any payment required by the Plan (including OPTrust Select) to be made to any person shall be made out of the Fund, and all moneys not required to be paid out shall be invested to meet the obligations and liabilities of the Plan (including OPTrust Select).
- 4.2 Regular contributions by Members**
- (1) Subject to sections 4.3, 4.3.1, 4.3.2, 4.5 and 4.5.1, every member shall contribute to the Fund from the salary paid to the member for the calendar year,
 - (a) 6.4 per cent of the amount of salary that does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and
 - (b) 8 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.
 - (2) Notwithstanding subsection 4.2(1) effective January 1, 2010, the contributions of each member shall be determined in respect of each pay period and:
 - (i) beginning with the pay period immediately following the pay period that includes January 1, 2010, and ending with the pay period that includes January 1, 2011, the contribution rate shall be,
 - (a) 7.4 per cent of the amount of salary that does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and
 - (b) 9 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*;
 - (ii) beginning with the pay period immediately following the pay period that includes January 1, 2011, and ending with the pay period that includes January 1, 2012, the contribution rate shall be,
 - (a) 8.4 per cent of the amount of salary that does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and
 - (b) 10 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*;
 - (iii) beginning with the pay period immediately following the pay period that includes January 1, 2012, the contribution rate shall be,
 - (a) 9.4 per cent of the amount of salary that does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and
 - (b) 11 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.

- 4.3 Contributions by Members from April 1, 1994 to March 31, 1997**
- Notwithstanding section 4.2, subject to section 4.6, for the period from April 1, 1994 to March 31, 1997 every member shall contribute to the Fund from the salary paid to the member for the calendar year,
- (a) 7 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*;
 - (b) 5.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and
 - (c) 7 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.
- 4.3.1 Contributions by Members from December 1, 1999 to November 30, 2002**
- Notwithstanding section 4.2, and subject to section 4.6, beginning with the pay period that includes December 1, 1999, and ending with the pay period immediately prior to the pay period that includes December 1, 2002, every member shall contribute to the Fund from the salary paid to the member for the calendar year,
- (a) 4 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*;
 - (b) 2.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and
 - (c) 4 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.
- 4.3.2 Contributions by Members from December 1, 2002 to November 30, 2005**
- Notwithstanding section 4.2, and subject to section 4.6, every member shall contribute to the Fund from the salary paid to the member for the applicable calendar year as follows:
- (a) beginning with the pay period that includes December 1, 2002, and ending with the pay period immediately prior to the pay period that includes December 1, 2003,
 - (i) 5 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*
 - (ii) 3.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and
 - (iii) 5 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.
 - (b) beginning with the pay period that includes December 1, 2003, and ending with the pay period immediately prior to the pay period that includes December 1, 2004,
 - (i) 6 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*;
 - (ii) 4.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and

- (iii) 6 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.
 - (c) beginning with the pay period that includes December 1, 2004, and ending with the pay period immediately prior to the pay period that includes January 1, 2005,
 - (i) 7 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*;
 - (ii) 5.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and
 - (iii) 7 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.
- 4.4 Deduction of Contributions** The contributions to be made by a member to the Fund shall be deducted from the member's salary by the person who pays the member's salary, and shall be paid to the credit of the Fund within fifteen days from the date the contribution was deducted or within such longer time as the Board authorizes in writing.
- 4.5 When No Contribution Required** A member may cease to contribute to the Fund on or after attaining sixty-five years of age.
- 4.5.1** For greater certainty,
- (a) the contributions specified under sections 4.2, 4.3, 4.3.1 and 4.3.2 and deducted from the member's salary under section 4.4 shall not exceed the annual limit set out in the *Income Tax Act* (Canada) and Regulations for the calendar year, and
 - (b) where the member accrues credits in the Plan for less than a calendar year, the annual limit referred to under clause (a) shall be adjusted for the period during the year that the member earns credits.
- 4.6 Contributions by Employer** Subject to section 4.7, section 4.8 and Article 6, on each payment date, the employer shall pay into the Fund an amount equal to the aggregate amount of all contributions deducted from the members under section 4.2, or that would have been deducted under section 4.2 but for the application of sections 4.3, 4.3.1, or 4.3.2 in the month ended next before the month in which the payment date occurs, or made by or on behalf of members in respect of the month ended next before the month in which the payment date occurs.
- 4.7 Contributions by Employer from April 1, 1994 to March 31, 1995** For the purposes of section 4.6 and subject to section 4.8, during the period from April 1, 1994 to March 31, 1995, the aggregate amount of all contributions deducted from members referred to in section 4.6 shall be computed pursuant to section 4.3.
- 4.8 Threshold Salary Rate** *Definitions*
- (1) In this section, "threshold salary rate" for the year is the annual salary rate which if,
 - (a) the member had attained age 65 and qualified for a pension,
 - (b) the member's average annual salary equalled the threshold salary rate, and

- (c) the member's average year's maximum pensionable earnings was the Year's Maximum Pensionable Earnings under the *Canada Pension Plan*, then the pension computed under subsection 10.9(1), less the reduction under subsection 10.9(4), would equal the defined benefit limit for the year as defined in Part LXXXV of the Regulations under the *Income Tax Act (Canada)*.

"maximum contribution reduction amount" for the year is two times the amount by which the maximum permissible contributions under the *Income Tax Act (Canada)* for the period during the year that the member earns service credits exceeds the amount that a member paid at the threshold salary rate would contribute to the Plan in a similar period of a year.

- (2) Despite section 4.6, when a member's salary rate in any pay period, commencing with the first pay date in January 1995, exceeds the threshold salary rate for the year, the employer's contribution under 4.6 shall be reduced by:

- (a) two times the member's contribution under section 4.2, or under sections 4.3, 4.3.1, and 4.3.2 where applicable;
- (b) two times the member's contribution under subsections 7.2(2), 7.2(2.1), 7.2(6), 7.3(2), 7.4(3) and;
- (c) one-half the member's contribution under sections 7.2(3) and 7.4(5);

on the annual salary rate in excess of the threshold salary rate for the year, provided that the total reduction in any year shall not exceed the maximum contribution reduction amount defined in section 4.8(1).

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

4.9 Special Funds

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

4.10

For greater certainty, the contributions made by the employer under sections 4.6, 4.7 and 4.11, as modified by subsection 4.8(2), shall comply with the conditions applicable to eligible contributions under section 147.2(2) of the *Income Tax Act (Canada)*.

**4.11 Employer Payments
On Termination or
Withdrawal**

In the event that an employer is terminated or withdraws from participation in the Plan and the Plan is not fully funded on a going concern basis as of the date of withdrawal, the Board shall determine the amount, if any, that the withdrawing employer is required to pay into the Fund in order to eliminate the unfunded liability associated with the pension benefits of members, former members, or any other person associated with the withdrawing employer's participation in the Plan. The Board shall, in its discretion, determine the amount and manner of payment required to be made by the employer.

**ARTICLE 5
INTEREST**

**5.1 Interest on Member
Contributions**

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

**5.2 Interest on Lump Sum
Payments**

Interest on a lump sum amount payable to the member, his or her beneficiary, payment or refund recipient as a result of the termination, retirement, death of a member or shall accrue at the rate used in Section 5.1 from the date the lump sum payment is due until the date payment is made from the Fund.

**5.3 Interest on Transfer
Amounts**

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

**ARTICLE 6
FUNDING**

6.1 Interim Funding

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

- (a) any going concern unfunded liability, including the additional unfunded liability for the benefits referred to subsection (6).
- (b) any actuarial loss.
- (c) any solvency deficiency.

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

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

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

- (5) The total amount of reductions set out in subsection (2) shall be applied:
 - (a) first, to eliminate the special payments otherwise payable by an employer for that period;
 - (b) second, to reduce the employer contributions otherwise payable for that period after the application of section 4.7;
 - (c) third, to reduce any other payment by an employer to the Fund otherwise payable for that period;
- (6) The cost of Factor 80 benefits shall be borne by the Fund from June 1, 1993, to and including March 31, 2000.

6.2 Future Funding

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

6.3 Actuarial Gains and Losses

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

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

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

- (a) until the Transferred Initial Unfunded Liability is fully liquidated:
 - (i) 50% of the gain shall be used to reduce the remaining Transferred Initial Unfunded Liability and the period of amortization over which the Transferred Initial Unfunded Liability is to be fully liquidated shall be adjusted to reflect the reduction; and
 - (ii) 50% of the gain shall be used for the benefit of Plan members;

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

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

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

(6) Clause 6.3(3)(c) and subsections 6.3(4) and (5) apply to both components of the Plan, including OPTrust Select, with such modifications in respect of OPTrust Select as are specified in Schedule A.

6.4	Surplus	No surplus shall be paid out of the Fund to any employer (including an OPTrust Select employer).
6.5	[Transfer Payment from OPSEU Same Sex Spouse Benefits Account]	The Board shall accept from the Minister of Finance a payment in an amount requested by the Board which is equivalent to the actuarial value of the liability under the Plan for the pension payments payable under the Plan to persons specified under subsection 10.18.

ARTICLE 7

LEAVES OF ABSENCE, TEMPORARY PART-TIME WORK ARRANGEMENTS AND PURCHASES OF PRIOR SERVICE

7.1	Leave of Absence With Pay	If a member has been granted a leave of absence from employment and continues to receive a part or all of his or her salary during the leave, the member shall make the contributions required by sections 4.2, 4.3, 4.3.1, or 4.3.2.
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7.1A Leave of Absence for Bridging Purposes and following Notice of Layoff

(1) Where a member has been granted a leave of absence with pay pursuant to a bridging benefit in the member's collective agreement, and provided that the member satisfies any conditions in the member's collective agreement for the granting of such leave, section 7.1 shall apply to such leave and the member shall accrue credit during the leave of absence.

(2) Where a member who has received a notice of layoff is entitled under his or her collective agreement to continue to accrue pension credits for a period represented by his or her termination payments (whether or not pursuant to a bridging benefit), and provided that the member satisfies any conditions in the member's collective agreement for the accrual of such credits, for the purposes of the Plan the member shall be considered to be on paid leave for that period and the termination payments shall be deemed to be salary. Section 7.1 shall apply and the member shall accrue credit during that period.

(3) Notwithstanding s.7.2 but subject to subsection 7.2(8), where a member has been granted a leave of absence without pay pursuant to a bridging benefit in the member's collective agreement, and provided that the member satisfies any conditions in the member's collective agreement for the granting of such leave,

(a) the contributions set out in sections 4.2, 4.3, 4.3.1 or 4.3.2, as applicable shall continue to be made by or on behalf of the member, in accordance with the member's collective agreement, based on the annual salary of the member immediately prior to the commencement of the leave of absence;

(b) the employer's liability under section 4.6 shall be calculated using the aggregate amount of contributions deducted from the members under section 4.2 or that would have been deducted under section 4.2 but for the application of sections 4.3, 4.3.1 or 4.3.2 whether or not such contributions were actually deducted from the member.

(c) the member shall accrue credit during the leave of absence.

(4) The parties to a collective agreement covering members whose terms and conditions of employment are not set out in the Central Collective Agreement may negotiate terms and conditions for entitlement to the benefits under this section, including terms and conditions for benefits which differ from those set out in this section, provided that:

(a) the employer and bargaining unit of such members agree between themselves as such and jointly advise the Board and both Sponsors in writing that this section applies to such members employed by that employer, and

(b) where said parties negotiate terms and conditions for benefits which differ from those set out in this section, the additional liability incurred by the Plan with regard to each member under those terms shall be calculated on a basis approved by the Plan's actuary and paid to the Plan by the member's employer within 30 days of request by the Board.

7.1B Temporary Part-time Work Arrangement

(1) A member who has been employed by their employer for at least 36 months and who is on a temporary part-time work arrangement shall contribute an amount equal to the amount the member would have contributed under section 4.2 if the member were not on a temporary part-time work arrangement, unless the member elects in writing not to do so, using a form approved by the Board.

(2) If a member is on a temporary part-time work arrangement and makes a payment under subsection (1), the employer shall pay into the Fund an amount equal to the aggregate amount of contributions paid by the member under that subsection.

(3) If a member elects not to contribute during the temporary part-time work arrangement in accordance with subsection (1), the member shall make contributions in accordance with section 4.2 based on their reduced salary and will accrue credit based on the contributions made.

(4) If a member was on a temporary part-time work arrangement while they were a member of the Plan or the PSPP prior to this section coming into force on February 1, 2022 and they are still employed by that employer, they may elect to make payments to the Fund in accordance with section 7.4. If the temporary part-time work arrangement ended prior to this section coming into force, the timeline set out under subclause 7.4(6)(a)(ii) shall be extended by twenty-four months from the day this section comes into force.

7.2 Leave of Absence Without Pay

(1) If a member is granted a leave of absence from employment for more than one month and receives no salary during the leave and does not elect to make contributions to the Fund during the leave, no credit shall be given to the member in the Plan for the period of the leave of absence unless:

(a) the member makes payments to the Fund in accordance with section 7.4;

or

(b) in the case of an unpaid leave immediately preceding a termination of employment, the member

(i) elects, prior to the end of the leave, to make contributions to the Fund; and

(ii) contributes to the Fund on or after termination of the leave an amount equal to the contributions the member would have been required to make during the leave.

In determining contributions to be made under this sub-paragraph, the contribution amount shall be based on the annual salary rate of the member on the date of the member's termination of employment and shall be adjusted in each year subsequent to the year in which the member terminated employment by the same percentage as that by which an adjusted pension is increased in that year under Article 11 to adjust for inflation.

(2) A member who is granted a leave of absence of more than one month without pay because of illness may elect to make contributions to the Fund during the leave, in which case the member shall contribute an amount equal to the amount the member would have contributed under sections 4.2, 4.3, 4.3.1, or 4.3.2, if the leave had not been granted, unless the member elects in writing not to do so, using a form approved by the Board.

(2.1) A member who is granted a leave of absence of more than one month without pay in accordance with Part XIV of the *Employment Standards Act, 2000*, other than Reservist Leave, shall contribute an amount equal to the amount the member would have contributed under sections 4.2, 4.3, 4.3.1, or 4.3.2, if the leave had not been granted, unless the member elects in writing not to do so, using a form approved by the Board.

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

(4) The amount a member is required to contribute under subsections (2), (2.1) and (3), shall be based on the annual salary rate of the member immediately prior to the commencement of the leave of absence.

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

(5.1) Notwithstanding subsections (6) and (7), the annual salary rate in any year on which the members contribution are based shall not exceed the maximum contributory salary rate for that year.

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

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

(7.1) Notwithstanding subsection (7), the computation of the average annual salary of a member shall be based on the member's annual salary rate without the limit specified in subsection (5.1).

(8) Subject to subsection (9), the combined credit obtained by a member with respect to periods after 1990 under subsections (1), (2.1), (3) and (6), sections 7.1A and 7.1B, and clauses 7.4(1)(e) and (f) (if purchased on a current service basis), except for a leave of absence because of illness, Article 12 and OPTrust Select credit obtained under subsections A6.1(2), A6.2(3), (4) and (7) and section A6.4 (if purchased on a current service basis) of Schedule A shall not exceed a total of five years.

(9) Where a member is granted a leave of absence for pregnancy or a period of parenting in accordance with the *Employment Standards Act, 2000*, the five year limit on the member's combined credit specified in subsection (8) shall be increased by the total of such periods of leave, or by three years, whichever is less.

(10) Where a member makes a payment under subsections (2), (2.1), or (6), the employer shall pay into the fund an amount equal to the aggregate amount of contributions paid by the member under these subsections.

7.3 Disability

(1) In this section, "long term income protection plan" means the Long Term Income Protection Plan from time to time applicable to members who are employed under Part III of the *Public Service Act, 2006* to mitigate the loss of income resulting from a lengthy disability, and includes any plan that applies to members who are not public servants employed under Part III of the *Public Service of Ontario Act, 2006* if the Board considers the plan to be substantially similar to the Long Term Income Protection Plan applicable to public servants employed under Part III of the *Public Service of Ontario Act, 2006*.

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

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

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

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

(5.1) Notwithstanding subsections (3) and (5), the annual salary rate in any year on which the contributions by an employer are based shall not exceed the maximum contributory salary rate for that year.

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

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

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

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

(10) Notwithstanding subsection (9), the computation of the average annual salary of a member shall be based on the member's annual salary rate without the limit specified in subsection (5.1).

7.4 Purchase of Prior Service

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

(a) for a period of service with an employer, including a period of service with an OPTrust Select employer, who contributed to the Fund, the Public Service Pension Fund, or a predecessor fund throughout the period, where the member made contributions to the Fund, the Public Service Pension Fund or a predecessor fund and for which the member:

(i) no longer has credit in the Plan (including OPTrust Select) or the Public Service Pension Plan, and no claim for pension benefits from the Plan (including OPTrust Select) or the Public Service Pension Plan, or

(ii) is an OPTrust Select former member and is entitled to a deferred pension under OPTrust Select where the purchased credit replaces the OPTrust Select former member's OPTrust Select credit;

(b) for a period of service with an employer who contributed to the Fund, the Public Service Pension Fund, or a predecessor fund throughout the period, where the member did not make contributions to the Fund, the Public Service Pension Fund or a predecessor fund and for which the member has no credit in the Plan or the Public Service Pension Plan, and no claim for pension benefits from the Plan or the Public Service Pension Plan, provided that the period of service did not occur while the member was in receipt of a pension from the Plan.

(c) for a period of employment prior to January 1, 1992 with a person who did not contribute to the Fund or a predecessor fund for the period, if the period is before the member became a member and if,

(i) the member has credit for that period of employment in a pension plan that was a registered pension plan under the *Income Tax Act* (Canada) and was provided by the person to employees, and

(ii) the member's credit in the plan referred to in subclause (i) is reduced by the period for which credit is purchased in the Plan, and a payment is made to the Fund by the plan referred to in subclause (i) of the amount that represents the member's entitlement in that plan for the period for which credit is purchased in the Plan;

- (d) for a period of employment after December 31, 1991 with a person who did not contribute to the Fund or a predecessor fund for the period, if the period is before the member became a member and if,
 - (i) the member has or had credit for that period of employment in a pension plan that is or was a plan registered under the *Income Tax Act* (Canada) and was provided by the person to employees,
 - (ii) the member ceased to be a member of the plan referred to in subclause (i), and
 - (iii) any approval required by His or Her Majesty in right of Canada for the purchase of credit in the Plan has been obtained;
- (e) for a leave of absence without pay from an employer for more than one month for special or educational purposes;
- (f) for a leave of absence without pay from an employer that is granted in accordance with subsections 7.2(2) or 7.2(2.1) or a temporary part-time work arrangement in accordance with section 7.1B; or
- (g) for a period of service for which the member has an entitlement to a deferred pension in the Public Service Pension Plan.

(2) To purchase credit referred to in clause (1)(a), (c) or (d), a member shall pay to the Fund the amount determined by the Board, on the recommendation of the Board actuary, to be equal to the actuarial value of the additional expected benefits to which the member will become entitled as a result of obtaining the credit, calculated on the assumption that the member will retire at the age which produces the maximum value within ten years of the Plan's normal retirement age, less the amount transferred from the plan pursuant to in subsection 1(c). However, if the member made an application to purchase the credit referred to in clause 1(a) prior to the effective date of this amendment, the cost of the purchase shall be calculated in accordance with the provisions of the Plan as they read prior to the effective date of this amendment.

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

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

- (iii) for periods of prior service between April 1, 1994 and March 31, 1997, and between December 1, 1999 and November 30, 2002, the Member's contribution rate in effect during these periods; and
- (iv) for periods of prior service between December 1, 2002 and November 30, 2005, the Member's contribution rates in effect during this period.

(c) the length in years of the period of prior service for which credit is purchased.

(3.1) The annual salary rate referred to in this article shall not exceed the maximum contributory salary rate for that year.

(4) Despite subsection (2), if any payment has been made from the Fund, the Public Service Pension Fund or a predecessor fund in respect of the service for which credit is being purchased under clause (1)(a), and if the total amount paid, plus interest thereon from the payment date at such rate as the Board determines, exceeds the amount determined under subsection (2) for the purchase of that credit in the Plan, the member making the purchase shall pay the higher amount.

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

(a) the annual salary rate of the member on the date when the member's written application containing all information required by the Board for the purchase of the credit is received by the Board;

(b) the following contribution rate:

- (i) for service prior to January 1, 1990, twice the Member's contribution rate as determined under the *Public Service Superannuation Act*, as amended, and under the *Superannuation Benefits Act*, as amended, or any predecessor Acts; and
- (ii) for periods of prior service between January 1, 1990 and March 31, 1994, and between April 1, 1997 and November 30, 1999, and for any period of prior service on or after December 1, 2005, twice the Member's contribution rate specified in section 4.2; and
- (iii) for periods of prior service between April 1, 1994 and March 31, 1997, twice the Member's contribution rate in effect during that period; and
- (iv) for periods of prior service between December 1, 1999 and November 30, 2002, the sum of the respective employer's and Member's contribution rates in effect during that period; and
- (v) for periods of prior service between December 1, 2002 and November 30, 2005, the sum of the respective employer's and Member's contribution rates in effect during this period.

(c) the length in years of the period of prior service for which credit is purchased.

(5.1)

(a) Upon receiving an application from a member to purchase credit under clause (1)(g), the Board shall:

(i) calculate a required transfer amount consisting of,

1. the Actuarial Present Value of the entitlement that the member would have had in the Plan on the date the member terminated his or her membership in the Public Service Pension Plan, if the member's credit in the Public Service Pension Plan were credit in the Plan, less
2. the refund of excess contributions, if any, paid or payable to the member or with respect to him or her by the administrator of the Public Service Pension Plan as required by subsections 39(1) and (4) of the *Pension Benefits Act*, as amended from time to time, in respect of the service for which the member has an entitlement to the deferred pension, plus
3. interest on the amount under 1, after reduction under 2, calculated from the date that the member terminated his or her membership in the Public Service Pension Plan to the end of the month preceding the date that the Request for Transfer Amount is issued to the administrator of the Public Service Pension Plan at the rate of interest specified in the Schedule of Actuarial Assumptions under the Multilateral Portability Agreement, and

(ii) issue a Request for Transfer Amount to the administrator of the Public Service Pension Plan for the amount calculated under subclause (i).

(b) To establish the credit referred to in clause (1)(g), the member shall:

(i) pay to the Fund:

1. the amount, if any, by which the amount requested in subsection (5.1)(a), exceeds the amount paid by the Public Service Pension Plan, excluding any interest paid under subsection 15.6(2), in response to the Request for Transfer Amount issued under subclause (a)(ii), and
2. the amount, if any, under paragraph (5.1)(a)(i) 2, plus interest calculated from the date that the member terminated his or her membership in the Public Service Pension Plan to the end of the month preceding the date that the Request for Transfer Amount is issued to the administrator of the Public Service Pension Plan at the rate of interest specified in the Schedule of Actuarial Assumptions under the Multilateral Portability Agreement, plus
3. interest on the amounts under 1 and 2 at such rate as the Board determines, and

(ii) forfeit the deferred pension in the Public Service Pension Plan.

- (c) Where the member does not pay the full amount required under clause (b), credit shall only be given to the member for the proportion of the credit in the Public Service Pension Plan that the amounts paid to the Fund by both the administrator of the Public Service Pension Plan in response to the Request for Transfer Amount under subclause (a)(ii), excluding any interest paid under subsection 15.6(2), and by the member under clause (b), excluding any interest at the rate under paragraph (b)(i) 3, bear to the Actuarial Present Value referred to under paragraph (a)(i) 1, plus interest on that amount as calculated under paragraph (a)(i) 3.

(5.2)

- (a) Notwithstanding subsections (3) and (5), if a member employed by a Post 2012 Receiving Employer or by an Authorized Employer wishes to purchase credit described in clauses (1)(b), (e) or (f) in respect of a period of service or a part of a period of service which occurred prior to the Employer's Plan Participation Date of that Post 2012 Receiving Employer or Authorized Employer, the member shall pay to the Fund the amount set out in subsection (2).

- (b) Where a member of the Plan is in the process of purchasing credit under subsections (3) or (5) and for any reason, that member becomes employed by a Post-2012 Receiving Employer or an Authorized Employer, and that member has not, as at the Employer's Plan Participation Date of the Post-2012 Receiving Employer or Authorized Employer completed paying the agreed installments, the member shall have 90 days from the date of cessation of his or her remuneration from the previous employer to complete the purchase; otherwise credit shall be given to the member only for the proportion of the credit purchased and the agreement to purchase credit shall terminate.

- (6) Any credit referred to in subsection (1), or any credit transferred from another pension plan that is not paid for by the amount transferred to the Plan under Article 15, may be purchased if:

- (a) application therefor is made to the Board in writing within twenty-four months after the latest of,
 - (i) the day on which the member for whom credit is to be purchased first became a member of the Plan or, in the case that the member was a member of the PSPP immediately prior to becoming a member of the Plan, the date on which the member first became a member of the PSPP;
 - (ii) the last day of the most recent continuous period for which credit is being purchased; and
 - (iii) in the case of credits referred to under clause (1)(g), the first day of membership in the Plan; and
 - (iv) in the case of credits under Article 15, the date the member has been notified by the Board of the outstanding amount

by paying into the Fund the amount set out in subsections (2), (3), (4), (5), or (5.1), or the amount determined by the Board to be outstanding under a reciprocal agreement or provision under Article 15, as applicable,

or

(b) application therefore is made in writing after the timeline set out in clause (a) above where the member pays into the Fund the amount set out in subsection (2).

(7) If the amount payable by a member to purchase credit under this section exceeds \$500, the amount may be paid in such number of instalments of principal and interest over a period of not more than ten years as the Board permits in accordance with the terms and conditions established for instalment payments and for the completion of payment on the termination from employment of the member.

(8) The employer is required to pay to the Fund an amount equal to a payment made by any member under Section 7.4, for all purchases of prior service other than purchases pursuant to subsection (2) and (5).

(9) The period for which a member may purchase credit under this section is limited to that permitted in the *Income Tax Act* (Canada) and the Regulations.

(10) Credit for service prior to 1992 given after 1991 pursuant to this section is limited to a maximum of two years of accumulated credit for leaves of absence for special or educational purposes.

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

(a) has been given credit in the Plan under subsection 15.5 (1),

(b) had prior to her or his last date of membership in the Public Service Pension Plan:

(i) elected to purchase credit for prior service in that plan, and

(ii) agreed to pay the required amount in instalments, and,

(c) had not completed making the required instalment payments,

the Board shall accept the outstanding payments from the member and the member's credit in the plan shall be increased as the instalment payments are received by the Board.

7.5 Contribution, Salary and Service Record

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

**ARTICLE 8
TERMINATION AND DEATH BENEFITS**

**8.1 Refunds Before
Twenty-Four Months'
Membership**

(Rescinded)

**8.2 Refund Before
Pre-1987 Vesting**

(Rescinded)

- 8.3 Refund Before Age Forty-five** (Rescinded)
- 8.4 Refund After Age Sixty-five** (Rescinded)
- 8.5 Refund on Death Where No Survivor** (1) If the member dies while a member of the Plan, and the member is not survived by a child or children or by a spouse from whom the member is not living separate and apart at the member's death, the refund provided by subsection 8.9, shall with respect to service before the 1st day of January, 1987, be paid to a person designated by the member or, if no such refund recipient is designated, to the member's estate.
- (2) (Rescinded)
- 8.6 Refund on Death to Survivor** If a member dies while a member of the Plan and before completing ten years of continuous service and with credit in the Plan for less than ten years, and the member is survived by a child or children or by a spouse from whom the member is not living separate and apart, the spouse, or if there is no such spouse surviving, the child or children, as the case requires, is/are entitled to the refund provided in section 8.9 and to the payment provided by section 8.11 with respect to service before the 1st day of January, 1987.
- 8.7 Refund When Contributions Exceed Pension** The amount, if any, by which the total of contributions made to the Fund by or on behalf of a member and the interest credited to the member to the date of payment under Article 5 exceeds the total payments made from the Fund to the member as a former member and as a survivor pension to the former member's spouse or child or children as a result of the former member's death shall be paid to a person designated by the member in accordance with this section or, if no such payment recipient is designated, to the former member's estate.
- 8.8 Refund for Disabled Member** A member with credit in the Plan for less than ten years and with less than ten years of continuous membership in the Plan who ceases to be a member because of an illness which the Board finds to have caused him or her to be totally and permanently disabled is entitled, upon application to the Board, to be paid from the Fund the amount, if any, by which,
- (a) the aggregate of such of the amounts mentioned in sections 8.9 and 8.11,
- exceeds,
- (b) the aggregate of the amount of the commuted value of any pension benefit for which the member is eligible and the amount of any refund to which the member is entitled under section 8.12.
- 8.9 Pre-1987 Service Refund** A person entitled to a refund provided by this subsection is entitled to be paid from the Fund an amount equal to the total of the contributions made to a predecessor fund by the member, or on behalf of the member pursuant to section 21(2) of the *Public Service Superannuation Act* or section 10(2) of the PSPP, in respect of employment or service for any period before the 1st day of January, 1987, together with the interest credited in the Fund or a predecessor fund to the member.
- 8.10 Post-1986 Service Refund** (Rescinded)
- 8.11 Additional Payment** A person entitled to a payment provided by this subsection is entitled to be paid from the Fund an additional amount equal to,

- (a) the amount of a refund to which the person is also entitled under section 8.9, less
- (b) any portion of the amount of the refund that is attributable to a payment made by the person under subsections 7.4(2) or 7.4(5) or Article 15 and interest credited to the member in respect thereof.

8.12 50 Per Cent Rule

The amount by which the total of the contributions, other than any contributions made under subsections 7.4(2) or 7.4(5), any top-up payments under sections 7.4(5.1) (b), or Article 15 of the Plan, or subsections 11(2) or 11(4) of the PSPP or top-up payments made under section 36 of the PSPP, made to the Fund and any predecessor fund by or on behalf of a member in respect of employment or service for any period after the 31st day of December, 1986 and the interest credited to the member in the Fund or the predecessor fund on those contributions exceeds one-half of the commuted value, excluding credit in the Plan for contributions made under subsections 7.4(2) or 7.4(5), any credit related to any top-up payments under sections 7.4(5.1) (b), or Article 15 of the Plan, or subsections 11(2) or 11(4) of the PSPP or credit related to any top-up payments made under section 36 of the PSPP, in respect of employment or service after the 31st day of December, 1986, of the pension or deferred pension in respect of that employment or service to which the member is entitled on ceasing to be a member, shall be refunded to the former member, or in the case of a member who dies while a member of the Plan, to the member's spouse from whom the member is not living separate and apart at the date of death, or if there is no surviving spouse or the spouse has waived their right to survivor benefits, to the beneficiary designated in accordance with this section or, if no such beneficiary is designated, to the member's estate.

8.12.1

Where a member was, prior to becoming a member of the Plan, a member of the Public Service Pension Plan, and the member's credits in that plan were transferred to the Plan under section 15.5 or purchased under clause 7.4(1)(g), the contributions included in the calculation under 8.12 shall include contributions made by the member to the Public Service Pension Plan, other than contributions made to that Plan that are comparable to those excluded under section 8.12.

8.13 Excess Past Service Payments Refunded

The amount by which the total of the payment to the Fund and any predecessor fund made under subsections 7.4(2) or 7.4(5) or Article 15 of the Plan, or subsections 11(2) or 11(4) or section 36 of the PSPP, and the interest credited to the member on that payment in accordance with the *Pension Benefits Act* exceeds the commuted value of the credit in the Plan that was purchased with that payment and that is included in a deferred pension that the member has elected to transfer under subsection 10.8(1) shall be refunded to the former member, or in the case of a member who dies while a member of the Plan, to the member's spouse from whom the member is not living separate and apart at the date of death, or if there is no surviving spouse or the spouse has waived their right to survivor benefits, to the beneficiary designated in accordance with this section or, if no such beneficiary is designated, to the member's estate.

8.14 Lump Sum Payments

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

8.15 Credit Reduced

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

- 8.16 Child** For the purpose of sections 8.5, 8.6 and 8.7, a child shall be deemed not to have attained eighteen years of age if the child would, for the purpose of section 10.17, be deemed not to have attained that age.
- 8.17 Return of Unauthorized Contributions** Where in the opinion of the Board, a payment made to the Fund by a person in purported reliance on Articles 4 or 7 is found to have been made without proper authority, the Board shall return to the person the unauthorized payment, together with interest as if the unauthorized payment were a refund under section 8.9.
- 8.18 Designation of Recipient** The designation by a member of a refund or payment recipient for the purposes of this section shall be made and delivered to the Board in such form and manner as the Board may require.
- 8.19 Transition Rule – Persons who Terminated Membership Prior to July 1, 2012 – Right to Prior Refund and Benefits** Notwithstanding any other section of the Plan, if a person terminated membership in the Plan prior to July 1, 2012 and did not obtain his or her refund or pension benefits under the Plan at the time of termination, the person (and his or her spouse or beneficiaries as applicable) shall be entitled to the refund or pension benefit that was applicable to that person or persons in accordance with the terms of the Plan as it read on the date of termination.
- 8.20 Transition Rule – Persons who Terminated Membership Prior to July 1, 2012 – No Right to Pension From Immediate Vesting** Notwithstanding any other section of the Plan, a person who terminated membership in the Plan prior to July 1, 2012 shall not become entitled (and his or her spouse or beneficiaries as applicable shall not become entitled) to pension benefits under the Plan that apply as a result of the change to immediate vesting that became effective on July 1, 2012.

**ARTICLE 9
DISABILITY BENEFITS**

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

- 9.2 Other Pension Entitlement Not Affected** The termination of the payment of a pension under this section in accordance with clause 9.1(2)(b) does not affect a former member's right to apply for a pension for which he or she is eligible under any other provision of the Plan.

**ARTICLE 10
RETIREMENT AND OTHER VESTED BENEFITS**

- 10.1 Pension at Age Sixty-five** (1) For the purposes of the *Pension Benefits Act*, R.S.O. 1990, c.P.8, the normal retirement date for a member of the Plan is the date on which the member attains sixty-five years of age.
- (2) Every member who ceases to be a member of the Plan on or after attaining sixty-five years of age is entitled to a pension computed in accordance with the Plan.
- 10.2 Pension at Age Sixty** Every member who has at least twenty years of credit in the Plan and who ceases to be a member of the Plan on or after attaining sixty years of age is entitled to a pension computed in accordance with the Plan.
- 10.3 Ninety-year Rule** Every member who has credit in the Plan for a period of time that, when added to the member's age on the date the member ceases to be a member of the Plan, totals at least ninety years is entitled to a pension computed in accordance with the Plan.
- 10.3A Bridging to Factor 80** A member is entitled to a pension computed in accordance with the Plan, but without any reduction required either by subsections 10.9(5) or 10.9(6) of the Plan, if by taking one or more leaves of absence described in section 7.1A and satisfying the conditions in that section, he or she attains, prior to January 1, 2009, credit in the Plan, that when added to that member's age totals eighty years.
- 10.4 Commencement of Pension** Payment of a pension to which a member is entitled under this section shall commence in the month following the month when the member ceases to be a member of the Plan.
- 10.5 Deferred Pension** (1) A person who ceases to be a member of the Plan and is neither in receipt of a pension provided for in Article 9, nor entitled to a pension provided for in sections 10.1, 10.2 or 10.3 is entitled to a pension computed in accordance with the Plan.
- (2) Where a member ceases to be a member of the Plan on a date which is prior to the member's normal retirement date set out in subsection 10.1(1), payment of the pension provided for in subsection (1) shall commence in the month following the month when the former member will attain sixty-five years of age, or if the former member so elects in writing to the Board, payment of the pension shall, subject to the reductions mentioned in section 10.9, commence in any month subsequent to the member's termination of membership in the Plan that is neither:
- (a) earlier than the month following the month in which the former member will attain fifty-five years of age; nor
- (b) later than the month when the former member will attain sixty-five years of age.

- 10.6 Pre-1966 Credit**
- (1) Every member who, on ceasing to be a member, has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the member ceases to be a member, and who is neither in receipt of a pension provided for in Article 9 nor entitled to a pension provided for in sections 10.1, 10.2 or 10.3, is entitled to a pension computed in accordance with the Plan.
- (2) Payment of the pension provided for in subsection (1) shall commence in the month following the month when the former member will attain sixty years of age, or if the former member so elects in writing to the Board, payment of the pension shall, subject to the reductions mentioned in section 10.9, commence in the month following any month that is not earlier than the month when the former member will attain fifty years of age or later than the month when the former member will attain sixty years of age.
- 10.7 Revocation of Election**
- An election made under subsection 10.5(2) or 10.6(2) may, with the approval of the Board, be revoked by the member or former member, and a new election in writing to the Board may be made if the commencement of payment therein provided for is neither earlier than the month following the month when the new election is delivered to the Board nor earlier than is permitted by subsection 10.5(2) or 10.6(2), whichever is applicable, and is not later than the latest month permitted by subsection 10.5(2) or 10.6(2), whichever is applicable, but no election may be revoked after payment of the pension is due to commence.
- 10.8 Transfer of Commuted Value of Pension**
- (1) A former member who is entitled to a pension under sections 10.5 or 10.6 and who has not attained fifty-five years of age in the case of a pension mentioned in section 10.5 or has not attained fifty years of age in the case of a pension mentioned in section 10.6 may require the commuted value of the pension to be paid, subject to section 42 of the *Pension Benefits Act* or, may at any later time elect, provided that the former member has not attained fifty-five years of age or has not attained fifty years of age in the case of a pension mentioned in section 10.6 when making such a later election,
- (a) to the pension fund of another pension plan that agrees to accept the payment;
- (b) into a registered retirement savings arrangement prescribed under the *Pension Benefits Act*; or
- (c) for the purchase for the former member of a deferred life annuity under which payments will not commence before the former member attains fifty-five years of age, if the pension the commuted value of which is paid is mentioned in section 10.5, or fifty years of age, if the pension the commuted value of which is paid is mentioned in section 10.6, and if the contract to purchase the annuity meets the requirements prescribed under the *Pension Benefits Act*.
- (1.1)
- (a) Where a former member who is entitled to a pension under subsection 10.5(1) or 10.6(1) has become a member of the Public Service Pension Plan and the Board has received from the administrator of that plan a Request for Transfer Amount in respect of credit for which the former member has an entitlement under subsections 10.5(1) or 10.6(1), the Board shall pay to the administrator of the Public Service Pension Plan not later than 90 days from the date of issue of the Request for Transfer Amount, the lesser of the requested amount, and:

- (i) the Actuarial Present Value of the members credit in the Plan, less
- (ii) the refund of excess contributions with respect to the former member's credit in the Plan, if any, paid or payable to the former member by the Plan under sections 8.12 and 8.13, plus
- (iii) interest on the amount under clause (i), calculated after reduction under clause (ii) from the date that the member terminated membership in the Plan to the end of the month preceding the date that the Request for Transfer Amount was issued by the administrator of the Public Service Pension Plan at the rate of interest specified in the Schedule of Actuarial Assumptions under the Multilateral Portability Agreement;

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

- (b) Upon payment of the amount specified in clause (a), the Board, Plan and Fund are discharged of any further claims by the former member and administrator of the Public Service Pension Plan.

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

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

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

(5) Where the former member makes the application in subsection (2), no payment shall be made by the Board unless the former member provides the Board with the statement about or by a spouse as required by the *Pension Benefits Act*.

(6) *(Rescinded)*

(7) Where the former member makes the application in subsection (3), no payment shall be made by the financial institution that is the trustee of the registered savings arrangement unless the former member provides the statement about or by a spouse as required by the *Pension Benefits Act*.

(8) *(Rescinded)*

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

10.9 Computation of Pension

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

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

(3) The annual amount of pension payable to a former member who, on ceasing to be a member, has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the member ceases to be a member, who has not attained sixty-five years of age, shall be computed in accordance with subsection (1) as though the reference to sixty consecutive months in determining the former member's average annual salary were a reference to thirty-six consecutive months and shall be paid, subject to the reduction required by subsection (6), until the former member attains sixty-five years of age, and upon the occurrence of this event, the former member's pension shall be recomputed in accordance with subsection (1) without reference to this subsection.

(4) When a former member,

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

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

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

(c) 0.655 per cent of the lesser of,

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

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

the number of years, including any fraction of a year, of the former member's credit in the Plan for service on or after the 1st day of January, 1966 to a maximum of thirty-five years.

(5) The annual amount of every pension provided for in subsection (1) shall, after computation in accordance with subsection (1), be reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension is to commence and ending with the last day of the month when the former member will attain sixty-five years of age, and when the reduction required by subsection (4) is calculated, the reduction required by this subsection applies only to the annual amount of pension payable after giving effect to the reduction required by subsection (4) and shall, if applicable, be recalculated on that basis.

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

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

and when the reduction required by subsection (4) is calculated, the reduction required by this subsection applies only to the annual amount of pension payable after giving effect to the reduction required by subsection (4) and shall, if applicable, be recalculated on that basis.

(5.2) For the purpose of subsection 5.1, in determining the date that the member would have met the requirements of paragraph (b) or (c), the former member's age at the date of pension commencement and the former member's credit in the Plan at the date of cessation of Plan membership shall be used.

(6) The annual amount of every pension provided for in subsection (3) shall, after computation in accordance with subsection (3), be reduced as required by the *Public Service Superannuation Act*, as it read on the 31st day of December, 1965, and the reduction shall continue until the former member attains sixty-five years of age, and upon the occurrence of this event, the former member's pension shall be recomputed in accordance with subsection (1) and reduced as required by subsection (4), and the annual amount of pension payable after that reduction shall be further reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension commenced and ending with the last day of the month when the former member attained sixty years of age.

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

- (a) less the reduction required by subsection (4) and, if applicable, subsection (6); and
- (b) plus the annual amount of pension that the former member would have received from the *Canada Pension Plan* if that pension commenced only on the former member's attaining sixty-five years of age, other than the part of that pension derived from contributions made to the *Canada Pension Plan* after the former member ceased to be a member of the Plan,

that is payable to a former member who,

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

(d) has attained sixty-five years of age,

is less than the annuity or annual amount of allowance that would be payable to the former member under the *Public Service Superannuation Act*, as it read on the 31st day of December, 1965, in respect of the former member's credit in the Plan, the amount of the difference shall be added to the annual amount of the pension computed in accordance with subsection (1) that is payable after making the reductions required by subsection (4) and, if applicable, subsection (6).

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

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

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

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

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

- (a) any part of a month that is less than fifteen days shall be disregarded; and
- (b) any part of a month that is fifteen days or more shall be deemed to be a month.

(12) If, on December 1, 1999, a former member, or surviving spouse or child of the former member, is in receipt of a pension under the Plan, the annual amount of pension payable as of December 1, 1999, shall be recalculated, effective on that day, in accordance with the definition of "average year's maximum pensionable earnings" in Article 2, this section 10.9, and sections 10.13, 10.14, 10.16 and 10.17, whichever are applicable, as these provisions read on December 1, 1999.

(12.1) If, on December 1, 2002, a former member, or surviving spouse or child of a former member, is in receipt of a pension calculated with reference to subsection 10.9(4) as it read on November 30, 2002, the annual amount of pension payable as of December 1, 2002, shall be recalculated, effective on that day, in accordance with this section 10.9, and sections 10.13, 10.14, 10.15, 10.16 and 10.17, whichever are applicable, as these provisions read on December 1, 2002.

10.10 Application for pension

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

10.11 Payment of Pension

Unless otherwise expressly provided in this Plan, a pension,

- (a) is payable in monthly instalments for life; and
- (b) ceases to be payable after the month when the person in receipt of the pension dies or entitlement to payment of the pension ceases.

10.12 Commutation of Pension

If a person is entitled to be paid a pension, the annual amount of which, before the reductions mentioned in subsections 10.9(5), (5.1) and (6), or the commuted value of that pension, is not more than the thresholds set out in the *Pension Benefits Act* in the year when the member, former member or retired member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, the Board may pay the commuted value of the pension to the person as permitted by the *Pension Benefits Act*.

10.13 Pension to Surviving Spouse

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

(2) If a survivor pension under subsection (1), subsection 10.14(1), or subsection 10.15(1) is payable as the result of the death of a former member before such deceased former member attained sixty-five years of age, the annual amount of pension on which the survivor pension is based shall be reduced in accordance with subsection 10.9(4) as of the month following the month during which the deceased former member would have attained sixty-five years of age.

(3) Despite subsection (1), a member or former member and the spouse of the member or former member from whom the member or former member is not living separate and apart, may waive the spouse's entitlement to a survivor pension under subsection (1), by delivering to the Board an effective waiver in accordance with the relevant provisions of the *Pension Benefits Act*.

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

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

(6)

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

(b) Subject to clause (c), where a member or former member dies, and the member or former member had no spouse who is entitled to a pension under this plan on the date of his or her death, and the former member was not predeceased by a spouse to whom a survivor pension would have been paid under this section, section 10.14 or 10.17, an annual amount of pension equal to 60 percent of the annual pension that the member or former member is or would be entitled to receive in the month when the former member died, shall be paid to or among such of the child or children of the former member on whose death the survivor pension became payable as are, at the death of the member or former member, under eighteen years of age until each child attains that age or dies under that age, and the share of the children who attain that age or die under that age accrues to the child or children, if any remaining under that age.

(c) Where the member or former member died before attaining sixty-five years of age, the annual amount of pension on which the survivor pension in clause (b) is based shall be reduced in accordance with subsection 10.9(4) effective as of the month following the month during which the deceased former member would have attained age sixty-five years of age.

10.14 Increased Survivor Pension

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

(1.1) For the purposes of section 10.14(1), where the former member dies before attaining sixty-five years of age, the annual amount of pension of the former member on which the survivor pension is based shall be calculated in accordance with section 10.13(2).

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

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

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

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

10.15 Post-retirement Marriage

(1) Subject to subsection 10.13(2), a former member who, after commencing to receive a pension and when the former member has no spouse entitled to a survivor pension under section 10.13, becomes the spouse of a person who would not be entitled on the death of the former member to a survivor pension under section 10.13 may in writing direct the Board to pay to the person, if he or she survives the death of the former member, a survivor pension for life of 50 per cent, 55 per cent, 60 per cent, 65 per cent, 70 per cent or 75 per cent of the pension received by the former member immediately before his or her death.

(2) A direction mentioned in subsection (1) must be delivered to the Board,

(a) within ninety days after the date on which the former member became the spouse of the person to whom the survivor pension is directed to be paid; or

(b) if immediately before the person becomes the spouse of the former member there is a child of the former member who would be entitled on the former member's death to receive a pension, within ninety days after the date the child ceases to be entitled to receive the pension.

(3) The Board may accept a direction mentioned in subsection (1) and delivered after the time mentioned in subsection (2) if the Board is satisfied that the former member giving the direction is in good health having regard to his or her age.

(4) The annual amount of pension payable to a former member who has given a valid direction in accordance with this section shall be actuarially reduced in a manner approved by the Board to reflect the survivor pension directed to be paid and, subject to subsection (5), the survivor pension shall be paid in the percentage specified in the direction to the spouse if he or she survives the death of the former member.

(5) A survivor pension under this section shall not be paid while there is a child of the deceased former member entitled to receive a pension as a result of the death of the former member.

10.16 Survivor Pension on Death Before Payment of Pension

(1) If a member,

- (a) dies while a member of the Plan; or
- (b) dies after ceasing to be a member of the Plan and before the beginning of the month when payment of his or her pension is to commence,

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

- (c) to the spouse of the member or former member from whom the member or former member is not living separate and apart;
- (d) subject to subsection (6) and (10), if no payment under clause (c) can be made, or if the member or former member has no spouse who survives the date of death of the member or former member, to the beneficiary designated in accordance with this section by the member or former member; or
- (e) subject to subsection (6) and (10), if no payment can be made under clause (c) or (d), to the estate of the member or former member.

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

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

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

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

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

(6) Subject to clause (1)(c), a survivor pension is payable to a child or among the children of a member or former member on the death of the member or former member, equal to 60 per cent of the member or former member's pension computed in accordance with section 10.9 as though the member or former member had attained sixty-five years of age and on the basis only of the member's or former member's credit in the Plan for employment or service after 1986. The survivor pension payable under this section is payable until such time as the child or children no longer meet the criteria pursuant to subsection 10.17(3).

(7) If the spouse of a member or former member elects a deferred pension under clause (3)(b) and the spouse dies before the month when the deferred pension is to commence, a survivor pension is payable to a child or among the children, equal to the pension calculated in subsection (6). The survivor pension payable under this section is payable until such time as the child or children no longer meet the criteria pursuant to subsection 10.17(3).

(8) If the spouse of a member or former member dies after commencement of the pension under subsection (2) or clause (3)(b), a survivor pension is payable to a child or among the children, equal to the pension calculated in subsection (6). The survivor pension payable under this section is payable until such time as the child or children no longer meet the criteria pursuant to subsection 10.17(3).

(9) Payment of a survivor pension to a child or among the children shall commence in the month following the month when,

(a) with respect to the pension provided for in subsection (6), the member or former member dies; or

(b) with respect to the pension provided for in subsection (7) or (8), the spouse dies.

(10) The child or children to whom an immediate pension is payable under subsection (6) or (7) may, in writing in the approved form delivered to the Board in the time fixed by the Board, elect to receive the commuted value of that pension in a lump sum.

(11) The commuted value payable to the designated beneficiary under clause (1)(d) or to the estate of the member or former member under clause (1)(e), as applicable, shall be reduced by the commuted value of the survivor pension paid under subsection (6) or (7).

10.17 Survivor Pension For Pre-1987 Credit

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

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

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

(3) For the purpose of this section, subsection 10.13(6) and subsection 10.16, a child who has attained eighteen years of age shall be deemed not to have attained that age if, since attaining that age, the child has been, in the opinion of the Board:

- (a) continuously in full-time attendance at either or both of,
 - (i) a secondary school; or
 - (ii) for five years following secondary school, a post-secondary educational institution that is recognized as such by the Board; or
- (b) dependent on the member or former member or the spouse of a member or former member for financial support by reason of a severe and prolonged mental or physical disability on the date of the member or former member's death and continuing thereafter until the earlier of the date the child dies or is no longer disabled.

10.18 [Same Sex Spouse Payments From Plan]

A person who was on December 31, 1998 in receipt of, or who was entitled to, a periodic benefit from the OPSEU Same Sex Spouse Benefits Account established by Order in Council 2778/94 is entitled to a pension from the Plan commencing in January 1999 calculated as if the periodic benefit from the Account was on the date it commenced a pension under the Plan.

**ARTICLE 11
INFLATION ADJUSTMENT**

11.1 Formulas

In the formulas in this section,

"A" is the carry forward determined for the immediately preceding year,

"B" is the basic ratio for the year,

"C" is the adjustment ratio for the year,

"D" is the basic ratio for the year next following the year when the member for whose credit in the Plan the pension in respect of which the formula is applied is payable ceased to be a member of the Plan, and shall be calculated to a maximum of 1.080 or to a minimum of 1.000, and

"E" is the number of full months in the year that are after the month in the year when the member for whose credit in the Plan the pension in respect of which the formula is applied is payable ceased to be a member of the Plan.

11.2 Definitions

In this section,

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

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

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

$[(D - 1.000) \times E / 12] + 1.000$, and

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

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

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

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

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

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

11.3 Payment of Inflation Adjustment

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

ARTICLE 12

PRE-RETIREMENT PART-TIME EMPLOYMENT

12.1 Part-time Employee

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

12.2 Conditions

The conditions referred to in section 12.1 are,

- (a) that the employee's part-time employment must be and continue to be,
 - (i) in a position that requires regular employment for at least fourteen hours per week or nine full days in each four weeks, or
 - (ii) employment pursuant to section 32 of the *Public Service of Ontario Act, 2006* other than for a fixed term for at least one-third of each twelve-month period of part thereof following the giving of the notice required by Section 12.3 and before the employee's retirement on the date provided for in the notice;
- (b) that the employee must not be employed as a regular full-time employee in the public service at any time after giving the notice required by section 12.3 and before receiving a pension under the Plan;
- (c) that during the period of part-time employment specified by the employee in the notice given in accordance with section 12.3, contributions are made to the Fund by the employee and the employer on the basis of the salary payable for full-time employment in the position held by the employee immediately before the giving of the notice; and
- (d) that the employee's deputy minister must approve in writing the change from full-time to part-time employment proposed by the employee.

12.3 Notice

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

- (a) that the employee intends to retire from employment in the public service not later than five years after the day on which the notice is given;

- (b) that the employee wishes to perform the duties of his or her position on a part-time basis until retirement from employment; and
- (c) that the employee wishes to continue to contribute to the Fund on the basis of his or her salary as a full-time employee in the position.

12.4 Contributions

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

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

12.5 Resumption of Full-time Employment

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

12.6 Refund of Contributions

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

12.7 Public Service

In this section, "public service" means that part of the public service whose employees are appointed to employment under Part III of the *Public Service of Ontario Act, 2006*.

**ARTICLE 13
RE-EMPLOYMENT**

13.1 Reduction and Recomputation

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

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

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

(3) Subject to subsection (4), upon the termination of employment of a person referred to in subsection (2), the person will receive a new benefit calculated at the date of last termination of employment in accordance with the applicable provisions of sections 10.9 and 10.13 of the Plan, provided that, if the pension paid prior to re-employment or re-engagement, was a reduced pension under subsection 10.5(2) or 10.6(2), then the pension payable shall be actuarially reduced to account for any pension payments earlier received.

(4) The monthly pension payable at the date of last termination of employment under subsection (2) shall not be less than the pension payable to the former member for the last full month prior to the date the former member rejoined the Plan.

**Re-employment /
Engagement Related to
Fighting Forest Fires**

(5) Despite subsection (1), where a former member who is receiving a pension is re-employed or engaged by the Crown for the purpose of controlling, suppressing or extinguishing a fire or ensuring the safety of or evacuation of affected persons or providing support in relation to those functions under the *Forest Fires Prevention Act*, R.S.O. 1990, c.F.24, and where the Minister directs the Board in writing that this provision shall apply for a period of time, the pension of the former member shall not be reduced in respect of the period of that re-employment or engagement.

(6) The Board may require the employer and the former member to provide such information as it deems necessary for the purposes of complying with subsection (5).

**Re-employment /
Engagement Related to
the COVID-19
Emergency**

(7) Despite subsection (1), where a former member who is receiving a pension is re-employed or engaged by the Crown or another employer to perform duties related to a COVID-19 emergency until July 31, 2020, the pension of the former member shall not be reduced in respect of the period of that re-employment or engagement. If both Sponsors agree that this provision shall be extended or apply for a period of time other than that specified above, they shall notify the Board in writing.

(8) The Board may require the employer and the former member to provide such information as it deems necessary for the purposes of complying with subsection (7).

13.2

(1) If a person who is entitled to a deferred pension from the Plan under section 10.5 becomes re-employed or engaged in any capacity by an employer who contributes to the Fund and becomes a member of the Plan, subject to subsection (2), upon subsequent termination of employment, the person will receive a new benefit calculated at the date of the last termination of employment in accordance with the applicable provisions of section 10.9 of the Plan based on the member's total years of credit in the Plan.

(2) A person who received a refund pursuant to section 8.12 of the Plan shall repay the amount to the Fund; otherwise the monthly pension and any refund payable at the date of last termination of employment shall be reduced by an amount determined by the Board, on the recommendation of the Board's actuary, on account of the refund.

**ARTICLE 14
ADMINISTRATION**

- 14.1 Board** The Plan and the Fund shall be administered by the Ontario Pension Board in accordance with Section 42 of the Sponsorship Agreement and thereafter by the Board. The duties, powers and responsibilities of the Board are as set out in the Trust Agreement made between the Crown and OPSEU on October 27, 1994.
- 14.2 Expenses** The expenses of the operation of the Board, the administration of the Plan and the administration and investment of the Fund shall be paid out of the Fund.
- 14.3 Information**
- (1) The Board shall provide each member and each eligible employee under the *Pension Benefits Act* with a written explanation of the terms and conditions of the Plan applicable to the member or eligible employee, together with an explanation of the rights and duties of the member or eligible employee with reference to the benefits available to the member or eligible employee under the terms of the Plan.
- (2) The Board shall provide a notice of written explanation of amendments to the Plan as required by and in accordance with the *Pension Benefits Act*.
- (3) The Board shall provide a written statement to each member containing the information prescribed under the *Pension Benefits Act* in respect of the member's benefits under the Plan.
- (4) When a member of the Plan terminates employment or otherwise ceases to be a member, the Board shall give to the member or to any other person who becomes entitled to a benefit under the Fund, written statements setting out the information prescribed under the *Pension Benefits Act* in respect of the benefits of the member or other person.
- (5) The Board shall make available for inspection by eligible individuals the documents and information concerning the Plan and the Fund as prescribed under the *Pension Benefits Act*.
- 14.4 Application** The provisions of this Article 14 apply to both components of the Plan (including OPTrust Select). In this Article, references to a member include an OPTrust Select member and references to an eligible employee include an eligible employee of an OPTrust Select employer.
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**ARTICLE 15
TRANSFERS**

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

- 15.2 Transfer to Other Plan of Credit in Plan** If the Board enters into a written agreement for the transfer from the Plan to another pension plan registered under the *Income Tax Act* (Canada) of credit in the Plan in respect of members who become members of the other plan, the Board shall, at the request of a member transferring credit from the Plan in accordance with the agreement, pay from the Fund to the plan to which the member's credit is being transferred the amount provided for in the agreement for the purchase of credit for the member in the other plan.
- 15.3 Transfer Agreements Prevail** Sections 15.1 and 15.2 apply despite section 7.4 or Article 8.
- 15.4** (Rescinded)
- 15.5 [OPSEU Pension Plan and Public Service Pension Plan Transfers]**
- (1) Where a member with no break or termination of employment who immediately prior to becoming a member of the Plan was a member of the Public Service Pension Plan, the Board shall request the administrator of the Public Service Pension Plan to transfer an amount equal to:
- (i) the Actuarial Present Value in the Plan of the period of the member's credit in the Public Service Pension Plan, plus
- (ii) interest on the amount under clause (i), calculated from the date that the member ceased to be a member of the Public Service Pension Plan, to the end of the month preceding the date when the Request for Transfer Amount was issued to the administrator of the Public Service Pension Plan, at the rate of interest specified in the Schedule of Actuarial Assumptions under the Multilateral Portability Agreement.
- (2) Upon receipt of the requested amount under subsection (1), credit shall be given in the Plan to the member for the period of service in the Public Service Pension Plan.
- (3) Where the amount received by the Board from the administrator of the Public Service Pension Plan, excluding any interest paid under subsection 15.6(2) is less than the amount requested in subsection (1), the credit given to the member shall only be for the part of the credit in the Public Service Pension Plan which is directly proportional to the amount received by the Board excluding any interest paid under subsection 15.6(2) over the amount indicated in subsection (1).
- (4) The member may contribute all or part of the deficiency between the amount received by the Board, excluding any interest paid under subsection 15.6(2), and the amount specified in subsection (1), plus interest on the contribution at such rate as the Board determines. Upon payment of such contribution plus interest the member will receive additional credit in the Plan in the amount which is directly proportional to the additional amount contributed, excluding interest, over the amount indicated in subsection (1).
- (5) Notwithstanding article 10 of the Plan, where a member terminated membership in the Plan and immediately, with no break or termination of employment, became a member of the Public Service Pension Plan, the member is not entitled to the pension under articles 10.5 or 10.6, or to transfer or receive payment of the commuted value thereof under section 10.8.
- (6) Where a former member has, because of subsection (5), no entitlements under articles 8 or 10, the Board shall,

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

(i) the lesser of:

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

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

plus

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

and

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

(7) Upon payment of the amount specified under subsection (6), the Board, Plan and Fund are discharged of any further liability to or obligation for claims by the former member.

(8) Credit in the Public Service Pension Plan referred to in subsections (1) and (3) excludes any credit for which the member had not paid prior to termination of Public Service Pension Plan membership.

(9) The former member's credit in the Plan referred to in subsection (6) excludes any credit for which the member had not paid prior to termination of membership in the Plan.

(10) In this article, and articles 7.4, 10 and 15.6

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

(i) the actuarial assumptions set out in the Schedule of Actuarial Assumptions under the Multilateral Portability Agreement as at the date of the person's termination of employment or membership from the exporting plan; and

(ii) the provisions of the plan for which the Actuarial Present Value is being determined, as at the date of termination of employment, or membership

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

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

but it shall not include either

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

"exporting plan" to which "Actuarial Present Value" refers means:

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

"importing plan" to which "Actuarial Present Value" refers means:

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

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

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

15.6 [Administrative Agreement]

- (1) Sections 8.12.1 and 15.5 and subsections 7.4(1)(g), 7.4(5.1), 7.4(11) and 10.8(1.1) are only effective if,
 - (a) corresponding provisions are included in the Public Service Pension Plan, and
 - (b) the Board has reached an agreement with the administrator of the Public Service Pension Plan regarding administrative processes pertaining to the implementation of these provisions, and the agreement is in force.

(2) Where an amount payable by the administrator of the Public Service Pension Plan under subsections 7.4(5.1) or 15.5(1) has not been received 90 days after the Board issued a Request for Transfer Amount to the administrator of the Public Service Pension Plan, interest on the amount shall be charged from the date the Request for Transfer Amount was issued to the end of the month preceding the date the money is received by the Board at the interest rate calculated as the average of the twelve monthly rates of CANSIM series B14045 for the preceding calendar year of payment, plus 3 percent.

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

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

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

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

(7) Despite section 15.5, where in the opinion of the Board or the administrator of the Public Service Pension Plan, a member or former member became a member of the Plan, or terminated membership in the Plan, as described under sections 80 or 81 of the *Pension Benefits Act*, as amended from time to time, section 15.5 shall not apply.

15.7

An employer is not required to pay to the Fund an amount equal to a payment made by any person under Article 15.

ARTICLE 16
INCOME TAX ACT

**16.1 Application of
Income Tax Act**

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

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

- (a) the total amount of contributions by a member in Article 4 cannot exceed the limit set out in the *Income Tax Act* (Canada) and Regulations;
- (b) the computation of a pension under section 10.9 is subject to those provisions of the *Income Tax Act* (Canada) and Regulations that limit the lifetime retirement benefits and the amount of bridging benefits, as defined in the Regulations to the *Income Tax Act* (Canada), that may be paid to a member;
- (c) the adjustment of a pension under Article 11 for all credits accrued in the Plan after December 31, 1991 is limited to the extent permitted in the *Income Tax Act* (Canada) and Regulations; and
- (d) the period or periods of part time employment for which a member is eligible for determination of his or her pension in accordance with Article 12 is limited to that permitted in the *Income Tax Act* (Canada) and Regulations.

ARTICLE 17
FACTOR 80 WINDOW

17.1 Application

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

Voluntary Factor 80: Section 17.2 of the OPSEU Pension Plan is hereby rescinded effective April 1, 2005.

17.2A Factor 80 Extension

(1) A member is entitled to a pension under subsection (2) if he or she satisfies the following conditions:

- (a) the member receives a notice of lay-off prior to January 1, 2009;
- (b) on the date that the employment of the member is terminated in accordance with the notice of lay-off, the member has credit in the Plan that when added to the member's age equals at least eighty years;
- (c) the date when the member attains eighty years in age and credit under (b) is prior to January 1, 2009;
- (d) within 92 days of the later of
 - (i) the last day of the month in which the member received the notice of layoff and
 - (ii) the effective date of this section,

he or she delivers a written notice of election to the member's employer, in the case of an employer under the Plan, or otherwise to the Board, electing to take a pension under subsection (2);

(e) the employment of the member by the employer is terminated in accordance with the notice of lay-off.

(2) A member who satisfies the conditions in subsection (1) is entitled to a pension computed in accordance with the Plan, but without any reduction required either by subsections 10.9(5) or 10.9(6) of the Plan.

(3) Sections 17.3, 17.5 and 17.6 apply, with necessary modifications, to a pension under subsection (2).

(4) The restriction set out in clause 17.2(3)(a) on entitlement to a pension under Article 17 does not apply to a pension under subsection (2).

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

(a) exceed the value of the benefits under this section, or

(b) remain in effect for employees receiving a notice of layoff, or equivalent, after December 31, 2008.

the additional liability incurred by the Plan with regard to each member shall be calculated on a basis approved by the Plan's actuary and paid to the Plan by the member's employer within 30 days of request by the Plan.

**17.2B Factor 80 Extension-
Notice of Lay-Off prior
to February 26, 2009**

(1) A member whose terms and conditions of employment are set out in the Central Collective Agreement is entitled to a pension under subsection (2) if he or she satisfies the following conditions:

(a) the member received a notice of lay-off prior to February 26, 2009; and

(b) on the date that the employment of the member is terminated in accordance with the notice of lay-off including by application of Section 7.1A of the plan, if applicable, the member has credit in the Plan that when added to the member's age equals at least eighty years; and

(c) the date on which the member attains eighty years in age and credit under (b) is prior to January 1, 2013; and

(d) the employment of the member by the employer is terminated in accordance with the notice of lay-off.

(2) A member who satisfies the conditions in subsection (1) is entitled to a pension computed in accordance with the Plan, but without any reduction required either by subsections 10.9(5) or 10.9(6) of the Plan.

(3) Sections 17.3, 17.5 and 17.6 apply, with necessary modifications, to a pension under subsection (2).

(4) The parties to a collective agreement covering members whose terms and conditions of employment are not set out in the Central Collective Agreement may negotiate terms and conditions for entitlement to the benefits under this section, including terms and conditions for benefits which differ from those set out in this section, provided that:

- (a) the employer and bargaining unit of such members agree between themselves as such and jointly advise the Board and both Sponsors in writing that this section applies to such members employed by that employer, and
- (b) where said parties negotiate terms and conditions for benefits which differ from those set out in this section, the additional liability incurred by the Plan with regard to each member under those terms shall be calculated on a basis approved by the Plan's actuary and paid to the Plan by the member's employer within 30 days of request by the Board.

**17.2C Factor 80 Extension-
Notice of Lay-Off after
February 25, 2009**

- (1) A member whose terms and conditions of employment are set out in the Central Collective Agreement is entitled to a pension under subsection (2) if he or she satisfies the following conditions:
 - (a) the member receives a notice of lay-off under the Central Collective Agreement after February 25, 2009; and
 - (b) the member is laid off under the Central Collective Agreement on or before December 31, 2012; and the Employer advises the Board, in a form acceptable to the Board, that the member is laid off pursuant to the job security provisions of the Central Collective Agreement; and
 - (c) on the date that the member's employment with the Employer ceases pursuant to the notice of lay-off in (a), including by application of Section 7.1A of the plan, if applicable, the member has credit in the Plan that when added to the member's age totals at least eighty (80) years; and
 - (d) the date on which the member attains eighty (80) years of combined age and pension credit in (e) is prior to January 1, 2013.
- (2). A member who satisfies the conditions in subsection (1) is entitled to a pension computed in accordance with the Plan but without any reduction required under subsection 10.9(5) and 10.9(6) of the Plan.
- (3). Sections 17.3, 17.5 and 17.6 apply, with necessary modifications, to a pension under subsection (2).
- (4). The parties to a collective agreement covering members whose terms and conditions of employment are not set out in the Central Collective Agreement may negotiate terms and conditions for entitlement to the benefits under this section, including terms and conditions for benefits which differ from those set out in this section, provided that:
 - (a) the employer and bargaining unit of such members agree between themselves as such and jointly advise the Board and both Sponsors in writing that this section applies to such members employed by that employer, and
 - (b) where said parties negotiate terms and conditions for benefits which differ from those set out in this section, the additional liability incurred by the Plan with regard to each member under those terms shall be calculated on a basis approved by the Plan's actuary and paid to the Plan by the member's employer within 30 days of request by the Board.

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

**ARTICLE 18
AMENDMENT AND TERMINATION**

- 18.1 Amendments to the Plan**
- (1) The Plan shall be amended only by agreement in writing between the sponsors.
- (2) No amendment shall operate to reduce the pension benefits which have accrued to any member in respect of employment before the effective date of such amendment, except to the extent to which such reductions are specifically authorized by section 19.10.
- (3) No amendment shall authorize or permit the return of any contributions or any other assets of the Fund, including surplus, to an employer unless required by law or as permitted by the *Pension Benefits Act*, in the case of an overpayment.
- 18.2 Termination of the Plan** If the Plan is wound up in whole or in part, the assets in the Fund shall first be allocated for the provision of benefits in accordance with terms of the Plan, the *Pension Benefits Act*, the *Income Tax Act* (Canada) and any other applicable legislation or agreement between the sponsors.
- 18.3 Surplus** If after provision for benefits payable to or in respect of members of the wind up, in whole or in part, of the Plan, assets remain in the Fund or the part of the Fund affected by a partial windup, such assets shall be applied as determined by OPSEU subject to the *Pension Benefits Act* and the *Income Tax Act* (Canada) for the exclusive benefit of the members and former members, their beneficiaries and dependents.
- 18.4 Application** The provisions of this Article 18 apply to both components of the Plan (including OPTrust Select). In this Article, references to a member include an OPTrust Select member, references to a former member include an OPTrust Select former member and OPTrust Select retired member and references to an employer include an OPTrust Select employer.

**ARTICLE 19
GENERAL**

- 19.1 Void transactions** Every transaction that purports to assign, charge, anticipate, surrender or give as security the interest, or any part thereof, of any person in the Fund or in any pension or other sum payable out of the Fund is void.

- 19.2 Exemption from seizure** The interest of any person in the Fund or in any pension or other sum payable out of the Fund is exempt from execution, seizure or attachment.
- 19.3 Order or separation** Subject to the *Pension Benefits Act*, sections 19.1 and 19.2 do not apply to prevent the operation of any court order, domestic contract or family arbitration award made for family law purposes.
- 19.4 Order for support or maintenance** Subsections 19.1 and 19.2 do not apply to prevent execution, seizure or attachment in satisfaction of an order for support or maintenance enforceable in Ontario to a maximum of one-half of the interest of any person in the Fund or in any pension or other sum payable out of the Fund.
- 19.5 Application of Section 19.4** Section 19.4 applies to orders of support or maintenance enforceable in Ontario whether made before or after the 31st day of December, 1992.
- 19.6 Payment into other funds** Despite sections 19.1 and 19.2, if a person entitled to a refund or a lump-sum payment from the Fund requests the Board in writing to have the refund or payment paid,
- (a) into another registered pension plan;
 - (b) into a registered retirement savings plan or a registered retirement income fund that meets the requirements of the *Income Tax Act* (Canada);
 - (c) to an insurance company to purchase an immediate or deferred life annuity; or
 - (d) into a pension plan approved by the Board,
- the refund or payment shall be so paid.
- 19.7 Payment to Estate** A payment to be made under the Plan to a member's estate may be made to the executor or administrator of the member's estate or to the person or persons who appear to the Board to be properly acting in the administration or distribution of the member's estate or, if no executor or administrator or other person acting in the administration or distribution of the member's estate can be ascertained to the satisfaction of the Board, the payment may be paid into the Supreme Court of Ontario to the credit of the member's estate.
- 19.8 Missing Beneficiary** If, after the death of a person, no spouse or child or designated beneficiary of that person can be found entitled to receive a pension on the person's death, and the Board is satisfied that reasonable inquiries have been made to find the spouse or child or designated beneficiary, and more than one year has passed since the death of the person, the Board may, despite any other provision of the Plan, direct that the money that would be payable under the Plan to the person's estate if the person had died leaving no surviving child or spouse or designated beneficiary entitled to be paid a pension on the person's death be paid to the person's estate upon such terms and conditions as the Board determines.
- 19.9 Beneficiary Later Found** If the spouse or child or designated beneficiary referred to in section 19.8 is subsequently found and a claim is made for any money payable under the Plan, the Board may direct that such money, less any money paid under subsection 19.8, be paid to the spouse or child or designated beneficiary, as the case may be.

- 19.10 Amendment to Avoid Revocation of Plan** Notwithstanding Article 18 of this Plan, the Plan may be amended and contributions refunded or benefits reduced solely to avoid revocation of the Plan under the *Income Tax Act* (Canada), provided, however, that any such amendment, refund or reduction shall be subject to the prior written consent of the Superintendent of Pensions, if such consent is required.
- 19.11 Duty of Employer** Every employer is bound by the provisions of the Plan, as amended by the Sponsors from time to time, the Sponsorship Agreement, the Trust Agreement, all applicable legislation including but not limited to the *Pension Benefits Act*, and the terms of any applicable Participation Agreement.
- 19.12** The captions, headings and table of contents of the Plan are included for convenience only. They do not form part of the Plan.
- 19.13 Application** The provisions of this Article 19 apply to both components of the Plan (including OPTrust Select). In this Article, references to a member include an OPTrust Select member and references to an employer include an OPTrust Select employer.

APPENDIX 1

SCHEDULE A

OPTRUST SELECT

**ARTICLE A1
APPLICATION**

(1) The provisions of OPTrust Select apply to employees of any employer who enters into an OPTrust Select Participation Agreement and who join the Plan.

(2) The following provisions of the Plan also apply to OPTrust Select, OPTrust Select employers, OPTrust Select members, OPTrust Select former members and OPTrust Select retired members: Article 1, Article 2 (as specified below in Article A2), subsection 3.4(1), sections 4.1 and 6.2, clause 6.3(3)(c), subsections 6.3 (4), (5) and (6), section 6.4, and Articles 14, 18 and 19. For greater certainty, except as expressly noted otherwise in this subsection A1(2), Articles 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16 and 17 of the Plan do not apply to OPTrust Select.

**ARTICLE A2
DEFINITIONS**

Notwithstanding anything to the contrary in Article 2 of the Plan, in this Schedule,

"annualized pensionable pay" means the amount of pensionable pay that an OPTrust Select member working on a full-time basis earns or would be deemed to earn in a calendar year and, for an OPTrust Select member who works fewer hours than the hours of a full-time employee in the same or a comparable position, the amount of pensionable pay that he or she would earn or would be deemed to earn in a calendar year if he or she worked full time hours;

"broader public sector organization" means:

- (a) every public hospital and the University of Ottawa Heart Institute/Institut de cardiologie de l'Université d'Ottawa;
- (b) every school board;
- (c) every university in Ontario and every college of applied arts and technology and post-secondary institution in Ontario whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating annual operating grants and entitlements; and
- (d) every agency, authority, board, commission, committee, corporation, council, foundation or organization that received public funds of the Government of Ontario in the previous fiscal year ending March 31, of an amount that is at least equal to (a) \$1,000,000; or (b) 10 per cent of the organization's gross revenues for the year if that percentage is \$120,000 or more but does not include,
 - (i) the Office of the Lieutenant Governor,
 - (ii) the Office of the Assembly or the office of an officer of the Assembly,
 - (iii) a ministry of the Government of Ontario,
 - (iv) an agency of the Government of Ontario, or
 - (v) an organization that undertakes its activities for the purpose of profit to its shareholders.

"employee" means a person who is employed by an OPTrust Select employer;

"employer", other than as used in the final paragraph of subsection A3.5(1) and in sections A4.2, A4.3 and A13(1), excludes an employer that participates in the main component of the Plan;

"OPTrust Select credit", when used in reference to credit in OPTrust Select, means the total period of time, calculated in years of full-time employment, for which contributions are made to the Fund on behalf of the OPTrust Select member or for which an OPTrust Select member is employed and for which contributions to the Fund have been made, and where the OPTrust Select member's employment is less than full-time employment in a year, OPTrust

Select credit for that year shall be given on the basis of the proportion of full-time employment represented by the OPTrust Select member's employment for which contributions are made to the Fund for that year, and shall include periods of service purchased by an OPTrust Select member in accordance with section A6.4;

"OPTrust Select employer" means an employer that participates in OPTrust Select pursuant to an OPTrust Select Participation Agreement, provided that no employer shall be entitled to enter into an OPTrust Select Participation Agreement without meeting the following criteria:

- (a) at the time it applies to commence participation in OPTrust Select and entering into an OPTrust Select Participation Agreement, the employer is:
 - (i) a charity in Ontario registered under the *Income Tax Act* (Canada),
 - (ii) a non-share capital corporation in Ontario incorporated under the *Not-for-Profit Corporations Act, 2010* (Ontario) or predecessor or successor legislation thereto; or a corporation in Ontario incorporated under the *Canada Not-for-profit Corporations Act* or successor legislation thereto,
 - (iii) an organization at which employees who are represented by OPSEU are employed which is set out in a list of organizations attached as an Appendix of Permitted OPTrust Select Employers to the Sponsorship Agreement, or
 - (iv) a broader public sector organization; and
- (b) at the time of application for participation in OPTrust Select and entering into an OPTrust Select Participation Agreement, the employer does not have employees who are members of, or eligible to be members of, the Plan pursuant to Article 3 of the Plan by virtue of their employment with the employer; and
- (c) at the time of commencement of participation in OPTrust Select, the employees of the employer who are eligible for OPTrust Select membership are not members of, or eligible to be members of, a pension plan maintained by the employer or to which the employer contributes.

"OPTrust Select former member" has the same meaning as "former member" in the Pension Benefits Act and applies only to a former member who is entitled to benefits under this Schedule A;

"OPTrust Select member" has the same meaning as "member" in the Pension Benefits Act and applies only to a member who is employed in Ontario and is entitled to benefits under this Schedule A;

"OPTrust Select retired member" has the same meaning as "retired member" in the Pension Benefits Act and applies only to a retired member who is entitled to, or in receipt of, a pension determined under this Schedule A;

"OPTrust Select Participation Agreement" means a written agreement, in such form as is approved by the sponsors and the Board, between the Board and an employer that meets the criteria for, and elects to become, an OPTrust Select employer and participate in OPTrust Select in accordance with such terms and conditions as the sponsors and the Board shall deem appropriate and shall include the OPTrust Select employer's Plan Participation Date;

"pensionable pay" means the amount of money payable to an OPTrust Select member by an OPTrust Select employer during a calendar year, computed by reference to the hours, days, weeks or other specific periods of time for which the OPTrust Select member is employed by the OPTrust Select employer, but does not include overtime pay, lump sum payments other than those representing retroactive salary or wages, performance bonuses, any payment to the OPTrust Select member in lieu of a benefit provided by the OPTrust Select employer, payments expressly set out in the relevant OPTrust Select Participation Agreement to be excluded; or any other payment determined by the Board, in its sole and exclusive discretion, not to be part of pensionable pay;

"Plan Participation Date" means the date on which an OPTrust Select employer commences to participate in OPTrust Select, in accordance with the relevant OPTrust Select Participation Agreement;

all other terms used in this Schedule have the same meanings as set out in Article 2 of the Plan, provided that for purposes of this Schedule, references to the Plan in the definitions of "pension" and "pension benefit" under Article 2 shall mean OPTrust Select unless otherwise specified in this Schedule.

ARTICLE A3 MEMBERSHIP

A3.1 Mandatory Membership

(1) Employees in continuous full-time employment who belong to a class of employees eligible to participate in OPTrust Select under an OPTrust Select Participation Agreement, who have not attained sixty-five years of age and who commence employment with an OPTrust Select employer on or after the OPTrust Select employer's Plan Participation Date, shall become OPTrust Select members on their date of hire with the OPTrust Select employer.

(2) Employees in continuous full-time employment who belong to a class of employees eligible to participate in OPTrust Select under an OPTrust Select Participation Agreement, who have not attained sixty-five years of age and who commenced employment with an OPTrust Select employer before the OPTrust Select employer's Plan Participation Date shall become OPTrust Select members on the OPTrust Select employer's Plan Participation Date.

(3) Employees who belong to a class of employees eligible to participate in OPTrust Select under subsections (1) or (2), who were in continuous full-time employment and who are on any type of leave of absence on the OPTrust Select employer's Plan Participation Date shall, in the case of each such employee, become an OPTrust Select member on the date on which such employee returns to work from the leave, except as otherwise specified in the OPTrust Select Participation Agreement.

(4) Employees who are not in continuous full-time employment and who have not made an election to become OPTrust Select members under section A3.2, who subsequently become employed in continuous full-time employment with the OPTrust Select employer in a class of employees who are eligible to participate in OPTrust Select, shall, in the case of each such employee, become an OPTrust Select member on the date on which such employee becomes employed in continuous full-time employment.

A3.2 Elective Membership

Persons to whom section A3.1 does not apply, who are employed by an OPTrust Select employer and belong to a class of employees who are eligible to participate in OPTrust Select under the terms of an OPTrust Select Participation Agreement, may, in the case of each such person, elect to become an OPTrust Select member upon filing a written election (in a form approved by the Board) with the Board to be a member.

A.3.3 Continuation of Membership

A person who is required to participate in OPTrust Select in accordance with section A3.1 or who elects to become an OPTrust Select member under section A3.2 shall, subject to sections A4.2 and A4.3, continue to be an OPTrust Select member unless he or she satisfies the criteria in section A3.5.

A3.4 Prohibited Membership

Notwithstanding any other provision of this Schedule, the following persons are not entitled to become OPTrust Select members:

- (a) a member of the main component of the Plan under sections 3.1, 3.2, 3.3 or 3.4(2) of the Plan whose membership is not terminated; and,
- (b) an OPTrust Select retired member in receipt of an OPTrust Select pension or a former member under the main component of the Plan in receipt of a pension under the main component of the Plan.

A3.5 Termination of OPTrust Select Membership

- (1) An OPTrust Select member ceases to be an OPTrust Select member upon,
 - (a) death;
 - (b) termination of employment with an OPTrust Select employer where the OPTrust Select member does not continue to participate in OPTrust Select by virtue of his or her employment by another OPTrust Select employer;
 - (c) termination of the office or other circumstance that required or entitled the person to be a member of OPTrust Select where the OPTrust Select member does not continue to participate in OPTrust Select by virtue of another office or circumstance that requires or entitles the person to be an OPTrust Select member;
 - (d) attaining the latest date for contributions to a pension fund or plan as set out in the *Income Tax Act* (Canada) and its applicable regulations for the registration of pension plans and/or pension funds;
 - (e) the date on which the OPTrust Select employer that employs the OPTrust Select member ceases to participate in the Plan either by ceasing to meet the criteria for an OPTrust Select employer (unless the sponsors agree in writing that the participation of such employer in OPTrust Select may continue) or otherwise in accordance with the OPTrust Select Participation Agreement.

Notwithstanding the foregoing and for greater certainty, an OPTrust Select member to whom clause (b) or (c) applies and who continues to participate in the main component of the Plan by virtue of his or her employment with another employer who participates in the main component of the Plan, or by virtue of holding an office that requires the person to be a member of the main component of the Plan, does not terminate membership in the Plan.

- (2) Notwithstanding sections A3.1 and A3.2, an OPTrust Select member may terminate membership in the Plan upon satisfying the Board, on the basis of medical evidence presented that he or she has a life expectancy of less than twenty-four months.

ARTICLE A4 CONTRIBUTIONS

A4.1 Regular Contributions

- (1) An OPTrust Select member shall contribute 3% of pensionable pay.
- (2) Contributions under subsection (1) shall be deducted from the OPTrust Select member's pay by the person or organization who pays the OPTrust Select member's salary and shall be paid to the credit of the Fund within fifteen days from the date the contribution was deducted or within such longer time as the Board authorizes in writing.
- (3) On each payment date, each OPTrust Select employer shall pay an amount equal to the aggregate amount of all contributions remitted under subsection (2) by or on behalf of the OPTrust Select members who are employees of the OPTrust Select employer in the month ended next before the month in which the payment date occurs, or made by or on behalf of the OPTrust Select members in respect of the month ended next before the month in which the payment date occurs.
- (4) The provisions of clause 6.3(3)(c) and subsections 6.3(4) and (5) of the Plan apply for the purposes of this Schedule in respect of the use of actuarial gains and losses applicable to OPTrust Select. For purposes of this Schedule,
 - (a) references to "OPSEU" and "members" in the Plan provisions referenced above shall be interpreted to mean "OPTrust Select members";
 - (b) references to "employers" in the Plan provisions referenced above shall be interpreted to mean "OPTrust Select employers"; and

- (c) references to “or such other amount as may be collectively bargained” in clause 6.3(3)(c) of the Plan shall be disregarded for purposes of this Schedule.
- (5) Section 4.1 of the Plan applies to contributions made under this Article.
- (6) In the event that an OPTrust Select employer terminates from participation in the Plan and the Plan is not fully funded on a going concern basis, the Board shall determine the amount, if any, that the withdrawing OPTrust Select employer is required to pay into the Fund in order to eliminate any unfunded liability associated with the pension benefits of OPTrust Select members, OPTrust Select former members, OPTrust Select retired members or any other person in each case associated with the withdrawing OPTrust Select employer’s participation in the Plan. The Board shall, in its discretion, determine the amount, manner and timing of payment required to be made by the OPTrust Select employer. For greater certainty, any such amount determined by the Board shall be in addition to the OPTrust Select employer’s other contribution obligations as set out in this Article.

A4.2 When No Contribution Required

An OPTrust Select member under either section A3.1 or A3.2 who becomes employed by an employer that contributes to the main component of the Plan and becomes a member of the main component of the Plan under sections 3.1 or 3.2 of the Plan shall cease to make contributions under OPTrust Select.

A4.3 When Contributions Must Resume

An OPTrust Select member to whom section A4.2 applies, shall resume making contributions under OPTrust Select on the day after the date on which the member terminates employment with an employer that contributes to the main component of the Plan and ceases to be eligible for membership in the main component of the Plan.

A4.4 Special Contributions

Each OPTrust Select employer shall, in addition to the contributions required by subsection A4.1(3), also pay on each applicable payment date under subsection A4.1(3), an amount equal to 0.2% of the pensionable pay of the OPTrust Select members who are employees of the OPTrust Select employer in the month ended next before the month in which the payment date occurs commencing with:

- (a) the OPTrust Select employer’s Plan Participation Date; and
- (b) the date the Board determines that circumstances under which one or more reorganizations or other event(s) affecting the OPTrust Select employer cause a substantial increase in the number of the OPTrust Select employer’s employees who are members under OPTrust Select

and ending, in each case, two years immediately following the first applicable payment date. Where the Board determines that the circumstances in sub-section (b) have occurred, the Board may require the special contributions under this section only in respect of such OPTrust Select members as, in its determination, have been added to OPTrust Select as a result of the reorganization(s) or event(s).

A4.5 Income Tax Act

For greater certainty, the contributions made by the employer under sections A4.1 and A4.4 shall comply with the conditions applicable to eligible contributions under section 147.2(2) of the *Income Tax Act* (Canada).

ARTICLE A5 INTEREST

A5.1 Interest on OPTrust Select Member Contributions

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

A5.2 Interest on Lump Sum Payments

Interest on a lump sum amount payable to the OPTrust Select member, his or her beneficiary, payment or refund recipient as a result of the termination, retirement, or death of an OPTrust Select member shall accrue at the rate used in section A5.1 from the date the lump sum payment is due until the date payment is made from the Fund.

A5.3 Interest on Transfer Amounts

In the event that an election is made pursuant to either of subsections A8.1(3)(a) or A9.2(5), interest shall accrue on the commuted value of the pension under this Schedule from the date of termination or death, as applicable, to the date the payment is made from the Fund at a rate of interest determined by the Board from time to time, provided that, in any event, such interest shall be calculated at a rate not less than as prescribed by the Pension Benefits Act.

ARTICLE A6 LEAVES OF ABSENCE, TEMPORARY PART-TIME WORK ARRANGEMENTS AND PURCHASES OF PRIOR OPTRUST SELECT SERVICE

A6.1 Leaves of Absence with Pay and Temporary Part-time Work Arrangements

(1) If an OPTrust Select member has been granted a leave of absence from employment with an OPTrust Select employer and continues to receive a part or all of his or her salary from the OPTrust Select employer during the leave, the OPTrust Select member and OPTrust Select employer shall, subject to sections A4.2 and A4.3, make the contributions required by subsections A4.1(1) and (3).

(2) An OPTrust Select member who has been employed by their OPTrust Select employer for at least 36 months and who is on a temporary part-time work arrangement shall, subject to section A4.2, contribute an amount equal to the amount the OPTrust Select member would have contributed under subsection A4.1(1) if the member were not on a temporary part-time work arrangement, unless the OPTrust Select member elects in writing not to do so, using a form approved by the Board.

(3) Where an OPTrust Select member makes a payment under subsection (2), the OPTrust Select employer shall pay into the Fund an amount equal to the aggregate amount of contributions paid by the OPTrust Select member under that subsection.

(4) If an OPTrust Select member elects not to contribute during the temporary part-time work arrangement in accordance with subsection (2), the OPTrust Select member shall make contributions in accordance with subsection A4.1(1) based on their reduced pay and will accrue OPTrust Select credit based on the contributions made.

A6.2 Leaves of Absence without Pay

(1) If an OPTrust Select member is granted a leave of absence from employment with an OPTrust Select employer for more than one month and receives no salary from the OPTrust Select employer during the leave and does not make contributions to the Fund during the leave, no OPTrust Select credit shall be given to the OPTrust Select member in the Plan for the period of the leave of absence unless the member makes payments to the Fund in accordance with section A6.4;

(2) An OPTrust Select member who is granted a leave of absence of more than one month without pay because of illness may, subject to sections A4.2 and A4.3, elect to make contributions to the Fund during the leave, in which

case the OPTrust Select member shall contribute an amount equal to the amount the OPTrust Select member would have contributed under subsection A4.1(1) if the leave had not been granted.

(3) An OPTrust Select member who is granted a leave of absence, of more than one month without pay in accordance with Part XIV of the *Employment Standards Act 2000*, other than Reservist Leave, shall, subject to sections A4.2 and A4.3, contribute an amount equal to the amount the OPTrust Select member would have contributed under subsection A4.1(1) if the leave had not been granted, unless the OPTrust Select member elects in writing not to do so, using a form approved by the Board.

(4) An OPTrust Select member who is granted a leave of absence of more than one month without pay for special or educational purposes may, subject to sections A4.2 and A4.3, elect to make contributions to the Fund during the leave, in which case the OPTrust Select member shall contribute twice the amount the OPTrust Select member would have contributed to the Fund under subsection A4.1(1) if the leave had not been granted.

(5) The amount an OPTrust Select member contributes under subsections (2), (3), and (4), shall be based on the annualized pensionable pay of the OPTrust Select member immediately prior to the commencement of the leave of absence.

(6) In determining contributions to be made under this section, the annualized pensionable pay on which contributions under this section are based shall be increased in each year subsequent to the year in which the leave of absence commenced by the full increase in the Consumer Price Index for that period (up to an annual maximum of 8%) that could be granted under Article A10 to adjust pensions for inflation, whether or not an increase is granted to pensions under that Article.

(7) If an OPTrust Select member is granted a leave of absence for less than one month and receives no salary during the leave, the OPTrust Select member shall make contributions to the Fund during the leave or after the end of the leave, and shall contribute, in accordance with subsections A4.1(1), an amount equal to the amount the OPTrust Select member would have contributed if the leave had not been granted.

(8) The annualized pensionable pay on which contributions are based under this section shall be included in the computation of the pensionable pay of an OPTrust Select member.

(9) Subject to subsection (10), the combined OPTrust Select credit obtained by an OPTrust Select member with respect to periods after 1990 under subsections (3), (4) and (7), subsection A6.1(2), and leaves of absence or temporary part-time work arrangements purchased under section A6.4 (if purchased on a current service basis), except for a leave of absence because of illness, shall not exceed a total of five years.

(10) Where an OPTrust Select member is granted a leave of absence for a period of parenting, as defined in the *Income Tax Act* (Canada) and its applicable regulations, the five-year limit on the OPTrust Select member's combined OPTrust Select credit specified in subsection (9) shall be increased by the total of such periods of leave, or by three years, whichever is less.

(11) In the case of an OPTrust Select member who is entitled to a pension for participation in the main component of the Plan, the determinations in (9) and (10) above shall be applied to the aggregate pension credits determined under both components of the Plan.

(12) Where an OPTrust Select member makes a payment under subsections (2), (3), or (7), the OPTrust Select employer shall pay into the Fund an amount equal to the aggregate amount of contributions paid by the member under these subsections.

A6.3 Disability

(1) In this section, "long term income protection plan" means the Long Term Income Protection Plan from time to time applicable to members who are employed under Part III of the *Public Service of Ontario Act, 2006* to mitigate the loss of income resulting from a lengthy disability, and includes any plan that applies to OPTrust Select members if the Board considers the plan to be similar to the Long Term Income Protection Plan applicable to public servants employed under Part III of the *Public Service of Ontario Act, 2006*.

(2) If an OPTrust Select member qualifies for a benefit under a long term income protection plan as a result of a disability incurred on or after the OPTrust Select employer's Plan Participation Date, the OPTrust Select employer that employed the OPTrust Select member on the date when the OPTrust Select member qualified for the benefit shall, subject to subsection (6), contribute to the Fund on behalf of the OPTrust Select member the amounts set out in subsections (3), (4) and (5) while the OPTrust Select member continues to qualify for the benefit.

(3) Subject to subsection (4), the contributions mentioned in subsection (2) shall be calculated in accordance with Article A4 and paid based on the annualized pensionable pay of the OPTrust Select member immediately before the disability was incurred in respect of which he or she qualifies for a benefit.

(4) If the OPTrust Select member mentioned in subsection (2) was, in the opinion of the Board, employed on a part-time basis in the month before the disability was incurred, the contributions mentioned in subsection (2) shall be calculated in accordance with Article A4 and paid only for that part of each month in which the OPTrust Select member continues to qualify for the benefit that is equal to the ratio that, in the twelve months ending on the last day of the month immediately preceding the month when the disability was incurred, the OPTrust Select member's part-time employment is of full-time employment in the position occupied by the OPTrust Select member or in a comparable position.

(5) In determining contributions to be made under this section, the annualized pensionable pay on which contributions under this section are based shall be increased in each year subsequent to the year the disability was incurred by the full increase in the Consumer Price Index for that period (up to an annual maximum of 8%) that could be granted under Article A10 to adjust pensions for inflation, whether or not an increase is granted to pensions under that Article.

(6) Subsections (2), (3), (4) and (5) continue to apply whether or not the OPTrust Select Member is in receipt of a benefit under a long term income protection plan, but those subsections cease to apply when the OPTrust Select member ceases to be a member of the Plan or attains sixty-five years of age, whichever first occurs.

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

(8) The annualized pensionable pay on which contributions pursuant to subsection (2) are based shall be included in the computation of the pensionable pay of an OPTrust Select member.

A6.4 Purchase of Prior OPTrust Select Service

(1) On such terms and conditions as are fixed by the Board and provided that OPTrust Select credit shall not be purchased in respect of any period of time for which OPTrust Select credit or credit in the main component of the Plan has been previously purchased or otherwise provided, an OPTrust Select member may purchase OPTrust Select credit for a period of service with the OPTrust Select employer that employs the OPTrust Select member, occurring prior to the OPTrust Select employer's Plan Participation Date but after December 31, 1986 (referred to as "OPTrust Select prior service" in this section A6.4), as well as any leave of absence or temporary part-time work arrangement, or part of a leave of absence or temporary part-time work arrangement, from such OPTrust Select employer occurring after the OPTrust Select employer's Participation Date, by submitting a completed application in such manner as is determined by the Board and paying to the Fund the amount determined by the Board, on the recommendation of the Board actuary, to be equal to the higher of the actuarial value of the additional expected benefits to which the OPTrust Select member will become entitled as a result of obtaining the OPTrust Select credit, calculated on the assumption that the OPTrust Select member will retire at the normal retirement age under this Schedule, and the amount equal to twice the product of,

- (a) the annualized pensionable pay of the OPTrust Select member,
- (b) the contribution rate in effect under section A4.1(1), and,
- (c) the length in years for the period of OPTrust Select prior service for which OPTrust Select credit is being purchased.

(2) Where an OPTrust Select member commits in writing to purchase OPTrust Select credit for less than the entire period of the OPTrust Select prior service for which an application under subsection (1) was made, the cost of the purchase will be re-determined accordingly and the unpurchased portion of the OPTrust Select prior service cannot be purchased unless a new complete application is submitted and a new cost is calculated by the Board in accordance with the provisions of subsection (1).

(3) If the amount payable by an OPTrust Select member under subsections (1) or (2), as the case may be, exceeds \$500, the amount may be paid in instalments and interest over a period of not more than ten years as the Board permits in accordance with the terms and conditions established for instalment payments and for the completion of payment on the termination from employment or termination of membership in the Plan of the OPTrust Select member.

(4) The rate of interest for the amortization period under subsection (3) will equal the discount rate used when determining the actuarial value in subsection (1).

(5) Where the OPTrust Select member does not pay the full amount required under this section, the amount of OPTrust Select credit will be pro-rated accordingly.

(6) The period for which a member may purchase OPTrust Select credit under this section is limited to that permitted in the *Income Tax Act* (Canada) and its applicable regulations.

A6.5 Contribution, Pensionable Pay and Service Record

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

ARTICLE A7 TERMINATION BENEFITS

A7.1 50 Per Cent Rule

The amount by which the total of the contributions, other than contributions made under subsection A6.4(1) to the Fund, by or on behalf of the OPTrust Select member under subsections A4.1(1) and A6.3(2) and the interest credited to the OPTrust Select member in the Fund on those contributions exceeds one-half of the commuted value, excluding OPTrust Select credit in the Plan for contributions made under subsection A6.4(1) in respect of purchased employment or service, of the pension or deferred pension in respect of that employment or service to which the OPTrust Select member is entitled on ceasing to be an OPTrust Select member, shall be refunded to the OPTrust Select former member.

A7.2 Excess Past Service Payments Refunded

The amount by which the total of the payment to the Fund made under subsection A6.4(1) and the interest credited to the OPTrust Select member on that payment in accordance with the Pension Benefits Act exceeds the commuted value of the OPTrust Select credit in the Plan that was purchased with that payment and that is included in a deferred pension that the OPTrust Select member has elected to transfer under subsection A9.2(5) shall be refunded to the OPTrust Select former member.

A7.3 Lump Sum Payments

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

A7.4 Return of Unauthorized Contributions

Where in the opinion of the Board, a payment made to the Fund by a person in purported reliance on Articles A4 or A6 is found to have been made without proper authority, the Board shall return to the person the unauthorized payment, together with interest.

A7.5 Designation of Recipient

If an OPTrust Select member dies prior to retirement, and the OPTrust Select member is survived by a spouse from whom they are not living separate and apart at the date of death, the spouse is entitled to a refund or payment provided in accordance with this Article unless they have waived their right to survivor benefits. An OPTrust Select member may designate a beneficiary for purposes of receiving a refund or payment made under this Article if there is no surviving spouse or the spouse has waived their right to survivor benefits. Such designation shall be made and delivered to the Board in such form and manner as the Board may require. If no such beneficiary is designated, the refund or payment shall be made to the OPTrust Select member's estate.

ARTICLE A8 PRE-RETIREMENT DEATH BENEFITS

A8.1 Pre-retirement Death Benefits

- (1) If an OPTrust Select member or OPTrust Select former member,
- (a) dies while a member of the Plan; or
 - (b) dies after ceasing to be a member of the Plan and before the beginning of the month when payment of his or her pension is to commence,

the commuted value of the OPTrust Select member's or OPTrust Select former member's pension benefit determined immediately prior to his or her death is payable,

- (c) to the spouse of the OPTrust Select member or OPTrust Select former member from whom the OPTrust Select member or OPTrust Select former member was not living separate and apart at the date of death;
 - (d) if no payment under clause (c) can be made, or if the OPTrust Select member or OPTrust Select former member has no spouse who survives the date of death of the OPTrust Select member or OPTrust Select former member, to the beneficiary designated in accordance with this section by the OPTrust Select member or OPTrust Select former member; or
 - (e) if no payment can be made under clause (c) or (d), to the estate of the OPTrust Select member or OPTrust Select former member.
- (2) Subject to subsection (3), the commuted value payable under subsection (1) to the spouse of an OPTrust Select member or OPTrust Select former member shall be paid in the form of an immediate pension for the lifetime of the spouse, and the commuted value of the pension so payable shall be equal to the commuted value payable under subsection (1), and payment thereof shall commence in the month following the month when the OPTrust Select member or OPTrust Select former member dies.
- (3) The spouse to whom an immediate pension is payable under subsection (2) may, in writing in the approved form delivered to the Board in the time fixed by the Board, elect to receive the commuted value payable under subsection (1) in the form of,
- (a) a single lump sum payment equal to the commuted value payable under subsection (1); or
 - (b) a deferred pension the commuted value of which is equal to the commuted value payable under subsection (1).
- (4) An OPTrust Select member or OPTrust Select former member may deliver, in the approved form to the Board, a written waiver by the OPTrust member's or OPTrust former member's spouse waiving the spouse's entitlement under subsection (1) and, while the waiver is in effect, that subsection shall be applied as if the OPTrust Select member or OPTrust Select former member does not have a spouse on the date of the death of the OPTrust Select member or OPTrust Select former member.

(5) A waiver under subsection (4) may be cancelled by written notice of cancellation signed by the spouse and delivered to the Board.

(6) The designation of a beneficiary shall be made and delivered to the Board in such form and manner as the Board may require.

ARTICLE A9 RETIREMENT AND JOINT AND SURVIVOR BENEFITS

A9.1 Computation of Pension

(1) For the purposes of the Pension Benefits Act, the normal retirement date for an OPTrust Select member is the date on which the member attains sixty-five years of age.

(2) Every OPTrust Select member who ceases to be a member of the Plan on or after attaining his or her normal retirement date shall commence payment of his or her pension under this Schedule in the month following the month when the member ceases to be a member of the Plan.

(3) Any OPTrust Select member who ceases to be a member of the Plan and is not entitled to an immediate pension in accordance with subsection (4) is entitled to the pension payable in accordance with section A9.2.

(4) Subject to section A9.4, the annual amount of every pension payable under this Schedule to an OPTrust Select former member on or after attaining his or her normal retirement date shall be determined as follows:

the OPTrust Select former member shall have earned for each calendar year, 0.6 per cent of his or her annualized pensionable pay for that year, multiplied by his or her OPTrust Select credit accrued in that year.

A9.2 Deferred Pension

(1) An OPTrust Select member who terminates membership in the Plan and who is not entitled to a pension under subsection A9.1(2), is entitled to a pension computed in accordance with this section A9.2.

(2) Where an OPTrust Select member ceases to be a member of the Plan on a date which is prior to such member's normal retirement date set out in section A9.1, payment of the pension provided for in subsection (1) shall, subject to A9.4, commence in the month following the month when the OPTrust Select former member will attain sixty-five years of age, or if the OPTrust Select former member so elects in writing to the Board, payment of the pension, subject to the reductions mentioned in subsection A9.2(4), shall commence in any month that is subsequent to the OPTrust Select member's termination of membership in the Plan that is neither:

(a) earlier than the month following the month in which the OPTrust Select former member will attain fifty-five years of age; nor

(b) later than the month when the OPTrust Select former member will attain sixty-five years of age.

(3) An election made under subsection (2) may, with the approval of the Board, be revoked by the OPTrust Select member or OPTrust Select former member, and a new election in writing to the Board may be made if the commencement of payment therein provided for is neither earlier than the month following the month when the new election is delivered to the Board nor earlier than is permitted by subsection (2) and is not later than the month following the month when the OPTrust Select former member will attain sixty-five years of age, but no election may be revoked after payment of the pension is due to commence.

(4) The annual amount of every pension provided for in subsection (1) shall, after computation in accordance with section A9.1, be actuarially reduced for each month in the period commencing with the first day of the month in which payment of the pension is to commence and ending with the last day of the month when the OPTrust Select retired member will attain sixty-five years of age.

(5) Upon his or her election, an OPTrust Select former member who is entitled to a deferred pension under this section and who has not attained fifty-five years of age, may require the commuted value of the pension to be paid, subject to the applicable requirements of the Pension Benefits Act,

- (a) to the pension fund of another pension plan that agrees to accept the payment;
- (b) to a retirement savings arrangement prescribed under the Pension Benefits Act;
- (c) for the purchase for the OPTrust Select former member of a deferred life annuity which will not commence before the former member attains fifty-five years of age provided the contract to purchase the annuity meets the requirements prescribed under the Pension Benefits Act.

(6) Despite subsection (5) and subject to subsections (8) and (9), the Board will pay the commuted value of the OPTrust Select retired member's pension or OPTrust Select former member's pension benefit in a lump sum to the OPTrust Select retired member or the OPTrust Select former member who applies to the Board for the payment and who is determined by the Board, on the basis of medical evidence presented, to have a life expectancy of less than twenty-four months.

(7) Any payments under subsection (6) will be subject to the provisions of a domestic contract or family arbitration award, each as defined in Part IV of the *Family Law Act*, and to any order under Part I of that Act, to the extent permitted by the Pension Benefits Act.

(8) Where the OPTrust Select retired member or OPTrust Select former member makes the application in subsection (6), no payment shall be made by the Board unless the OPTrust Select retired member or OPTrust Select former member provides the Board with the statement about or by a spouse as required by the Pension Benefits Act.

(9) A payment under subsection (6) discharges and releases the Board, the Plan and the Fund from all claims.

A9.3 Pension to Surviving Spouse

(1) Where an OPTrust Select retired member has a spouse, from whom the OPTrust Select retired member is not living separate and apart on the first day of the month in which payment of the pension is to commence, the OPTrust Select retired member's pension under this Schedule will be actuarially reduced to provide the benefit under subsection (2).

(2) A spouse who satisfies the eligibility requirements of subsection (1) is, if he or she survives the death of the OPTrust Select retired member, entitled to be paid for his or her lifetime an annual amount of pension equal to 60 per cent of the annual amount of pension that the OPTrust Select retired member was receiving in the month when the OPTrust Select retired member died and payment thereof shall commence in the month following the month when the OPTrust Select retired member died.

(3) Despite subsection (1), an OPTrust Select member or OPTrust Select former member and the spouse of the OPTrust Select member or OPTrust Select former member from whom the OPTrust Select member or OPTrust Select former member is not living separate and apart, may waive the spouse's entitlement to a survivor pension under subsection (2), by delivering to the Board within twelve months prior to the month when payment of the pension to the OPTrust Select member or OPTrust Select former member is to commence a written waiver in the approved form that has been signed by both of them or a certified copy of a domestic contract, within the meaning of Part IV of the *Family Law Act*, containing the waiver.

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

(5) The reduction required by subsection (1) shall not be made if a waiver made as permitted by subsection (3) is in force in the month when the pension is to commence to be paid to the OPTrust Select member or OPTrust Select former member.

A9.4 Application for Pension

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

A9.5 Payment of Pension

Unless otherwise expressly provided in this Schedule A, a pension under this Schedule,

- (a) is payable in monthly instalments for life; and
- (b) ceases to be payable after the month when the person in receipt of the pension dies or entitlement to payment of the pension ceases.

A9.6 Commutation of Pension

If a person is entitled to be paid a pension, the annual amount of which, before the reduction mentioned in subsection A9.2(4) or the commuted value of that pension, is not more than the thresholds set out in the Pension Benefits Act in the year when the OPTrust Select member, OPTrust Select former member or OPTrust Select retired member for whose credit in OPTrust Select the pension is payable ceased to be a member of the Plan, the Board may pay the commuted value of the pension to the person as permitted by the Pension Benefits Act. In the case of an OPTrust Select member, OPTrust Select former member or OPTrust Select retired member who is entitled to credit for participation in the main component of the Plan, this determination shall apply to the aggregate pension or commuted value of pension determined under both components of the Plan.

A9.7 Increased Survivor Pension

(1) The amount of the survivor pension payable under section A9.3 may be increased to 65 per cent, 70 per cent or 75 per cent of the pension of the OPTrust Select retired member, after taking into account the reduction required by subsection (4), by a written direction signed by the OPTrust Select member or OPTrust Select former member on whose pension the survivor pension is based specifying the percentage to which the survivor pension is to be increased, and the direction shall be delivered to the Board at least two years prior to the month when payment of the pension to the OPTrust Select member or OPTrust Select former member is to commence.

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

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

(4) The annual amount of pension computed in accordance with section A9.1 payable to an OPTrust Select retired member who has given a valid direction delivered in accordance with subsection (1) or accepted in accordance with subsection (2) shall be actuarially reduced in a manner approved by the Board to reflect the increased survivor pension specified in the direction, and the increased survivor pension shall be paid in lieu of that provided for in section A9.3.

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

A9.8 Refund on Death

The amount, if any, by which the total of contributions made to the Fund by or on behalf of an OPTrust Select member under subsections A4.1(1), A6.3(2) and A6.4(1) and the interest credited to the OPTrust Select member to the date of payment under Article A5 exceeds the total payments made from the Fund under this Schedule to the OPTrust Select member as an OPTrust Select retired member and as a survivor pension under this Schedule to the OPTrust Select retired member's spouse as a result of the OPTrust Select retired member's death, shall be paid to

a person designated by the OPTrust Select member in accordance with section A9.9 or, if no such payment recipient is designated, to the OPTrust Select retired member's estate.

A9.9 Designation of Recipient

The designation of a beneficiary shall be made and delivered to the Board in such form and manner as the Board requires.

ARTICLE A10 INFLATION ADJUSTMENT

(1) Inflation adjustments may be granted to pensions payable under this Schedule at such times and in such ways as the Board, in its sole and exclusive discretion, may decide. In making its decision, in no event may the Board grant inflation adjustments unless permitted to do so under the terms of the funding policy established for the Plan. Any inflation adjustment granted by the Board under this section shall be documented by resolution of the Board and recorded in a schedule that is available to OPTrust Select members, OPTrust Select former members, OPTrust Select retired members and OPTrust Select employers.

(2) For greater certainty, Article 11 (Inflation Adjustment) of the Plan does not apply to benefits payable under this Schedule. The Board shall have no obligation to grant an inflation adjustment under section A10(1) even where an inflation adjustment is granted under Article 11 (Inflation Adjustment) of the Plan.

ARTICLE A11 ANNUALIZED PENSIONABLE PAY ADJUSTMENT

For the purposes of determining a pension in accordance with sections A9.1 or A9.2, the annualized pensionable pay for OPTrust Select members for any prior calendar years may be adjusted by an amount no greater than the percentage increase in the Average Industrial Wage (AIW) for the preceding year. These adjustments may occur at such times and be determined in such ways as the Board, in its sole and exclusive discretion, may decide. In making its decision, in no event may the Board grant adjustments unless permitted to do so under the terms of the funding policy established for the Plan. Any adjustment granted by the Board under this section shall be documented by resolution of the Board and recorded in a schedule that is available to OPTrust Select members, OPTrust Select former members, OPTrust Select retired members and OPTrust Select employers. For the purposes of this Article A11, Average Industrial Wage means the "wage measure", as defined in section 147.1 of the *Income Tax Act* (Canada).

ARTICLE A12 INCOME TAX ACT

(1) All provisions of OPTrust Select shall be interpreted, read and administered so as to comply with the *Income Tax Act* (Canada) and regulations.

(2) Without limiting the generality of subsection (1), and for the purpose of reading, interpreting and administering OPTrust Select in compliance with the *Income Tax Act* (Canada) and regulations for all OPTrust Select credit and contributions,

- (a) the total amount of contributions by an OPTrust Select member in Article A4 cannot exceed the limit set out in the *Income Tax Act* (Canada) and regulations;
- (b) the computation of a pension under section A9.1 is subject to those provisions of the *Income Tax Act* (Canada) and regulations that limit the lifetime retirement benefits, as defined in the regulations to the *Income Tax Act* (Canada), that may be paid to an OPTrust Select former member; and
- (c) any adjustment of a pension under Article A10 is limited to the extent permitted in the *Income Tax Act* (Canada) and regulations.

(3) In the case of an OPTrust Select member who is entitled to a pension benefit under the main component of the Plan, the determinations in (2)(b) and (c) above shall be applied to the aggregate pension benefit determined under both components of the Plan.

**ARTICLE A13
RE-EMPLOYMENT**

(1) If an OPTrust Select former member becomes, in the opinion of the Board, re-employed or engaged in any capacity by an OPTrust Select employer who contributes to the Fund or employed or engaged in any capacity by an employer who contributes to the main component of the Plan and, in either case, becomes an OPTrust Select member or a member of the main component of the Plan, as applicable, the provisions of this Article A13 apply.

(2) The person referenced in subsection (1) is not entitled to commencement of payment of the pension provided for in subsection A9.2(1) and is not permitted to make an election under subsection A9.2(2) to commence receipt of the deferred pension in respect of the earlier period of employment as long as he or she remains a member of either component of the Plan.

(3) If the person referenced in subsection (1) becomes an OPTrust Select member, the person shall repay to the Fund any refund he or she received pursuant to section A7.1; otherwise, the monthly pension under this Schedule and any refund payable at the date of last termination of employment shall be reduced by an amount determined by the Board, on the recommendation of the Board's actuary, on account of the refund.

(4) A former member of the main component of the Plan entitled to a deferred pension under the main component of the Plan who becomes employed by or engaged in any capacity by an OPTrust Select employer and becomes an OPTrust Select member is not entitled to commencement of his or her pension under the main component of the Plan as long as he or she remains a member of either component of the Plan.