

1992-93 BILL 68

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 68

PUBLIC SECTOR PENSION PLANS ACT (NO. 2)

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 68

1992-93

PUBLIC SECTOR PENSION PLANS ACT (NO. 2)

(Assented to , 1993)

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HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

- Division of Act **1** Apart from sections 1 to 12, this Act is divided into
- (a) Schedule 1, containing part of the Local Authorities Pension Plan and other provisions relating to that pension plan,
 - (b) Schedule 2, containing part of the Public Service Pension Plan and other provisions relating to that pension plan,
 - (c) Schedule 3, containing part of the Universities Academic Pension Plan and other provisions relating to that pension plan,
 - (d) Schedule 4, containing part of the Special Forces Pension Plan and other provisions relating to that pension plan,

- (e) Schedule 5, containing part of the Management Employees Pension Plan and other provisions relating to that pension plan, and
- (f) Schedule 6, containing all or part of the Public Service Management (Closed Membership) Pension Plan and other provisions relating to that pension plan.

Interpretation **2(1)** In this Act, “Crown” means the Crown in right of the Province of Alberta, as such.

(2) To enhance the readability of the Schedules and the capacity for cross-referencing, provisions in different Schedules that are identical or similar or that correspond to each other as they relate to different pension plans are given identical or almost identical enactment numberings and letterings, even if this means breaking the normal sequential numbering and lettering system for statutes.

(3) References in the Schedules to a specific section “of this Act” are to a section of this Act preceding Schedule 1.

Application to
Alberta Crown **3** This Act binds the Crown.

Income Tax
Act
registration **4** It is the intent of this Act that the pension plans referred to in section 1 be and remain registered pension plans under the *Income Tax Act* (Canada).

Pension Plan
Administration
Fund **5(1)** In this section,

- (a) “revolving fund” means the Pension Plan Administration Fund;
- (b) “total plan costs” means the aggregate for all the Plans of those sums each of which is equal to the costs and expenses that the Minister, after consulting with a Plan’s Board, decides were incurred in the provision of administrative, financial and general policy or management services, and to acquire equipment and supplies, for that Plan, and includes any interest charges incurred by the revolving fund.

(2) The revolving fund known as the Pension Plan Administration Fund is continued.

(3) The Provincial Treasurer shall administer the revolving fund for the purposes described in this section.

(4) The Provincial Treasurer may advance from the General Revenue Fund to the revolving fund sums required to meet the whole or any part of the total plan costs.

(5) The Provincial Treasurer may make payments from the revolving fund to meet the whole or any part of the total plan costs.

(6) Each Plan's plan costs consist of the separate sum described in subsection (1) that is applicable to the Plan.

(7) The Provincial Treasurer shall charge each Plan for its plan costs.

(8) The total proceeds of the charges under subsection (7) for plan costs

(a) that were paid by the revolving fund shall be credited to the revolving fund and used to reduce or eliminate the advances made under subsection (4), or

(b) that were paid from the General Revenue Fund shall be credited to the General Revenue Fund.

(9) The Lieutenant Governor in Council may, after consulting with all the Boards, make regulations respecting the Pension Plan Administration Fund and the expenditure of money from that fund.

(10) Definitions in the Schedules taken together or in one of the Schedules apply to expressions used in this section.

(11) The Management Employees Pension Board established by Schedule 5 shall act as the Board of the Public Service Management (Closed Membership) Pension Plan for the purposes of this section.

Application of
Employment
Pension Plans
Act

6 The Lieutenant Governor in Council may make regulations for the purposes described in section 1.1 of the *Employment Pension Plans Act*.

Regulations
under the
Schedules

7 Regulations under section 12 of Schedules 1 to 5 may be made generally to apply to all or to several of the pension plans referred to in section 1(a) to (e).

Continuation
of Public
Service
Management
Pension Plan

8 The Public Service Management Pension Plan is divided into, and continued as,

- (a) the Management Employees Pension Plan under and subject to sections 1 to 12, Schedule 5 and the regulations and plan rules under Schedule 5, and
- (b) the Public Service Management (Closed Membership) Pension Plan under and subject to sections 1 to 12, Schedule 6 and any regulations under Schedule 6.

Transfer from
G.R.F. to plan
funds

9(1) The Provincial Treasurer shall transfer from the General Revenue Fund to each plan fund, within the meaning of section 1(1) of each of the Schedules, the share prescribed in relation to the Members of the Legislative Assembly (Supplementary) Pension Plan of the sum established by the Provincial Treasurer to be the amount by which benefits paid under that plan before its plan closure, within the meaning of that plan, exceeded the amount of contributions made to that plan before then, with interest.

(2) The transfers shall be made on the prescribed basis over the prescribed term.

(3) The Lieutenant Governor in Council may make regulations prescribing or otherwise providing for the matters that are to be prescribed under this section.

Consequential
amendments

10(1) *The Agricultural Development Act is amended in section 5*

(a) *in subsection (3)*

(i) *by striking out “section 11 of the Public Service Management Pension Plan Act and section 11 of the Public Service Pension Plan Act” and substituting “anything in the participation provisions of the Management Employees Pension Plan or the Public Service Pension Plan”;*

(ii) *in clause (b) by striking out “a pension plan under the Public Service Management Pension Plan Act or the Public Service Pension Plan Act” and substituting “the Management Employees Pension Plan or the Public Service Pension Plan”;*

(iii) *by striking out “Public Service Management Pension Plan Act or the Public Service Pension Plan Act, as” and substituting “Management Employees Pension Plan or the Public Service Pension Plan, as”;*

(b) *in subsection (4)*

- (i) by striking out “operated pursuant to an Act referred to in section 5(1) of the *Pension Fund Act*” and substituting “one of the pension plans falling within the *Public Sector Pension Plans Act*”;
 - (ii) by striking out “the Acts referred to in section 5(1) of the *Pension Fund Act*” and substituting “any of those statutory pension plans identified in this subsection”.
- (2) *The Colleges Act* is amended in section 23(b) by striking out “*Local Authorities Pension Plan Act*” and substituting “*Local Authorities Pension Plan*”.
- (3) *The Conflicts of Interest Act* is amended in Part 3 of the Schedule
- (a) by adding “of Trustees” after “*Local Authorities Pension Plan Board*”;
 - (b) by adding “*Management Employees Pension Board*” after “*Local Authorities Pension Plan Board of Trustees*”;
 - (c) by striking out “*Public Service Management Pension Plan Board*” and “*Public Service Pension Plan Board*” and substituting “*Public Service Pension Board*”;
 - (d) by striking out “*Special Forces Pension Plan Board*” and substituting “*Special Forces Pension Board*”;
 - (e) by striking out “*Universities Academic Pension Plan Board*” and substituting “*Universities Academic Pension Board*”.
- (4) *The Employment Pension Plans Act* is amended by adding the following after section 1:

Application to
Plans
administered
by Crown

1.1(1) This Act applies to all or any of the pension plans referred to in section 1 of the *Public Sector Pension Plans Act* to the extent prescribed by regulations made under section 6 of that Act.

(2) The Minister responsible for the pension plans referred to in section 1 of the *Public Sector Pension Plans Act*, in the capacity as their administrator, and the Provincial Treasurer, insofar as he is, or is fulfilling the functions of, trustee of those pension plans (or, in the case of the *Public Service Pension Plan*, the *Public Service Pension Board* if it becomes the trustee of that Plan) are bound by this Act to the extent prescribed by regulations made under section 6 of that Act.

(3) Subject to this section, a pension plan referred to in subsection (1) is exempt from the application of this Act so long as

- (a) the plan continues to be administered by the Minister referred to in subsection (2), and
- (b) the Provincial Treasurer (or, in the case of the Public Service Pension Plan, the Public Service Pension Board if it becomes the trustee of that Plan) continues to hold the plan's pension fund in trust.

(4) For the purpose of applying any provision of this Act to a pension plan referred to in subsection (1), the regulations under section 6 of the *Public Sector Pension Plans Act* may make any adaptation to this Act that is considered appropriate.

(5) *The Interpretation Act is amended by adding the following after section 25:*

Definitions
respecting
pension plans

25.1 In an enactment,

- (a) "Local Authorities Pension Plan" means the Local Authorities Pension Plan contained partly in Schedule 1 to the *Public Sector Pension Plans Act* and partly in the plan rules made under section 4 of that Schedule;
- (b) "Management Employees Pension Plan" means the Management Employees Pension Plan contained partly in Schedule 5 to the *Public Sector Pension Plans Act* and partly in the plan rules made under section 4 of that Schedule;
- (c) "Public Service Management (Closed Membership) Pension Plan" means the Public Service Management (Closed Membership) Pension Plan contained in Schedule 6 to the *Public Sector Pension Plans Act* and in any regulations made under section 12 of that Schedule;
- (d) "Public Service Pension Plan" means the Public Service Pension Plan contained partly in Schedule 2 to the *Public Sector Pension Plans Act* and partly in the plan rules made under section 4 of that Schedule;
- (e) "Special Forces Pension Plan" means the Special Forces Pension Plan contained partly in Schedule 4 to the *Public Sector Pension Plans Act* and partly in

the plan rules made under section 4 of that Schedule;

- (f) “Universities Academic Pension Plan” means the Universities Academic Pension Plan contained partly in Schedule 3 to the *Public Sector Pension Plans Act* and partly in the plan rules made under section 4 of that Schedule.

(6) *The Justice of the Peace Act is amended in section 7(1)(i)*

- (a) *by striking out “, the Public Service Pension Plan Act or the Public Service Management Pension Plan Act”;*
- (b) *by striking out “those Acts” and substituting “that Act or the Public Service Pension Plan, the Public Service Management (Closed Membership) Pension Plan or the Management Employees Pension Plan”.*

(7) *The Members of the Legislative Assembly Pension Plan Act is amended in Schedule 1*

- (a) *in section 1(1)(t) by adding “(now repealed)” after “Public Service Management Pension Plan Act”;*
- (b) *by repealing section 42(e) (as added by the Members of the Legislative Assembly Pension Plan Amendment Act, 1993) and substituting the following:*
 - (e) *respecting the suspension of pensions of pensioners who become engaged to work for an employer within the meaning of the Management Employees Pension Plan, the Public Service Pension Plan or any pension plan under any prescribed enactment and the treatment of those persons for the purposes of the Plan;*

(8) *The Pension Fund Act is amended by repealing section 5(1)(a), (c), (d), (e) and (f).*

(9) *The Pension Statutes Amendment and Miscellaneous Provisions Act, 1992 is amended by repealing section 2.*

(10) *The Police Officers Collective Bargaining Act is amended in section 2(2)*

- (a) *by striking out “Special Forces Pension Plan Act” and substituting “Special Forces Pension Plan”;*
- (b) *by striking out “that Act” and substituting “that Plan”.*

(11) *The Provincial Court Judges Act is amended in section 17(1)(e)*

- (a) by striking out “, the Public Service Pension Plan Act or the Public Service Management Pension Plan Act”;*
- (b) by striking out “those Acts” and substituting “that Act or the Public Service Pension Plan, the Public Service Management (Closed Membership) Pension Plan or the Management Employees Pension Plan”.*

(12) *The Public Health Act is amended by repealing section 19(2) and substituting the following:*

(2) For the purposes of this section, “appropriate pension plan” means

- (a) the Local Authorities Pension Plan, the Management Employees Pension Plan or the Public Service Pension Plan, or*
- (b) a pension plan designated by the Lieutenant Governor in Council as an appropriate pension plan.*

(13) *The Technical Institutes Act is amended by repealing section 37(2) and substituting the following:*

(2) For the purposes of this section, “appropriate pension plan” means

- (a) the Local Authorities Pension Plan, the Management Employees Pension Plan or the Universities Academic Pension Plan, or*
- (b) a pension plan designated by the Lieutenant Governor in Council as an appropriate pension plan.*

(14) *The Universities Act is amended by repealing section 26(6).*

Repeals

11 *The following Acts are repealed:*

- (a) the Local Authorities Pension Plan Act;*
- (b) the Public Service Management Pension Plan Act;*
- (c) the Public Service Pension Plan Act;*
- (d) the Special Forces Pension Plan Act;*
- (e) the Universities Academic Pension Plan Act.*

Coming into
force

12 *This Act comes into force on Proclamation.*

SCHEDULE 1

LOCAL AUTHORITIES PENSION PLAN PROVISIONS

Interpretation

1(1) In this Schedule,

- (a) “Board” means the Local Authorities Pension Plan Board of Trustees established by section 3(1);
- (b) “funding and solvency requirements” means the minimum funding and solvency requirements set by section 38(2) and (3), and regulations made with reference to section 38(2), of the *Employment Pension Plans Act*;
- (c) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Schedule;
- (d) “Plan” means the Local Authorities Pension Plan continued by section 2 and contained partly in the applicable provisions of this Schedule and partly in the plan rules, and includes the plan fund;
- (e) “plan costs” means the portion of the total plan costs, within the meaning of section 5(1) of this Act, that constitutes the separate sum referred to in section 5(6) of this Act for the Plan;
- (f) “plan fund” means the Local Authorities Pension Plan Fund established under section 6(1);
- (g) “plan rules” means the plan provisions made pursuant to sections 4, 5(2) and 9(6), including amendments or repeals and replacements of existing plan rules;
- (h) “prescribed” means prescribed or otherwise provided for by regulations made by the Lieutenant Governor in Council under this Schedule;
- (i) “regulations” does not include the plan rules.

(2) Where the plan rules define generally an expression used in this Schedule and not defined in subsection (1), that definition applies with respect to the interpretation of that expression unless the plan rules otherwise provide.

Continuation
of Local
Authorities
Pension Plan

2 The pension plan provided for by and under the *Local Authorities Pension Plan Act* is continued as the Local Authorities Pension Plan under and subject to sections 1 to 12 of this Act, this Schedule, the regulations and the plan rules.

Local
Authorities
Pension Plan
Board of
Trustees

3(1) There is hereby established a board to be known as the “Local Authorities Pension Plan Board of Trustees” consisting of the prescribed nominees of employees, former employees, employers and the Crown.

(2) The objects of the Board are

- (a) to make plan provisions by regulation to ensure that current service under the Plan is funded in accordance with sections 5(2) and 4(3) and to set the “total required” for the purposes of section 9,
- (b) to make any appropriate recommendations for the amending or repealing and replacing of plan rules under section 4(2),
- (c) to set general policy guidelines on
 - (i) the investment and management of the plan fund’s assets in accordance with section 6(3) and the regulations, and
 - (ii) the administration of the Planthat it considers should be followed,
- (d) to review administrative decisions pursuant to any delegations under section 10, and
- (e) to make recommendations pursuant to section 14(3), and, if applicable, section 15(2).

(3) Members of the Board, while acting as such, shall comply with, and are bound by, any prescribed provisions respecting conflicts of interest, and persons who contravene this subsection are liable to the penalties prescribed.

(4) The Board and its members have the powers, duties, liabilities and immunities prescribed and those set out in this Schedule.

(5) Plan rules referred to in subsection (2)(a) may be integrated with the plan rules made by the Lieutenant Governor in Council.

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

4(1) The Lieutenant Governor in Council shall by regulation establish those plan provisions that are to be included in the Plan from the time of its continuation by this Schedule and that are not fully provided for in this Schedule, including plan provisions respecting

- (a) participation,
- (b) contributions, including the initial contribution rates payable until July 31, 1994,
- (c) pensionable service,
- (d) benefits, including suspensions of pensions and adjustments to pensions relating to the cost of living,
- (e) the allowing and charging of interest,
- (f) reciprocal agreements,
- (g) beneficiaries, and
- (h) the bases for actuarial adjustments.

(2) Notwithstanding any other law, the Lieutenant Governor in Council may amend or repeal and replace existing plan rules only on the Board's recommendation.

(3) Where the Lieutenant Governor in Council makes any plan rules under subsection (2) that result in an improvement in benefits, the Board shall, if necessary, make adjustments to contribution rates that meet the requirements of section 5(2).

(4) Where a recommendation made under subsection (2) would, if adopted, have the effect of changing any of the Plan's benefits, the recommendation must be approved by the Board in the manner prescribed.

(5) Notwithstanding anything in this Schedule, the Lieutenant Governor in Council has no authority to make plan rules on a matter respecting which the plan rule-making authority is given by this Schedule to the Board.

(6) The plan rules are subject to the regulations as well as to this Schedule.

(7) To avoid any possible doubt, plan rules are regulations under the *Regulations Act*.

Actuarial
valuation
report and
current service
funding

5(1) The Board shall have an actuarial valuation of the Plan performed, and a report on that valuation prepared, by the Plan's actuary at least once every 3 years.

(2) The Board shall, if necessary, within a reasonable time after receiving the report, make plan provisions, following the recommendations of the Plan's actuary in the report, adjusting either or both the employer and employee contribution rates for current service so that those rates will meet or exceed the funding and solvency requirements.

Local
Authorities
Pension Plan
Fund

6(1) The Provincial Treasurer shall, not later than 30 days after the commencement of this section, establish a pension fund for the Plan, to be known as the "Local Authorities Pension Plan Fund", and shall hold and administer it in accordance with this Schedule and the regulations.

(2) All the assets of the Plan are to be held in, and all its liabilities are to be assumed by, the plan fund.

(3) The Provincial Treasurer shall, following the general policy guidelines made for the purposes of section 3(2)(c),

(a) invest the assets of the plan fund in accordance with the *Employment Pension Plans Act* and the regulations under it notwithstanding anything to the contrary in the *Financial Administration Act*, and

(b) manage those assets

for the sole benefit of the persons entitled to benefits under the Plan.

(4) The Provincial Treasurer shall forthwith transfer from the Pension Fund established by the *Pension Fund Act* to the plan fund the aggregate of the value of those assets that are prescribed to be the plan fund's share of that Pension Fund as at December 31, 1991 and any increase in that asset value resulting from an adjustment and updating done on the prescribed basis relating to the period between that date and the date of that transfer, so far as can be known and projected at the date of transfer.

(5) When the final asset valuation has been done, the Provincial Treasurer shall make a final transfer of an amount equal to any change in the aggregate amount specified in subsection (4) as at the date of transfer under that subsection

(a) from the Pension Fund referred to in subsection (4) to the plan fund if that change is an increase, or

(b) from the plan fund to that Pension Fund if it is a decrease.

Trust
relationship to
LAPP fund

7(1) Notwithstanding the name of the Board, the Provincial Treasurer shall hold all the assets of the plan fund in trust for the sole purposes of providing benefits pursuant to the Plan and meeting plan costs and the costs, if any, referred to in section 15(4).

(2) The assets of the plan fund belong beneficially to the persons entitled to benefits under the Plan.

(3) The Crown has no claim to any of the assets of the plan fund and shall not apply or allow the diversion of any of those assets for any purpose not mentioned in subsection (1).

Contributions,
accretion,
benefits and
costs

8(1) The Provincial Treasurer shall deposit all contributions to the Plan, with interest, if any, paid on them, into the plan fund directly on receiving them.

(2) All income of and all appreciation and depreciation in the value of the assets of the plan fund accrue to the plan fund.

(3) The Provincial Treasurer shall pay from the plan fund the benefits under the Plan and the plan costs and, if applicable, costs referred to in section 15(4).

Unfunded
liabilities for
pre-1992
recognized
service, and
additional
contributions

9(1) This section applies only with respect to the Plan's unfunded liability in respect of service that was recognized as pensionable service, and the benefits that were in place, as at December 31, 1991.

(2) The Plan's unfunded liability is to be met by the imposition of additional contributions under this section.

(3) The Minister shall ensure that a separate accounting is made and maintained in respect of the unfunded liability, including the application of the additional contributions.

(4) The initial amount of the unfunded liability is an amount equal to the difference between

(a) the actuarial present value, as determined by the Plan's actuary, of the total liabilities of the Plan arising from service that was recognized as pensionable service, and the benefits that were in place, as at December 31, 1991, and

(b) the amount prescribed as the December 31, 1991 asset value for the purposes of section 6(4).

(5) Subject to plan rules made for the transitional purposes referred to in section 4(1)(b), the additional contributions to be paid annually are as follows:

- (a)** by the Crown, additional contributions in the aggregate amount of 30% of the total required;
- (b)** by the employers, additional contributions, based as between different employers proportionately on the pensionable salaries of all participants who are employees of a particular employer, in the aggregate amount of 35% of the total required;
- (c)** by the participants, additional contributions, based as between individual participants proportionately on each person's pensionable salary, in the aggregate amount of 35% of the total required.

(6) The Board shall have

- (a)** the unfunded liability, and
- (b)** the aggregate amount of the annual additional contributions required in the years before the next actuarial valuation in order to ensure the elimination of the Plan's unfunded liability on or before December 31, 2036,

re-determined by the Plan's actuary at each actuarial valuation under the Plan, and the Board shall make plan provisions establishing the amount referred to in clause (b), and specifying the contribution rates payable under subsection (5)(a), (b) and (c).

(7) In subsection (5),

- (a)** "pensionable salary" and "pensionable salaries" have the meaning given to them by the plan rules;
- (b)** "total required" means the aggregate amount of the annual additional contributions required, as established by plan rules under subsection (6):

(8) The re-determination by the Plan's actuary under subsection (6) must be made with the agreement of the Minister.

(9) The plan rules under subsection (6) must ensure that the additional contribution requirements of that subsection meet or exceed the funding and solvency requirements except only for the extended period for the elimination of the unfunded liability.

(10) In subsections (1) and (4)(a), the references to benefits that were in place as at December 31, 1991 are to be taken as including

any cost-of-living adjustments initially provided by plan rules made specifically under section 4(1)(d) with regard to those benefits.

(11) Subject to this section, the Crown has no liability in respect of the unfunded liability.

Review of
administrative
decisions

10 Without limiting the Minister's prescribed responsibilities for the administration of the Plan, the Minister may in writing delegate to the Board the power to review those administrative decisions of the Minister that are specified in the delegation.

Validation of
old COLAs

11 On the repeal of *The Local Authorities Pension Adjustment Regulations* (Alta. Reg. 304/69), all adjustments made in pensions under those regulations are hereby validated, notwithstanding the repeal.

Regulations
establishing
provisions of a
legislative
nature

12 The Lieutenant Governor in Council may, after consulting with the Board, make regulations establishing provisions of a legislative nature that do not form part of the Plan

- (a) respecting remuneration and expenses payable to members of the Board and respecting their selection,
- (b) respecting the administration of the Plan,
- (c) respecting the plan fund, including the management and investment of its assets,
- (d) respecting the auditing of the Plan and the plan fund,
- (e) respecting reporting and the disclosure of information about the Plan,
- (f) imposing obligations on employers to facilitate the administration of the Plan,
- (g) exempting interests in benefits from garnishee proceedings, attachment, seizure or legal process,
- (h) establishing such provisions of a legislative nature as are considered to be requisite or advisable so as to give full effect to the Plan or to be sound law in the field of pensions, and
- (i) prescribing any matter or thing that by this Schedule may be or is to be prescribed.

Transitional provisions

13(1) *Notwithstanding section 6(3), until the date prescribed, section 6(3)(a) is deemed to read*

(a) invest the assets of the plan fund in forms of investment referred to in section 50(1) or (1.1) of the Financial Administration Act.

(2) The first actuarial valuation to be performed pursuant to section 5(1) is to be as at December 31, 1994 or prior to the making of any recommendation for a change in the plan rules that changes any benefits, whichever is earlier.

Withdrawal of employer from Plan

14(1) In this section, “another plan” or “the other plan” means a registered pension plan, other than the Plan, established by the withdrawing employer or by the Board on behalf of employers and to which the *Employment Pension Plans Act* applies.

(2) An employer may withdraw from participation in, and cease to be an employer for the purposes of, the Plan and have a portion of the Plan’s liabilities and assets transferred to another plan if the conditions set out in and the requirements of this section are met.

(3) Within one year of the commencement of this section, the Board shall produce to the Minister in writing its recommendations for the bases on which future withdrawals may be made under this section, and the Minister shall take those recommendations into consideration in making the recommendation under subsection (4).

(4) The Lieutenant Governor in Council, on the recommendation of the Minister, may make regulations, which treat all employers in an even-handed manner, establishing

(a) the bases for withdrawals under this section,

(b) the method by which withdrawals under this section are to be made, and

(c) other terms and conditions for those withdrawals.

(5) Before any assets are transferred under this section, the withdrawing employer and the legal owners of the pension fund of the other plan must indemnify the Crown in a written form acceptable to the Minister with respect to any claims that may be made by any person that arise directly or indirectly from the withdrawal.

(6) The Crown is to remain liable for additional contributions to the other plan’s pension fund with respect to the withdrawing employer and its employees, but only so long as the withdrawing employer and its employees continue to pay additional contributions

to the other plan pursuant to the terms and conditions of the withdrawal, and the withdrawal must not result in any increase in that liability on the part of the Crown.

(7) The Crown is to have no liability in respect of benefits to be provided by the other plan except the liability referred to in subsection (6) and, with that exception, the pension fund of the other plan is to assume all such liability.

(8) On the transfer of the assets and liabilities, all the rights of the withdrawing employer and its employees in relation to the Plan are extinguished.

Termination of
the whole Plan

15(1) In this section,

(a) “another plan” or “the other plan” means a registered pension plan, other than the Plan, developed on the authorization of employers pursuant to subsection (4) and to which the *Employment Pension Plans Act* will apply or applies;

(b) “transfer” means the transfer under this section to the other plan’s pension fund of the liabilities and assets of the Plan relating to the terminating employers joining the other plan.

(2) The Board may, by a resolution passed by a majority of at least 75% of all Board members referred to in section 3(1) who are nominees of employees, former employees or employers, including a majority of the employees’ nominees and a majority of the employers’ nominees, recommend to the Minister that the whole Plan be terminated.

(3) Before passing the resolution, the Board must satisfy itself that the proposed recommendation has the support of persons receiving pensions under the Plan.

(4) After the Board has made a recommendation meeting the requirements of subsections (2) and (3) and if the Board is authorized by a majority of employers who employ at least 50% of the Plan’s participants to develop a plan that will not be established by legislation, the Lieutenant Governor in Council shall make regulations allowing the charging to the plan fund of costs incurred in developing that plan.

(5) Those employers who do not wish to join the other plan must be given the opportunity to withdraw from the Plan under section 14 before the whole Plan is terminated.

(6) Before a transfer is made, the terminating employers and the legal owners of the pension fund of the other plan must indemnify

the Crown in a written form acceptable to the Minister with respect to any claims that may be made by any person that arise directly or indirectly from the termination.

(7) The Crown is to remain liable for additional contributions to the other plan's pension fund with respect to the terminating employers and their employees, but only so long as the terminating employers and the employees continue to pay additional contributions to the other plan pursuant to the terms and conditions of the termination, and the termination must not result in any increase in that liability on the part of the Crown.

(8) The Crown is to have no liability in respect of benefits to be provided by the other plan except the liability referred to in subsection (7) and, with that exception, the pension fund of the other plan is to assume all such liability.

(9) If subsections (5) and (6) have been met, the Lieutenant Governor in Council may make regulations establishing any further conditions of the transfer, and authorizing the transfer on those conditions.

(10) On the transfer, all the rights of the terminating employers and their employees in relation to the Plan are extinguished.

(11) If this section has been complied with, the Lieutenant Governor in Council may terminate the whole Plan

- (a) on December 31, 1995,
- (b) one year after the regulations under section 14(4) have been made, or
- (c) one year after the Board has made a recommendation meeting the requirements of subsections (2) and (3),

whichever is the latest, or at any time thereafter.

(12) The Minister may, if satisfied that a majority of the employers participating in the Plan and employing at least 50% of the employees participating in the Plan wish the whole Plan to be terminated, recommend to the Lieutenant Governor in Council that the whole Plan be terminated with effect from December 31, 1995 or from one year after the regulations under section 14(4) have been made, whichever is later, and the Lieutenant Governor in Council may act on that recommendation.

(13) On the termination, this Schedule ceases to have any force except to the extent that any provisions of the Schedule are needed to apply the terms and conditions of the termination.

SCHEDULE 2

PUBLIC SERVICE PENSION PLAN PROVISIONS

Interpretation

1(1) In this Schedule,

- (a) “Board” means the Public Service Pension Board established by section 3(1);
- (b) “funding and solvency requirements” means the minimum funding and solvency requirements set by section 38(2) and (3), and regulations made with reference to section 38(2), of the *Employment Pension Plans Act*;
- (c) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Schedule;
- (d) “Plan” means the Public Service Pension Plan continued by section 2 and contained partly in the applicable provisions of this Schedule and partly in the plan rules, and includes the plan fund;
- (e) “plan costs” means the portion of the total plan costs, within the meaning of section 5(1) of this Act, that constitutes the separate sum referred to in section 5(6) of this Act for the Plan;
- (f) “plan fund” means the Public Service Pension Plan Fund established under section 6(1);
- (g) “plan rules” means the plan provisions made pursuant to sections 4, 5(2) and 9(6), including amendments or repeals and replacements of existing plan rules;
- (h) “prescribed” means prescribed or otherwise provided for by regulations made by the Lieutenant Governor in Council under this Schedule;
- (i) “regulations” does not include the plan rules;
- (j) “trustee” means the Provincial Treasurer or, subject to section 16(4)(b), the Board, depending on who is the trustee of the Plan by virtue of the application of section 16.

(2) Where the plan rules define generally an expression used in this Schedule and not defined in subsection (1), that definition applies with respect to the interpretation of that expression unless the plan rules otherwise provide.

Continuation
of Public
Service
Pension Plan

2 The pension plan provided for by and under the *Public Service Pension Plan Act* is continued as the Public Service Pension Plan under and subject to sections 1 to 12 of this Act, this Schedule, the regulations and the plan rules.

Public Service
Pension Board

3(1) There is hereby established a board to be known as the “Public Service Pension Board” consisting of the persons prescribed.

(2) The objects of the Board are

(a) to make plan provisions by regulation to ensure that current service under the Plan is funded in accordance with sections 5(2) and 4(3) and to set the “total required” for the purposes of section 9,

(b) to make any appropriate recommendations for the amending or repealing and replacing of plan rules under section 4(2),

(c) to set general policy guidelines on

(i) the investment and management of the plan fund’s assets in accordance with section 6(3) and the regulations, and

(ii) the administration of the Plan

that it considers should be followed, and

(d) to review administrative decisions pursuant to any delegations under section 10.

(3) Members of the Board, while acting as such and whether or not they are acting in the capacity of trustees, shall comply with, and are bound by, any prescribed provisions respecting conflicts of interest, and persons who contravene this subsection are liable to the penalties prescribed.

(4) The Board and its members have the powers, duties, liabilities and immunities prescribed and those set out in this Schedule in addition to any that are inherent in their positions, if applicable, as trustees.

(5) Plan rules referred to in subsection (2)(a) may be integrated with the plan rules made by the Lieutenant Governor in Council.

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

Public Service
Pension Plan
rules

4(1) The Lieutenant Governor in Council shall by regulation establish those plan provisions that are to be included in the Plan from the time of its continuation by this Schedule and that are not fully provided for in this Schedule, including plan provisions respecting

- (a) participation,
- (b) contributions, including the initial contribution rates payable until July 31, 1994,
- (c) pensionable service,
- (d) benefits, including suspensions of pensions and adjustments to pensions relating to the cost of living,
- (e) the allowing and charging of interest,
- (f) reciprocal agreements,
- (g) beneficiaries, and
- (h) the bases for actuarial adjustments.

(2) Notwithstanding any other law, the Lieutenant Governor in Council may amend or repeal and replace existing plan rules only on the Board's recommendation.

(3) Where the Lieutenant Governor in Council makes any plan rules under subsection (2) that result in an improvement in benefits, the Board shall, if necessary, make adjustments to contribution rates that meet the requirements of section 5(2).

(5) Notwithstanding anything in this Schedule, the Lieutenant Governor in Council has no authority to make plan rules on a matter respecting which the plan rule-making authority is given by this Schedule to the Board.

(6) The plan rules are subject to the regulations as well as to this Schedule.

(7) To avoid any possible doubt, plan rules are regulations under the *Regulations Act*.

Actuarial
valuation
report and
current service
funding

5(1) The Board shall have an actuarial valuation of the Plan performed, and a report on that valuation prepared, by the Plan's actuary at least once every 3 years.

(2) The Board shall, if necessary, within a reasonable time after receiving the report, make plan provisions, following the recommendations of the Plan's actuary in the report, adjusting either or both the employer and employee contribution rates for current service so that those rates will meet or exceed the funding and solvency requirements.

Public Service
Pension Plan
Fund

6(1) The Provincial Treasurer shall, not later than 30 days after the commencement of this section, establish a pension fund for the Plan, to be known as the "Public Service Pension Plan Fund", and shall hold and administer it in accordance with this Schedule and the regulations.

(2) All the assets of the Plan are to be held in, and all its liabilities are to be assumed by, the plan fund.

(3) The trustee shall, following the general policy guidelines made for the purposes of section 3(2)(c),

(a) invest the assets of the plan fund in accordance with the *Employment Pension Plans Act* and the regulations under it notwithstanding anything to the contrary in the *Financial Administration Act*, and

(b) manage those assets

for the sole benefit of the persons entitled to benefits under the Plan.

(4) The Provincial Treasurer shall forthwith transfer from the Pension Fund established by the *Pension Fund Act* to the plan fund the aggregate of the value of those assets that are prescribed to be the plan fund's share of that Pension Fund as at December 31, 1991 and any increase in that asset value resulting from an adjustment and updating done on the prescribed basis relating to the period between that date and the date of that transfer, so far as can be known and projected at the date of transfer.

(5) When the final asset valuation has been done, the Provincial Treasurer shall make a final transfer of an amount equal to any change in the aggregate amount specified in subsection (4) as at the date of transfer under that subsection

(a) from the Pension Fund referred to in subsection (4) to the plan fund if that change is an increase, or

(b) from the plan fund to that Pension Fund if it is a decrease.

Trust
relationship to
PSPP fund

7(1) The Plan is to have a trustee, who shall hold all the assets of the plan fund in trust for the sole purposes of providing benefits pursuant to the Plan and meeting plan costs.

(2) The assets of the plan fund belong beneficially to the persons entitled to benefits under the Plan.

(3) The Crown has no claim to any of the assets of the plan fund and shall not apply or allow the diversion of any of those assets for any purpose not mentioned in subsection (1).

Contributions,
accretion,
benefits and
costs

8(1) The trustee shall deposit all contributions to the Plan, with interest, if any, paid on them, into the plan fund directly on receiving them.

(2) All income of and all appreciation and depreciation in the value of the assets of the plan fund accrue to the plan fund.

(3) The trustee shall pay from the plan fund the benefits under the Plan and the plan costs.

Unfunded
liabilities for
pre-1992
recognized
service, and
additional
contributions

9(1) This section applies only with respect to the Plan's unfunded liability in respect of service that was recognized as pensionable service, and the benefits that were in place, as at December 31, 1991.

(2) The Plan's unfunded liability is to be met by the imposition of additional contributions under this section.

(3) The Minister shall ensure that a separate accounting is made and maintained in respect of the unfunded liability, including the application of the additional contributions.

(4) The initial amount of the unfunded liability is an amount equal to the difference between

(a) the actuarial present value, as determined by the Plan's actuary, of the total liabilities of the Plan arising from service that was recognized as pensionable service, and the benefits that were in place, as at December 31, 1991, and

(b) the amount prescribed as the December 31, 1991 asset value for the purposes of section 6(4).

(5) Subject to plan rules made for the transitional purposes referred to in section 4(1)(b), the additional contributions to be paid annually are as follows:

- (a) by the Crown, additional contributions in the aggregate amount of 62.50% of the total required;
 - (b) by the employers, additional contributions, based as between different employers proportionately on the pensionable salaries of all participants who are employees of a particular employer, in the aggregate amount of 18.75% of the total required;
 - (c) by the participants, additional contributions, based as between individual participants proportionately on each person's pensionable salary, in the aggregate amount of 18.75% of the total required.
- (6) The Board shall have
- (a) the unfunded liability, and
 - (b) the aggregate amount of the annual additional contributions required in the years before the next actuarial valuation in order to ensure the elimination of the Plan's unfunded liability on or before December 31, 2036,
- re-determined by the Plan's actuary at each actuarial valuation under the Plan, and the Board shall make plan provisions establishing the amount referred to in clause (b), and specifying the contribution rates payable under subsection (5)(a), (b) and (c).
- (7) In subsection (5),
- (a) "pensionable salary" and "pensionable salaries" have the meaning given to them by the plan rules;
 - (b) "total required" means the aggregate amount of the annual additional contributions required, as established by plan rules under subsection (6).
- (8) The re-determination by the Plan's actuary under subsection (6) must be made with the agreement of the Minister.
- (9) The plan rules under subsection (6) must ensure that the additional contribution requirements of that subsection meet or exceed the funding and solvency requirements except only for the extended period for the elimination of the unfunded liability.
- (10) In subsections (1) and (4)(a), the references to benefits that were in place as at December 31, 1991 are to be taken as including any cost-of-living adjustments initially provided by plan rules made specifically under section 4(1)(d) with regard to those benefits.

(11) Subject to this section, the Crown as such has no liability in respect of the unfunded liability.

Review of
administrative
decisions

10 Without limiting the Minister's prescribed responsibilities for the administration of the Plan, the Minister may in writing delegate to the Board the power to review those administrative decisions of the Minister that are specified in the delegation.

Validation of
old COLAs

11 On the repeal of *The Public Service Pension Adjustment Regulations* (Alta. Reg. 306/69), all adjustments made in pensions under those regulations are hereby validated, notwithstanding the repeal.

Regulations
establishing
provisions of a
legislative
nature

12 The Lieutenant Governor in Council may, after consulting with the Board, make regulations establishing provisions of a legislative nature that do not form part of the Plan

- (a) respecting remuneration and expenses payable to members of the Board and respecting their selection,
- (b) respecting the administration of the Plan,
- (c) respecting the plan fund, including the management and investment of its assets,
- (d) respecting the auditing of the Plan and the plan fund,
- (e) respecting reporting and the disclosure of information about the Plan,
- (f) imposing obligations on employers to facilitate the administration of the Plan,
- (g) exempting interests in benefits from garnishee proceedings, attachment, seizure or legal process,
- (h) establishing such provisions of a legislative nature as are considered to be requisite or advisable so as to give full effect to the Plan or to be sound law in the field of pensions,
- (i) prescribing any matter or thing that by this Schedule may be or is to be prescribed, and
- (j) establishing general terms and conditions for entry to and exit from the Plan.

Transitional provisions

13(1) *Notwithstanding section 6(3), until the date prescribed, section 6(3)(a) is deemed to read*

(a) invest the assets of the plan fund in forms of investment referred to in section 50(1) or (1.1) of the Financial Administration Act.

(2) The first actuarial valuation to be performed pursuant to section 5(1) is to be as at December 31, 1994 or prior to the making of any recommendation for a change in the plan rules that changes any benefits, whichever is earlier.

Trusteeship

16(1) The Provincial Treasurer is to be the trustee of the Plan initially following the continuation of the Plan under this Schedule.

(2) At the end of 1994 or at such later date as the Provincial Treasurer and the Board agree in writing before then, the Provincial Treasurer ceases to be, and the Board becomes, the trustee of the Plan unless the Board has previously made a written request to the Minister to the contrary.

(3) If the trusteeship passes to the Board under subsection (2), all the assets and liabilities of the plan fund previously held by the Provincial Treasurer pass to and belong to the Board as trustee.

(4) If the Board is the trustee, then, notwithstanding subsection (2) but subject to subsection (7), all its duties, powers and functions as trustee, except its legal ownership of the assets of the plan fund, are immediately deemed to have been delegated by it to the Provincial Treasurer and, while that deemed delegation remains in force,

(a) neither the trustee nor the individual members of the Board have any duty, power or liability for ensuring that those duties, powers and functions deemed to have been delegated are performed or exercised or performed or exercised properly, and the Crown indemnifies them in that respect, and

(b) references in this Schedule to the trustee, so far as they relate to the performance or exercise of those duties, powers or functions, are to be taken as references to the Provincial Treasurer.

(5) The Board shall initially review the responsibilities of the trustee, the Provincial Treasurer and the Minister before 1998 and, after that initial review, shall conduct a further such review approximately every 5 years thereafter.

(6) The Board may request the Provincial Treasurer in writing to cancel the deemed delegation under this section, and the Provincial Treasurer may in writing cancel it.

(7) If the Provincial Treasurer cancels the deemed delegation pursuant to subsection (6), notwithstanding anything in this Schedule to the contrary,

- (a) the Provincial Treasurer ceases to have any power, duty or liability, and the Board and its members assume full responsibility, in relation to the trusteeship of the Plan,
- (b) the Minister ceases to be the administrator of the Plan, and
- (c) the Lieutenant Governor in Council may make regulations
 - (i) providing for the transition to the new arrangements referred to in clauses (a) and (b), and
 - (ii) providing that any provision of this Schedule ceases to apply or modifying any such provision,

and may make any other regulations necessary to achieve that transition, including making the Board a corporation.

SCHEDULE 3

UNIVERSITIES ACADEMIC PENSION PLAN PROVISIONS

Interpretation

1(1) In this Schedule,

- (a) “Board” means the Universities Academic Pension Board established by section 3(1);
- (b) “funding and solvency requirements” means the minimum funding and solvency requirements set by section 38(2) and (3), and regulations made with reference to section 38(2), of the *Employment Pension Plans Act*;
- (c) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Schedule;
- (d) “Plan” means the Universities Academic Pension Plan continued by section 2 and contained partly in the applicable provisions of this Schedule and partly in the plan rules, and includes the plan fund;

- (e) “plan costs” means the portion of the total plan costs, within the meaning of section 5(1) of this Act, that constitutes the separate sum referred to in section 5(6) of this Act for the Plan;
- (f) “plan fund” means the Universities Academic Pension Plan Fund established under section 6(1);
- (g) “plan rules” means the plan provisions made pursuant to sections 4, 5(2) and 9(6), including amendments or repeals and replacements of existing plan rules;
- (h) “prescribed” means prescribed or otherwise provided for by regulations made by the Lieutenant Governor in Council under this Schedule;
- (i) “regulations” does not include the plan rules.

(2) Where the plan rules define generally an expression used in this Schedule and not defined in subsection (1), that definition applies with respect to the interpretation of that expression unless the plan rules otherwise provide.

Continuation
of Universities
Academic
Pension Plan

2 The pension plan provided for by and under the *Universities Academic Pension Plan Act* is continued as the Universities Academic Pension Plan under and subject to sections 1 to 12 of this Act, this Schedule, the regulations and the plan rules.

Universities
Academic
Pension Board

3(1) There is hereby established a board to be known as the “Universities Academic Pension Board” consisting of the persons prescribed.

(2) The objects of the Board are

- (a) to make plan provisions by regulation to ensure that current service under the Plan is funded in accordance with sections 5(2) and 4(3) and to set the “total required” for the purposes of section 9,
- (b) to make any appropriate recommendations for the amending or repealing and replacing of plan rules under section 4(2),
- (c) to set general policy guidelines on
 - (i) the investment and management of the plan fund’s assets in accordance with section 6(3) and the regulations, and

(ii) the administration of the Plan

that it considers should be followed,

(d) to review administrative decisions pursuant to any delegations under section 10, and

(e) to make recommendations pursuant to section 14(3) and, if applicable, section 15(3).

(3) Members of the Board, while acting as such, shall comply with, and are bound by, any prescribed provisions respecting conflicts of interest, and persons who contravene this subsection are liable to the penalties prescribed.

(4) The Board and its members have the powers, duties, liabilities and immunities prescribed and those set out in this Schedule.

(5) Plan rules referred to in subsection (2)(a) may be integrated with the plan rules made by the Lieutenant Governor in Council.

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

Universities
Academic
Pension Plan
rules

4(1) The Lieutenant Governor in Council shall by regulation establish those plan provisions that are to be included in the Plan from the time of its continuation by this Schedule and that are not fully provided for in this Schedule, including plan provisions respecting

(a) participation,

(b) contributions, including the initial contribution rates payable until July 31, 1994,

(c) pensionable service,

(d) benefits, including suspensions of pensions and adjustments to pensions relating to the cost of living,

(e) the allowing and charging of interest,

(f) reciprocal agreements,

(g) beneficiaries, and

(h) the bases for actuarial adjustments.

(2) Notwithstanding any other law, the Lieutenant Governor in Council may amend or repeal and replace existing plan rules only on the Board's recommendation.

(3) Where the Lieutenant Governor in Council makes any plan rules under subsection (2) that result in an improvement in benefits, the Board shall, if necessary, make adjustments to contribution rates that meet the requirements of section 5(2).

(4) Where a recommendation made under subsection (2) would, if adopted, have the effect of changing any of the Plan's benefits, the recommendation must be accompanied by a certificate of the Board stating that the recommendation has been approved

(a) in writing by a majority of the total numbers of employers participating in the Plan employing at least 75% of the Plan's participants, and

(b) by all those employers' academic staff associations.

(5) Notwithstanding anything in this Schedule, the Lieutenant Governor in Council has no authority to make plan rules on a matter respecting which the plan rule-making authority is given by this Schedule to the Board.

(6) The plan rules are subject to the regulations as well as to this Schedule.

(7) To avoid any possible doubt, plan rules are regulations under the *Regulations Act*.

Actuarial
valuation
report and
current service
funding

5(1) The Board shall have an actuarial valuation of the Plan performed, and a report on that valuation prepared, by the Plan's actuary at least once every 3 years.

(2) The Board shall, if necessary, within a reasonable time after receiving the report, make plan provisions, following the recommendations of the Plan's actuary in the report, adjusting either or both the employer and employee contribution rates for current service so that those rates will meet or exceed the funding and solvency requirements.

Universities
Academic
Pension Plan
Fund

6(1) The Provincial Treasurer shall, not later than 30 days after the commencement of this section, establish a pension fund for the Plan, to be known as the "Universities Academic Pension Plan Fund", and shall hold and administer it in accordance with this Schedule and the regulations.

(2) All the assets of the Plan are to be held in, and all its liabilities are to be assumed by, the plan fund.

(3) The Provincial Treasurer shall, following the general policy guidelines made for the purposes of section 3(2)(c),

(a) invest the assets of the plan fund in accordance with the *Employment Pension Plans Act* and the regulations under it notwithstanding anything to the contrary in the *Financial Administration Act*, and

(b) manage those assets

for the sole benefit of the persons entitled to benefits under the Plan.

(4) The Provincial Treasurer shall forthwith transfer from the Pension Fund established by the *Pension Fund Act* to the plan fund the aggregate of the value of those assets that are prescribed to be the plan fund's share of that Pension Fund as at December 31, 1991 and any increase in that asset value resulting from an adjustment and updating done on the prescribed basis relating to the period between that date and the date of that transfer, so far as can be known and projected at the date of transfer.

(5) When the final asset valuation has been done, the Provincial Treasurer shall make a final transfer of an amount equal to any change in the aggregate amount specified in subsection (4) as at the date of transfer under that subsection

(a) from the Pension Fund referred to in subsection (4) to the plan fund if that change is an increase, or

(b) from the plan fund to that Pension Fund if it is a decrease.

Trust
relationship to
UAPP fund

7(1) The Provincial Treasurer shall hold all the assets of the plan fund in trust for the sole purposes of providing benefits pursuant to the Plan and meeting plan costs.

(2) The assets of the plan fund belong beneficially to the persons entitled to benefits under the Plan.

(3) The Crown has no claim to any of the assets of the plan fund and shall not apply or allow the diversion of any of those assets for any purpose not mentioned in subsection (1).

Contributions,
accretion,
benefits and
costs

8(1) The Provincial Treasurer shall deposit all contributions to the Plan, with interest, if any, paid on them, into the plan fund directly on receiving them.

(2) All income of and all appreciation and depreciation in the value of the assets of the plan fund accrue to the plan fund.

(3) The Provincial Treasurer shall pay from the plan fund the benefits under the Plan and the plan costs.

Unfunded
liabilities for
pre-1992
recognized
service, and
additional
contributions

9(1) This section applies only with respect to the Plan's unfunded liability in respect of service that was recognized as pensionable service, and the benefits that were in place, as at December 31, 1991.

(2) The Plan's unfunded liability is to be met by the imposition of additional contributions under this section.

(3) The Minister shall ensure that a separate accounting is made and maintained in respect of the unfunded liability, including the application of the additional contributions.

(4) The initial amount of the unfunded liability is an amount equal to the difference between

(a) the actuarial present value, as determined by the Plan's actuary, of the total liabilities of the Plan arising from service that was recognized as pensionable service, and the benefits that were in place, as at December 31, 1991, and

(b) the amount prescribed as the December 31, 1991 asset value for the purposes of section 6(4).

(5) Subject to plan rules made for the transitional purposes referred to in section 4(1)(b), the additional contributions to be paid annually are as follows:

(a) by the Crown, additional contributions at the rate of 1.25% of the salaries of all participants of the Plan;

(b) by the employers, additional contributions, based as between different employers proportionately on the salaries of all participants who are employees of a particular employer, in the aggregate amount of 50% of the total required;

(c) by the participants, additional contributions, based as between individual participants proportionately on each person's salary, in the aggregate amount of 50% of the total required.

(5.1) The Crown's liability to pay additional contributions under subsection (5)(a) expires on December 31, 2043 unless the unfunded liability has been previously eliminated.

(6) The Board shall have

- (a) the unfunded liability, and
- (b) the aggregate amount of the annual additional contributions required from persons referred to in subsection (5)(b) and (c) in the years before the next actuarial valuation in order to ensure the elimination of the unfunded liability on or before December 31, 2043, after taking into account the annual amount of additional contributions payable by the Crown under subsections (5)(a) and (5.1)

re-determined by the Plan's actuary at each actuarial valuation under the Plan, and the Board shall make plan provisions establishing the amount referred to in clause (b), and specifying the contribution rates payable under subsection (5)(b) and (c).

(7) In subsection (5), "total required" means the aggregate amount of the annual additional contributions required, as established by plan rules under subsection (6).

(8) The re-determination by the Plan's actuary under subsection (6) must be made with the agreement of the Minister.

(9) The plan rules under subsection (6) must ensure that the additional contribution requirements of that subsection meet or exceed

- (a) the funding and solvency requirements except only for the extended period for the elimination of the unfunded liability, and
- (b) the prescribed conditions for the use of surpluses, if any, arising in respect of pre-1992 service.

(10) In subsections (1) and (4)(a), the references to benefits that were in place as at December 31, 1991 are to be taken as including any cost-of-living adjustments initially provided by plan rules made specifically under section 4(1)(d) with regard to those benefits.

(11) Subject to this section, the Crown has no liability in respect of the unfunded liability.

Review of
administrative
decisions

10 Without limiting the Minister's prescribed responsibilities for the administration of the Plan, the Minister may in writing delegate to the Board the power to review those administrative decisions of the Minister that are specified in the delegation.

Validation of
old COLAs

11 On the repeal of the *Universities Academic Pension Adjustment Regulation* (Alta. Reg. 438/78), all adjustments made in pensions under that regulation are hereby validated, notwithstanding the repeal.

Regulations
establishing
provisions of a
legislative
nature

12 The Lieutenant Governor in Council may, after consulting with the Board, make regulations establishing provisions of a legislative nature that do not form part of the Plan

- (a) respecting remuneration and expenses payable to members of the Board and respecting their selection,
- (b) respecting the administration of the Plan,
- (c) respecting the plan fund, including the management and investment of its assets,
- (d) respecting the auditing of the Plan and the plan fund,
- (e) respecting reporting and the disclosure of information about the Plan,
- (f) imposing obligations on employers to facilitate the administration of the Plan,
- (g) exempting interests in benefits from garnishee proceedings, attachment, seizure or legal process,
- (h) establishing such provisions of a legislative nature as are considered to be requisite or advisable so as to give full effect to the Plan or to be sound law in the field of pensions, and
- (i) prescribing any matter or thing that by this Schedule may be or is to be prescribed.

Transitional
provisions

13(1) *Notwithstanding section 6(3), until the date prescribed, section 6(3)(a) is deemed to read*

- (a) *invest the assets of the plan fund in forms of investment referred to in section 50(1) or (1.1) of the Financial Administration Act.*

(2) The first actuarial valuation to be performed pursuant to section 5(1) is to be as at December 31, 1994 or prior to the making of any recommendation for a change in the plan rules that changes any benefits, whichever is earlier.

(3) Notwithstanding anything in section 5 or 9, the Board shall by regulation make plan rules, on such basis as it considers appropriate, setting the rate of annual contributions for current service and of additional contributions payable by the employers and by participants in the period from August 1, 1994 to July 31, 1995, but the Board must be in full compliance with sections 5(2) and 9(6) respectively by August 1, 1995.

Withdrawal of
employers
from Plan

14(1) In this section,

- (a) “other pension plans” means one or more registered pension plans, other than the Plan, established by the withdrawing employers and to which the *Employment Pension Plans Act* applies;
- (b) “withdrawal” means the withdrawal of employers from the Plan under this section and includes the consequential transfer of a portion of the liabilities and assets of the Plan under this section.

(2) Employers may withdraw from participation in, and cease to be employers for the purposes of, the Plan and have a portion of the Plan’s liabilities and assets transferred out of the Plan if the conditions set out in and the requirements of this section are met.

(3) Within 12 months of the commencement of this section, the Board shall produce to the Minister its written recommendations for the general formula according to which the liabilities of the Plan in respect of the benefits accrued to any proposed withdrawal and the assets in respect of those liabilities should be apportioned between all the employers then participating in the Plan in the event of a withdrawal.

(4) The Board’s recommendations must be for an apportionment on an equitable basis that takes into account

- (a) the overall funded status of the Plan before the withdrawal,
- (b) the accrued liabilities to be transferred with regard to current and former participants, the assets accrued to the date of withdrawal and future additional contributions,
- (c) if there are 2 or more other pension plans which the withdrawing employers will be joining, a structuring on the

same basis for each of them with regard to benefits accrued to the date of withdrawal and the assets in respect of those benefits, and

- (d) a structuring on the same basis for the Plan on the one hand and the other or each of the other pension plans on the other hand.

(5) The Lieutenant Governor in Council may, on the recommendation of the Minister and if satisfied that the recommendations made to the Minister comply with subsections (3) and (4) and are otherwise satisfactory, make regulations setting out the general bases on which,

- (a) following the Board's recommendations under subsection (3), the liabilities and assets are to be apportioned, and
- (b) the liabilities and assets apportioned to the withdrawing employers are to be transferred out of the Plan

on any future withdrawal.

(6) Where a withdrawal is proposed,

- (a) the withdrawing employers must have the written consent of their academic staff associations for the withdrawal, in the form approved by the Minister,
- (b) the withdrawing employers must give the Minister, the Board and all the other employers at least 2 years' written notice of their intention to withdraw or any lesser period of notice that is agreed in writing between those employers, the Minister and the Board,
- (c) the liabilities and assets apportioned to the withdrawing employers may be transferred only to other pension plans,
- (d) the withdrawing employers and the legal owners of the pension funds of the other pension plans must indemnify the Crown in a written form acceptable to the Minister with respect to any claims that may be made by any person that arise directly or indirectly from the withdrawal, and
- (e) those fund owners, the withdrawing employers and the Board must accept the terms and conditions of the withdrawal established under subsections (7) and (8) in a written form acceptable to the Minister which releases the Crown from all liability with respect to the withdrawing employers' relationship to the Plan except that specified in subsection (7)(a).

(7) Further conditions of a withdrawal are that

- (a) the Crown is to remain liable under subsection (8)(c) with respect to the withdrawing employers and their employees, but only so long as the withdrawing employers and employees continue to pay the additional contributions required by those provisions to the other pension plans and the termination must not result in any increase in the liability that the Crown has under section 9,**
- (b) the Crown is to have no liability in respect of benefits to be provided by the other pension plans except the liability referred to in clause (a) and, with that exception, the pension funds of the other pension plans are to assume all such liability,**
- (c) the benefits of all persons affected by the withdrawal who are currently, prospectively or potentially entitled to benefits under the Plan accrued to the date of withdrawal must be fully protected,**
- (d) all service that counts as pensionable service for the purposes of determining eligibility for benefits under the Plan is to count as pensionable service for those purposes under the other pension plans, and**
- (e) on the withdrawal, all the rights of the withdrawing employers and their employees in relation to the Plan are extinguished.**

(8) Where a request for a withdrawal is made, the Lieutenant Governor in Council may, if satisfied that subsection (6) has been complied with and the conditions under subsection (7) are met, effectuate the withdrawal by

- (a) transferring to the other pension plans the liabilities and assets apportioned to the withdrawing employers in accordance with the regulations made under subsection (5),**
- (b) establishing provisions that are equivalent to section 9, stating the various continuing liabilities with respect to the unfunded liability under section 9 assumed by the other pension plans and the liabilities of the Crown, the withdrawing employers and their employees to make additional contributions to meet that assumed unfunded liability, and**
- (c) if all of the employers are withdrawing or have withdrawn under this section and all the liabilities and assets have been or are being transferred to other pension plans, declaring that the whole Plan is terminated.**

(9) On the making of the declaration under subsection (8)(c), this Schedule ceases to have any force except to the extent that any provisions of the Schedule are needed to apply the terms and conditions of the withdrawal.

Termination of
the whole Plan

15(1) In this section,

- (a) “other pension plans” means one or more registered pension plans, other than the Plan, established by the withdrawing employers and to which the *Employment Pension Plans Act* applies;
- (b) “termination” means the bringing about of the termination under this section of the whole Plan, and includes the consequential transfer of the whole of the liabilities and assets of the Plan under this section.

(2) The Minister may bring about the termination of the whole Plan and the transfer of the whole of the Plan’s liabilities and assets to other pension plans if the conditions set out in and the requirements of this section are met.

(3) Within 12 months of the commencement of this section, the Board shall produce to the Minister written recommendations that meet the requirements of section 14(3) and (4) (except section 14(4)(d)) with respect to termination under this section.

(4) The Lieutenant Governor in Council may, if the conditions referred to in section 14(5) (with any reference in it to section 14(4)(d) excluded) are met, make regulations referred to in that subsection with respect to termination under this section.

(5) Where termination is proposed,

- (a) the Minister must give each employer and the Board at least 2 years’ written notice of the proposed termination or any lesser period of notice that is agreed in writing between the Minister, all the employers and the Board,
- (b) the liabilities and assets may be transferred only to other pension plans, and
- (c) the conditions in section 14(6)(d) and (e) apply.

(6) The further conditions in section 14(7) apply.

(7) In the event of termination, the Lieutenant Governor in Council may, if satisfied that subsection (5) has been complied with and the conditions under subsection (6) are met, effectuate the termination by

- (a) apportioning the liabilities and assets among the employers for the purposes of that termination in accordance with the regulations made under subsection (4),
 - (b) transferring the liabilities and assets to the other pension plans in accordance with the apportionments,
 - (c) establishing provisions that are equivalent to section 9, stating the various continuing liabilities with respect to the unfunded liability under section 9 assumed by the other pension plans and the liabilities of the Crown, the terminating employers and their employees to make additional contributions to meet that assumed unfunded liability, and
 - (d) declaring that the whole Plan is terminated.
- (8) On the making of the declaration under subsection (7)(d), this Schedule ceases to have any force except to the extent that any provisions of the Schedule are needed to apply the terms and conditions of the termination.

SCHEDULE 4

SPECIAL FORCES PENSION PLAN PROVISIONS

Interpretation

1(1) In this Schedule,

- (a) “Board” means the Special Forces Pension Board established by section 3(1);
- (b) “funding and solvency requirements” means the minimum funding and solvency requirements set by section 38(2) and (3), and regulations made with reference to section 38(2), of the *Employment Pension Plans Act*;
- (b.2) “indexing fund” means the Special Forces Pension Indexing Fund established under section 6.1(1);
- (c) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Schedule;
- (d) “Plan” means the Special Forces Pension Plan continued by section 2 and contained partly in the applicable provisions of this Schedule and partly in the plan rules, and includes the plan fund and the indexing fund;
- (e) “plan costs” means the portion of the total plan costs, within the meaning of section 5(1) of this Act, that

constitutes the separate sum referred to in section 5(6) of this Act for the Plan;

(f) “plan fund” means the Special Forces Pension Plan Fund established under section 6(1);

(g) “plan rules” means the plan provisions made pursuant to sections 4 and 5(2), including amendments or repeals and replacements of existing plan rules;

(g.1) “post-1991 COLA benefits” means pension increases referred to in section 4(1)(j) and (9);

(g.2) “post-1991 COLA contributions” means contributions referred to in section 4(1)(i) and (8);

(h) “prescribed” means prescribed or otherwise provided for by regulations made by the Lieutenant Governor in Council under this Schedule;

(i) “regulations” does not include the plan rules.

(2) Where the plan rules define generally an expression used in this Schedule and not defined in subsection (1), that definition applies with respect to the interpretation of that expression unless the plan rules otherwise provide.

Continuation
of Special
Forces
Pension Plan

2 The pension plan provided for by and under the *Special Forces Pension Plan Act* is continued as the Special Forces Pension Plan under and subject to sections 1 to 12 of this Act, this Schedule, the regulations and the plan rules.

Special Forces
Pension Board

3(1) There is hereby established a board to be known as the “Special Forces Pension Board” consisting of the persons prescribed.

(2) The objects of the Board are

(a) to make plan provisions by regulation

(i) to ensure that current service under the Plan is funded in accordance with sections 5(2) and 4(3), and

(ii) setting post-1991 COLA contributions and benefits,

(b) to make any appropriate recommendations for the amending or repealing and replacing of plan rules under section 4(2),

- (c) to set general policy guidelines on
 - (i) the investment and management of
 - (A) the plan fund's assets in accordance with section 6(3), and
 - (B) the indexing fund's assets in accordance with section 6.1(3),
 - and the regulations, and
 - (ii) the administration of the Plan
- that it considers should be followed,
- (d) to review administrative decisions pursuant to any delegations under section 10, and
- (f) to authorize the transfer of any surpluses referred to in section 4(1)(k).
- (3) Members of the Board, while acting as such, shall comply with, and are bound by, any prescribed provisions respecting conflicts of interest, and persons who contravene this subsection are liable to the penalties prescribed.
- (4) The Board and its members have the powers, duties, liabilities and immunities prescribed and those set out in this Schedule.
- (5) Plan rules referred to in subsection (2)(a) may be integrated with the plan rules made by the Lieutenant Governor in Council.
- (6) The guidelines referred to in subsection (2)(c) are exempt from the *Regulations Act*.

Special Forces
Pension Plan
rules

4(1) The Lieutenant Governor in Council shall by regulation establish those plan provisions that are to be included in the Plan from the time of its continuation by this Schedule and that are not fully provided for in this Schedule, including plan provisions respecting

- (a) participation,
- (b) contributions, including the initial contribution rates (including post-1991 COLA contribution rates) payable until December 31, 1993,
- (c) pensionable service,

- (d) benefits, including suspensions of pensions and adjustments to pensions relating to the cost of living based on service that occurred before 1992,
 - (e) the allowing and charging of interest,
 - (f) reciprocal agreements,
 - (g) beneficiaries,
 - (h) the bases for actuarial adjustments,
 - (i) the imposition on employers and employees of contributions for the purpose of funding cost-of-living increases with respect to pensionable service occurring after 1991, except for setting the rates of those contributions,
 - (j) increases in pensions of persons who have paid post-1991 COLA contributions, based on pensionable service occurring after 1991, to mitigate the effects of the increased cost of living and funded from post-1991 COLA contributions, except for setting the actual amounts of those increases, and
 - (k) subject to the *Employment Pension Plans Act*, the transfer by the Provincial Treasurer, on the authorization of the Board, of surpluses, if any, in excess of amounts required for the proper funding of benefits with reference to pensionable service after 1991, from the plan fund to the indexing fund.
- (2) Notwithstanding any other law, the Lieutenant Governor in Council may amend or repeal and replace existing plan rules only on the Board's recommendation.
- (3) Where the Lieutenant Governor in Council makes any plan rules under subsection (2) that result in an improvement in benefits, the Board shall, if necessary, make adjustments to contribution rates that meet the requirements of section 5(2).
- (5) Notwithstanding anything in this Schedule, the Lieutenant Governor in Council has no authority to make plan rules on a matter respecting which the plan rule-making authority is given by this Schedule to the Board.
- (6) The plan rules are subject to the regulations as well as to this Schedule.
- (7) To avoid any possible doubt, plan rules are regulations under the *Regulations Act*.

(8) The Board may make plan rules setting the rates of contributions referred to in subsection (1)(i).

(9) The Board may, subject to subsection (10) and the *Employment Pension Plans Act*, make plan rules setting the actual amounts of the pension increases referred to in subsection (1)(j).

(10) Notwithstanding anything in subsections (1)(j) and (9), post-1991 COLA benefit increases may be made only if the indexing fund contains assets at least equal to the actuarial present value of all pension increases over the expected remaining lifetimes of all those persons who stand to benefit by the increases.

Actuarial
valuation
report and
current service
funding

5(1) The Board shall have an actuarial valuation of the Plan performed, and a report on that valuation prepared, by the Plan's actuary at least once every 3 years.

(2) The Board shall, if necessary, within a reasonable time after receiving the report, make plan provisions, following the recommendations of the Plan's actuary in the report, adjusting either or both the employer and employee contribution rates for current service (other than the post-1991 COLA contribution rates established by the Board's plan rules under section 4(8)) so that those rates will meet or exceed the funding and solvency requirements.

Special Forces
Pension Plan
Fund

6(1) The Provincial Treasurer shall, not later than 30 days after the commencement of this section, establish a pension fund for the Plan, to be known as the "Special Forces Pension Plan Fund", and shall hold and administer it in accordance with this Schedule and the regulations.

(2) All the assets of the Plan are to be held in, and all its liabilities are to be assumed by, the plan fund, but this subsection does not apply to the assets and liabilities of the indexing fund.

(3) The Provincial Treasurer shall, following the general policy guidelines made for the purposes of section 3(2)(c),

(a) invest the assets of the plan fund in accordance with the *Employment Pension Plans Act* and the regulations under it notwithstanding anything to the contrary in the *Financial Administration Act*, and

(b) manage those assets

for the sole benefit of the persons entitled to benefits under the Plan.

(4) The Provincial Treasurer shall forthwith transfer from the Pension Fund established by the *Pension Fund Act* to the plan fund the aggregate of the value of those assets that are prescribed to be the plan fund's share of that Pension Fund as at December 31, 1991 and any increase in that asset value resulting from an adjustment and updating done on the prescribed basis relating to the period between that date and the date of that transfer, so far as can be known and projected at the date of transfer.

(5) When the final asset valuation has been done, the Provincial Treasurer shall make a final transfer of an amount equal to any change in the aggregate amount specified in subsection (4) as at the date of transfer under that subsection

- (a) from the Pension Fund referred to in subsection (4) to the plan fund if that change is an increase, or
- (b) from the plan fund to that Pension Fund if it is a decrease.

Special Forces
Pension
Indexing Fund

6.1(1) The Provincial Treasurer shall, not later than 30 days after the commencement of this section, establish another fund for the part of the Plan comprising post-1991 COLA contributions and benefits, to be known as the Special Forces Pension Indexing Fund, and shall hold and administer it in accordance with this Schedule and the regulations.

(2) The purposes of the indexing fund are to receive post-1991 COLA contributions, and surpluses referred to in section 4(1)(k), to accumulate income deriving from those contributions and surpluses and to pay to those entitled under the Plan post-1991 COLA benefits.

(3) The Provincial Treasurer shall, following in a general manner the policy guidelines made for the purposes of section 3(2)(c), invest and manage the assets of the indexing fund in accordance with the prescribed requirements for the sole benefit of the persons entitled under the Plan to post-1991 COLA benefits.

Trust
relationship to
SFPP funds

7(1) The Provincial Treasurer shall hold all the assets of

- (a) the plan fund in trust for the sole purposes of providing benefits (other than post-1991 COLA benefits) pursuant to the Plan and meeting plan costs, subject, however, to any right to transfer surpluses pursuant to plan provisions referred to in section 4(1)(k), and
- (b) the indexing fund in trust for the sole purposes of providing post-1991 COLA benefits.

(2) Subject to plan provisions referred to in section 4(1)(k), the assets of the plan fund belong beneficially to the persons entitled to benefits (other than post-1991 COLA benefits) under the Plan.

(2.1) The assets of the indexing fund belong beneficially to the persons entitled to post-1991 COLA benefits.

(3) The Crown has no claim to any of the assets of the plan fund or the indexing fund and shall not apply or allow the diversion of any of those assets for any purpose not mentioned in subsection (1)(a) or (b), as the case may be.

Contributions,
accretion,
benefits and
costs

8(1) The Provincial Treasurer shall deposit

- (a) all contributions to the Plan, except post-1991 COLA contributions, with interest, if any, paid on them, into the plan fund, and
- (b) all post-1991 COLA contributions, with interest, if any, paid on them, into the indexing fund

directly on receiving them.

(2) All income of and all appreciation and depreciation in the value of the assets of

- (a) the plan fund accrue to the plan fund, and
- (b) the indexing fund accrue to the indexing fund.

(3) The Provincial Treasurer shall pay

- (a) from the plan fund the benefits under the Plan, except the post-1991 COLA benefits, and the plan costs, and
- (b) from the indexing fund the post-1991 COLA benefits in accordance with regulations under section 4.

Unfunded
liabilities for
pre-1992
recognized
service, and
additional
contributions

9(1) This section applies only with respect to the Plan's unfunded liability in respect of service that was recognized as pensionable service, and the benefits that were in place, as at December 31, 1991.

(2) The Plan's unfunded liability is to be met or partly met by the imposition of additional contributions under this section.

(3) The Minister shall ensure that a separate accounting is made and maintained in respect of the unfunded liability, including the application of the additional contributions.

(4) The initial amount of the unfunded liability is an amount equal to the difference between

- (a) the actuarial present value, as determined by the Plan's actuary, of the total liabilities of the Plan arising from service that was recognized as pensionable service, and the benefits that were in place, as at December 31, 1991, and
- (b) the amount prescribed as the December 31, 1991 asset value for the purposes of section 6(4).

(5) Subject to plan rules made for the transitional purposes referred to in section 4(1)(b), the additional contributions to be paid annually are as follows:

- (a) by the Crown, additional contributions at the rate of 1.25% of the pensionable salaries of all participants of the Plan,
- (b) by each employer, additional contributions at the rate of 0.75% of the pensionable salaries of all participants who are employees of that employer;
- (c) by each participant, additional contributions at the rate of 0.75% of pensionable salary.

(5.1) The additional contributions set out in subsection (5) shall be paid until December 31, 2036 unless the unfunded liability has been previously eliminated.

(6) The Board shall have the unfunded liability re-determined by the Plan's actuary at each actuarial valuation under the Plan.

(7) In subsection (5), "pensionable salary" and "pensionable salaries" have the meaning given to them by the plan rules.

(8) The re-determination by the Plan's actuary under subsection (6) must be made with the agreement of the Minister.

(10) In subsections (1) and (4)(a), the references to benefits that were in place as at December 31, 1991 are to be taken as including any cost-of-living adjustments initially provided by plan rules made specifically under section 4(1)(d) with regard to those benefits.

(11) Subject to this section, the payment of all benefits under the Plan

- (a) arising from pensionable service and benefits referred to in subsection (1), and

- (b) arising from pensionable service between January 1, 1992 and December 31, 1993, but excluding post-1991 COLA benefits,

is guaranteed by the Crown.

Review of
administrative
decisions

10 Without limiting the Minister's prescribed responsibilities for the administration of the Plan, the Minister may in writing delegate to the Board the power to review those administrative decisions of the Minister that are specified in the delegation.

Validation of
old COLAs

11 On the repeal of the *Special Forces Pension Adjustment Regulation* (Alta. Reg. 9/80), all adjustments made in pensions under that regulation are hereby validated, notwithstanding the repeal.

Regulations
establishing
provisions of a
legislative
nature

12 The Lieutenant Governor in Council may, after consulting with the Board, make regulations establishing provisions of a legislative nature that do not form part of the Plan

- (a) respecting remuneration and expenses payable to members of the Board and respecting their selection,
- (b) respecting the administration of the Plan,
- (c) respecting the plan fund and the indexing fund, including the management and investment of their assets,
- (d) respecting the auditing of the Plan, the plan fund and the indexing fund,
- (e) respecting reporting and the disclosure of information about the Plan,
- (f) imposing obligations on employers to facilitate the administration of the Plan,
- (g) exempting interests in benefits from garnishee proceedings, attachment, seizure or legal process,
- (h) establishing such provisions of a legislative nature as are considered to be requisite or advisable so as to give full effect to the Plan or to be sound law in the field of pensions, and
- (i) prescribing any matter or thing that by this Schedule may be or is to be prescribed.

Transitional
provisions

13(1) *Notwithstanding section 6(3), until the date prescribed, section 6(3)(a) is deemed to read*

(a) invest the assets of the plan fund in forms of investment referred to in section 50(1) or (1.1) of the Financial Administration Act.

(2) The first actuarial valuation to be performed pursuant to section 5(1) is to be as at December 31, 1994 or prior to the making of any recommendation for a change in the plan rules that changes any benefits, whichever is earlier.

SCHEDULE 5

MANAGEMENT EMPLOYEES PENSION PLAN PROVISIONS

Interpretation

1(1) In this Schedule,

- (a) "Board" means the Management Employees Pension Board established by section 3(1);
- (a.1) "closed plan" means the Public Service Management (Closed Membership) Pension Plan under Schedule 6;
- (b) "funding and solvency requirements" means the minimum funding and solvency requirements set by section 38(2) and (3), and regulations made with reference to section 38(2), of the *Employment Pension Plans Act*;
- (b.1) "inception" means the beginning of August 1, 1992;
- (c) "Minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Schedule;
- (c.1) "old plan" means the Public Service Management Pension Plan contained in and under the *Public Service Management Pension Plan Act*;
- (d) "Plan" means the portion of the old plan continued by section 8 of this Act as the Management Employees Pension Plan and contained partly in the applicable provisions of this Schedule and partly in the plan rules, and includes the plan fund;
- (e) "plan costs" means the portion of the total plan costs, within the meaning of section 5(1) of this Act, that

- (b) arising from pensionable service between January 1, 1992 and December 31, 1993, but excluding post-1991 COLA benefits,

is guaranteed by the Crown.

Review of
administrative
decisions

10 Without limiting the Minister's prescribed responsibilities for the administration of the Plan, the Minister may in writing delegate to the Board the power to review those administrative decisions of the Minister that are specified in the delegation.

Validation of
old COLAs

11 On the repeal of the *Special Forces Pension Adjustment Regulation* (Alta. Reg. 9/80), all adjustments made in pensions under that regulation are hereby validated, notwithstanding the repeal.

Regulations
establishing
provisions of a
legislative
nature

12 The Lieutenant Governor in Council may, after consulting with the Board, make regulations establishing provisions of a legislative nature that do not form part of the Plan

- (a) respecting remuneration and expenses payable to members of the Board and respecting their selection,
- (b) respecting the administration of the Plan,
- (c) respecting the plan fund and the indexing fund, including the management and investment of their assets,
- (d) respecting the auditing of the Plan, the plan fund and the indexing fund,
- (e) respecting reporting and the disclosure of information about the Plan,
- (f) imposing obligations on employers to facilitate the administration of the Plan,
- (g) exempting interests in benefits from garnishee proceedings, attachment, seizure or legal process,
- (h) establishing such provisions of a legislative nature as are considered to be requisite or advisable so as to give full effect to the Plan or to be sound law in the field of pensions, and
- (i) prescribing any matter or thing that by this Schedule may be or is to be prescribed.

Transitional
provisions

13(1) *Notwithstanding section 6(3), until the date prescribed, section 6(3)(a) is deemed to read*

(a) invest the assets of the plan fund in forms of investment referred to in section 50(1) or (1.1) of the Financial Administration Act.

(2) The first actuarial valuation to be performed pursuant to section 5(1) is to be as at December 31, 1994 or prior to the making of any recommendation for a change in the plan rules that changes any benefits, whichever is earlier.

SCHEDULE 5

**MANAGEMENT EMPLOYEES
PENSION PLAN PROVISIONS**

Interpretation

1(1) In this Schedule,

- (a) "Board" means the Management Employees Pension Board established by section 3(1);
- (a.1) "closed plan" means the Public Service Management (Closed Membership) Pension Plan under Schedule 6;
- (b) "funding and solvency requirements" means the minimum funding and solvency requirements set by section 38(2) and (3), and regulations made with reference to section 38(2), of the *Employment Pension Plans Act*;
- (b.1) "inception" means the beginning of August 1, 1992;
- (c) "Minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Schedule;
- (c.1) "old plan" means the Public Service Management Pension Plan contained in and under the *Public Service Management Pension Plan Act*;
- (d) "Plan" means the portion of the old plan continued by section 8 of this Act as the Management Employees Pension Plan and contained partly in the applicable provisions of this Schedule and partly in the plan rules, and includes the plan fund;
- (e) "plan costs" means the portion of the total plan costs, within the meaning of section 5(1) of this Act, that

constitutes the separate sum referred to in section 5(6) of this Act for the Plan;

- (f) “plan fund” means the Management Employees Pension Plan Fund established under section 6(1);
- (g) “plan rules” means the plan provisions made pursuant to sections 4, 5(3) and 9(6) including amendments or repeals and replacements of existing plan rules;
- (h) “prescribed” means prescribed or otherwise provided for by the regulations under this Schedule;
- (i) “regulations” does not include the plan rules.

(2) Where the plan rules define generally an expression used in this Schedule and not defined in subsection (1), that definition applies with respect to the interpretation of that expression unless the plan rules otherwise provide.

Continuation
of part of
PSMPP into
this Plan

2(1) On the commencement of this section, all persons who had any pensionable service accrued under the old plan immediately before inception and who do not become members of the closed plan by virtue of section 2 of Schedule 6 continue to participate in this Plan.

(2) A member of the closed plan also participates in this Plan, in accordance with this Schedule and the plan rules,

- (a) with respect to any pensionable service after inception, or
- (b) in the case of a person described in section 2(1)(g) of Schedule 6 who paid contributions following the return to work, with respect to pensionable service performed after that return to work.

Pensionable
service

2.1(1) In determining the benefits under this Plan of any person who is not also a member of the closed plan, all pensionable service is to be taken into account for all purposes under this Plan.

(2) In calculating the amount of any benefit under this Plan of a person who is also a member of the closed plan and subject to section 2(2)(b), only pensionable service after inception may be taken into account, but

- (a) pensionable service before inception is also to be taken into account for the purpose of any provision under this Plan predicated entitlement to a benefit or whether or not a minimum number of years of pensionable service has been

accumulated and whether a person is entitled to an unreduced or a reduced pension and the amount of any such reduction, and

- (b) salary earned before inception may be taken into account in determining the highest 5-year average salary for the purpose of the pension calculation.

Management
Employees
Pension Board

3(1) There is hereby established a board to be known as the “Management Employees Pension Board” consisting of the persons prescribed.

(2) The objects of the Board are

- (a.1) to advise the Minister on any pension matter that is of interest to persons receiving or entitled in the future to receive benefits under the Plan,
- (b.1) to consult with the Minister where consultations are provided for by this Schedule,
- (c) to set general policy guidelines on
 - (i) the investment and management of the plan fund’s assets in accordance with section 6(3) and the regulations, and
 - (ii) the administration of the Planthat it considers should be followed,
- (d) to review administrative decisions pursuant to any delegations under section 10, and
- (g) to perform the activities in relation to the closed plan that are assigned to it by section 5(11) of this Act and Schedule 6.

(3) Members of the Board, while acting as such, shall comply with, and are bound by, any provisions respecting conflicts of interest prescribed with respect to this Plan.

(4) The Board and its members have the powers and duties prescribed and those set out in this Schedule.

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

4(1) The Lieutenant Governor in Council shall by regulation establish those plan provisions that are to be included in the Plan from the time of its continuation by section 8 of this Act and that are not fully provided for in this Schedule, including plan provisions respecting

- (a) participation,
- (b) contributions,
- (c) pensionable service,
- (d) benefits, including suspensions of pensions and adjustments to pensions relating to the cost of living,
- (e) the allowing and charging of interest,
- (f) reciprocal agreements,
- (g) beneficiaries,
- (h) the bases for actuarial adjustments, and
- (l) anything that is considered necessary or advisable to provide for resulting from the division of the old plan into the closed plan and this Plan or in order to give effect to the continuation of part of the old plan into this Plan.

(2) Notwithstanding any other law, the Lieutenant Governor in Council may amend or repeal and replace existing plan rules only after consulting with the Board and, to the extent that the plan rule changes have a detrimental effect on any benefits under the Plan, those changes may not have any degree of retrospective application or apply to any service before the date when the changes come into force.

(3) Any amendments to plan rules made under this section that result in an improvement in benefits must be accompanied, if necessary, by adjustments to contribution rates pursuant to section 5(2) and (3).

(6) The plan rules are subject to the regulations as well as to this Schedule.

(7) To avoid any possible doubt, plan rules are regulations under the *Regulations Act*.

Actuarial
valuation
report and
current service
funding

5(1) The Minister, in consultation with the Board, shall have an actuarial valuation of the Plan performed, and a report on that valuation prepared, by the Plan's actuary at least once every 3 years.

(2) The Minister shall, if necessary, within a reasonable time after receiving the report and after consulting with the Board, make a recommendation to the Lieutenant Governor in Council to make plan rules, following the recommendations of the Plan's actuary in the report, adjusting either or both the employer and employee contribution rates for current service so that those rates will meet or exceed the funding and solvency requirements.

(3) The Lieutenant Governor in Council, on receiving the Minister's recommendation, shall forthwith by regulation make the plan provisions recommended.

Management
Employees
Pension Plan
Fund

6(1) The Provincial Treasurer shall, not later than 30 days after the commencement of this section, establish a pension fund for the Plan, to be known as the "Management Employees Pension Plan Fund", and shall hold and administer it in accordance with this Schedule and the regulations.

(2) All the assets of the Plan are to be held in, and all its liabilities are to be assumed by, the plan fund.

(3) The Provincial Treasurer shall, after taking into consideration the general policy guidelines made for the purposes of section 3(2)(c),

(a) invest the assets of the plan fund in accordance with the *Employment Pension Plans Act* and the regulations under it notwithstanding anything to the contrary in the *Financial Administration Act*, and

(b) manage those assets

for the sole benefit of the persons entitled to benefits under the Plan.

(4) The Provincial Treasurer shall forthwith transfer from the Pension Fund established by the *Pension Fund Act* to the plan fund the aggregate of the value of those assets that are prescribed to be the plan fund's share of that Pension Fund as at December 31, 1991 and any increase in that asset value resulting from an adjustment and updating done on the prescribed basis relating to the period between that date and the date of that transfer, so far as can be known and projected at the date of transfer.

(5) When the final asset valuation has been done, the Provincial Treasurer shall make a final transfer of an amount equal to any change in the aggregate amount specified in subsection (4) as at the date of transfer under that subsection

(a) from the Pension Fund referred to in subsection (4) to the plan fund if that change is an increase, or

(b) from the plan fund to that Pension Fund if it is a decrease.

(6) In prescribing assets as at December 31, 1991, for the purposes of subsection (4), the Lieutenant Governor in Council shall set a value for those assets that is not less than that amount that when combined with the actuarial present value of additional contributions paid at the aggregate rate of 3½% of pensionable salary until December 31, 2043, will be sufficient, in the opinion of the Plan's actuary, to eliminate the initial amount of the unfunded liability referred to in section 9(4) (as affected by the application of section 9(10)) by December 31, 2043.

Trust
relationship to
MEPP fund

7(1) The Provincial Treasurer shall hold all the assets of the plan fund in trust for the sole purposes of providing benefits pursuant to the Plan and meeting plan costs.

(2) The assets of the plan fund belong beneficially to the persons entitled to benefits under the Plan.

(3) The Crown has no claim to any of the assets of the plan fund and shall not apply or allow the diversion of any of those assets for any purpose not mentioned in subsection (1).

Contributions,
accretion,
benefits and
costs

8(1) The Provincial Treasurer shall deposit all contributions to the Plan, with interest, if any, paid on them, into the plan fund directly on receiving them.

(2) All income of and all appreciation and depreciation in the value of the assets of the plan fund accrue to the plan fund.

(3) The Provincial Treasurer shall pay from the plan fund the benefits under the Plan and the plan costs.

Unfunded
liabilities for
pre-1992
recognized
service, and
additional
contributions

9(1) This section applies only with respect to the unfunded liability of the old plan arising from the pensionable service of the persons who, on the continuation of the Plan by section 8 of this Act, become participants of this Plan, in respect of service that was recognized as pensionable service, and the benefits that were in place as at December 31, 1991.

(2) The unfunded liability is to be met by the imposition of additional contributions under this section.

(3) The Minister shall ensure that a separate accounting is made and maintained in respect of the unfunded liability, including the application of the additional contributions.

(4) The initial amount of the unfunded liability is an amount equal to the difference between

(a) the actuarial present value, as determined by the Plan's actuary, of the total liabilities of the old plan arising from the service of the persons who, on the continuation of the Plan by section 8 of this Act, become participants of this Plan, that was recognized as pensionable service and the benefits that were in place as at December 31, 1991, and

(b) the amount prescribed as the December 31, 1991 asset value for the purposes of section 6(4).

(5) Subject to plan rules made under section 4(1)(b) setting the initial rates following the commencement of section 4, the additional contributions to be paid annually are as follows:

(b) by the employers, additional contributions, based as between different employers proportionately on the pensionable salaries of all participants who are employees of a particular employer, in the aggregate amount of the total required;

(c) by each participant, additional contributions at the rate of 0.75% of pensionable salary.

(6) The Minister shall have

(a) the unfunded liability, and

(b) the aggregate amount of the annual additional contributions required from the employers in the years before the next actuarial valuation in order to ensure the elimination of the Plan's unfunded liability on or before December 31, 2043 after taking into account the actuarial present value of the participants' additional contributions at the rate specified in subsection (5)(c)

re-determined by the Plan's actuary at each actuarial valuation under the Plan, and the Lieutenant Governor in Council shall by regulation make plan provisions establishing the amount referred to in clause (b).

(7) In subsection (5),

(a) "pensionable salary" and "pensionable salaries" have the meaning given to them by the plan rules;

(b) "total required" means the aggregate amount of the annual additional contributions required from employers, as established by plan rules under subsection (6).

(9) The plan rules under subsection (6) must ensure that the additional contribution requirements of that subsection meet or exceed the funding and solvency requirements except only for the extended period for the elimination of the unfunded liability.

(10) In subsections (1) and (4)(a), the references to benefits that were in place as at December 31, 1991 are to be taken as including any cost-of-living adjustments initially provided by plan rules made specifically under section 4(1)(d) with regard to those benefits.

(11) Subject to this section, the payment of all benefits under the Plan arising from service before 1994 is guaranteed by the Crown.

Review of
administrative
decisions

10 Without limiting the Minister's prescribed responsibilities for the administration of the Plan, the Minister may in writing delegate to the Board the power to review those administrative decisions of the Minister that are specified in the delegation.

Validation of
old COLAs

11 On the repeal of *The Public Service Management Pension Adjustment Regulations* (Alta. Reg. 16/73), all adjustments made in pensions under those regulations are hereby validated, notwithstanding the repeal.

Regulations
establishing
provisions of a
legislative
nature

12(1) The Lieutenant Governor in Council may, after consulting with the Board, make regulations establishing provisions of a legislative nature that do not form part of the Plan

(a) respecting remuneration and expenses payable to members of the Board and respecting their selection,

(b) respecting the administration of the Plan,

(c) respecting the plan fund, including the management and investment of its assets,

- (d) respecting the auditing of the Plan and the plan fund,
- (e) respecting reporting and the disclosure of information about the Plan,
- (f) imposing obligations on employers to facilitate the administration of the Plan,
- (g) exempting interests in benefits from garnishee proceedings, attachment, seizure or legal process,
- (h) establishing such provisions of a legislative nature as are considered to be requisite or advisable so as to give full effect to the Plan or to be sound law in the field of pensions,
- (i) prescribing any matter or thing that by this Schedule may be or is to be prescribed, and
- (k) respecting the treatment of persons who had ceased to be participants under the old plan before inception and remained, immediately before inception, entitled to the return or transfer of their contributions under the old plan without having become entitled to the future receipt of pensions under that plan, and their contributions.

(2) The Lieutenant Governor in Council may, after consulting with the Board, make regulations establishing or continuing one or more supplementary pension plans and funds that provide for additional benefits within the tax rules.

Transitional provisions

13(1) *Notwithstanding section 6(3), until the date prescribed, section 6(3)(a) is deemed to read*

(a) invest the assets of the plan fund in forms of investment referred to in section 50(1) or (1.1) of the Financial Administration Act.

(2) The first actuarial valuation to be performed pursuant to section 5(1) is to be as at December 31, 1994 or prior to the making of any recommendation for a change in the plan rules that changes any benefits, whichever is earlier.

(3) Notwithstanding anything in section 5 or 9, the Lieutenant Governor in Council shall by regulation make plan rules, on such basis as it considers appropriate, setting the rate of annual contributions for current service and of additional contributions payable by the employers and by participants in the period from August 1, 1994 to July 31, 1996, but the Plan must be in full

compliance with sections 5(2) and 9(6) respectively by August 1, 1996.

Meetings
within 5 years

17 Within 5 years after the commencement of this section, the Minister shall meet with the Board and other representatives of participants of the Plan and discuss possible changes to the arrangements for the administration of the Plan and the investment of the Plan's assets.

SCHEDULE 6

PUBLIC SERVICE MANAGEMENT (CLOSED MEMBERSHIP) PENSION PLAN

Interpretation

1 In this Schedule,

- (a) "Board" means the Management Employees Pension Board;
- (b.1) "inception" means the beginning of August 1, 1992;
- (b.3) "members" means persons who became members of the Plan by virtue of section 2 but, if such a person also participates in the permanent plan, relates only to that part of the service that is to be taken into account as pensionable service under this Plan;
- (c.1) "old plan" means the Public Service Management Pension Plan contained in and under the *Public Service Management Pension Plan Act*;
- (c.2) "permanent plan" means the Management Employees Pension Plan under Schedule 5;
- (d) "Plan" means the portion of the old plan continued by section 8 of this Act as the Public Service Management (Closed Membership) Pension Plan and contained in this Schedule and any regulations under section 12, and includes the plan fund;
- (e) "plan costs" means the portion of the total plan costs, within the meaning of section 5(1) of this Act, that constitutes the separate sum referred to in section 5(6) of this Act, for the Plan;
- (f) "plan fund" means the Public Service Management (Closed Membership) Pension Plan Fund established under section 6(1);

- (h) “prescribed” means prescribed or otherwise provided for by regulations under this Schedule.

Continuation
of coverage
from PSMPP
and
membership

2(1) On the commencement of this section, persons covered by the old plan continue to be covered as members of this Plan if they

- (a) were receiving or were entitled to receive a pension under the old plan immediately before inception,
- (b) were entitled to receive a pension under the old plan immediately before inception but only for the fact that they had not applied for it and, between inception and the commencement of this section, attained pension commencement under the old plan,
- (c) would have been entitled to receive a pension under the old plan immediately before inception but only for having postponed commencement of that pension,
- (d) had ceased to be participants under the old plan before inception and remained, immediately before inception, entitled to deferred pensions under the old plan,
- (e) had ceased to be participants under the old plan before inception without recommencing participation or being eligible for pensions by then and did not, immediately before inception, have sufficient pensionable service accrued under the old plan to be entitled to deferred pensions under the old plan,
- (f) had attained 35 years’ pensionable service under the old plan before inception,
- (g) prior to inception,
 - (i) had been in receipt of pensions under the old plan,
 - (ii) had returned to work under circumstances where their pensions were suspended pursuant to section 22 or 23 of the *Public Service Management Pension Plan Regulation* (Alta. Reg. 311/85), and
 - (iii) in the case of a pension suspension under section 22 of that Regulation, had not repaid the pension under subsection (2) of that section,

and were still subject to that pension suspension immediately before inception, or

(h) were persons to whom section 42.2 of the *Members of the Legislative Assembly Pension Plan Amendment Act, 1993* applies.

(2) A person described in subsection (1)(g) is a member only with respect to pensionable service prior to the return to work.

(3) Apart from persons who are members of the Plan by virtue of subsection (1) and, regarding those persons, with the service limitations referred to in this section, the Plan is closed to any further or other membership.

Pensionable
service

2.1 In calculating the amount of any benefit under this Plan, only pensionable service before inception may be taken into account, but

(a) pensionable service after inception is also to be taken into account for the purpose of any provision under the Plan predicated entitlement to a benefit or whether or not a minimum number of years of pensionable service has been accumulated and whether a person is entitled to an unreduced or a reduced pension and the amount of any such reduction, and

(b) except as prescribed with respect to any category of persons referred to in section 2(1)(g), salary earned after inception may be taken into account in determining the 5 best years' salary for the purpose of the pension calculation.

Board
members

3 Members of the Board, while acting as such, shall comply with, and are bound by, any provisions respecting conflicts of interest prescribed with respect to this Plan.

Continuation
of rights and
liabilities

3.1(1) This section is subject to any specific provisions of any other section of this Schedule or of the regulations made under section 12.

(2) All benefits and other rights and all liabilities that had accrued under the old plan immediately before inception continue to be accrued benefits, rights and liabilities under the Plan as if the old plan, as it then was, were still in force.

(3) All rights and liabilities that, immediately before inception, were only inchoate or potential continue to be inchoate or potential on the same basis as if the old plan, as it then was, were still in force.

(4) If any question arises as to any rights or liabilities (including those of the Government) under the Plan, they are to be determined by reference to the old plan as it was immediately before inception.

Actuarial
valuation
report

5 The Minister, in consultation with the Board, shall have an actuarial valuation of the Plan performed, and a report on that valuation prepared, by the Plan's actuary at least once every 3 years.

Public Service
Management
(Closed
Membership)
Pension Plan
Fund

6(1) The Provincial Treasurer shall, not later than 30 days after the commencement of this section, establish a pension fund for the Plan to be known as the "Public Service Management (Closed Membership) Pension Plan Fund", and shall hold and administer it in accordance with this Schedule and any regulations made under section 12.

(2) All the assets of the Plan are to be held in, and all its liabilities are to be assumed by, the plan fund until its assets are exhausted.

(3) The Provincial Treasurer shall

(a) invest the assets of the plan fund in accordance with the *Employment Pension Plans Act* and the regulations under it notwithstanding anything to the contrary in the *Financial Administration Act*, and

(b) manage those assets

for the sole benefit of the persons entitled to benefits under the Plan.

(4) The Provincial Treasurer shall forthwith transfer from the Pension Fund established by the *Pension Fund Act* to the plan fund the aggregate of the value of those assets that are prescribed to be the plan fund's share of that Pension Fund as at December 31, 1991 and any increase in that asset value resulting from an adjustment and updating done on the prescribed basis relating to the period between that date and the date of that transfer, so far as can be known and projected at the date of transfer.

(5) When the final asset valuation has been done, the Provincial Treasurer shall make a final transfer of an amount equal to any change in the aggregate amount specified in subsection (4) as at the date of transfer under that subsection

(a) from the Pension Fund referred to in subsection (4) to the plan fund if that change is an increase, or

(b) from the plan fund to that Pension Fund if it is a decrease.

Trust
relationship to
PSM(CM)PP
Fund

7(1) The Provincial Treasurer shall hold all the assets of the plan fund in trust for the sole purposes of providing benefits pursuant to the Plan and meeting plan costs.

(2) The assets of the plan fund belong beneficially to the persons entitled to benefits under the Plan.

(3) The Crown has no claim to any of the assets of the plan fund and shall not apply or allow the diversion of any of those assets for any purpose not mentioned in subsection (1).

Accretion and
benefits

8(1) The Provincial Treasurer shall deposit money appropriated to the plan fund by the Legislature, if any, into the plan fund.

(2) All income of and all appreciation and depreciation in the value of the assets of the plan fund accrue to the plan fund.

(3) Subject to subsection (4), the Provincial Treasurer shall pay from the plan fund the benefits under the Plan and the plan costs.

(4) After all the assets in the plan fund have been exhausted, the Provincial Treasurer shall close the plan fund and thereafter pay all benefits under the Plan and the plan costs from the General Revenue Fund.

Crown
guarantee

9 All benefits under the Plan are guaranteed by the Crown.

Review of
administrative
decisions

10 Without limiting the Minister's prescribed responsibilities for the administration of the Plan, the Minister may in writing delegate to the Board the power to review any decisions made by the Minister that are specified in the delegation for the purposes of the Plan.

COLAs

11(1) Section 11 of the permanent plan applies with respect to pensions under this Plan.

(2) Notwithstanding anything in this Schedule, if the cost of living has increased, all amounts payable as pensions shall be increased by a cost-of-living increase calculated at the same rate and on the same basis that applies with respect to pensions based on pre-1992 pensionable service under the permanent plan.

(3) Increases under subsection (2) shall also be applied to the periods

(a) of continued postponement of pensions, and

(b) until the commencement of deferred pensions
under the Plan.

- Regulations **12(1)** The Lieutenant Governor in Council may make any regulations
- (a.1) that are considered necessary to give full effect to the intent of this Schedule, and
 - (i) prescribing any matter or thing that by this Schedule may be or is to be prescribed.
- (3)** If the Lieutenant Governor in Council considers that any provision of this Schedule is inconsistent with the overall intent expressed in section 2, the regulations under subsection (1) may amend that provision to make it so consistent.