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UNIFORM PENSION BENEFITS STANDARDS ACT

ACPM Uniformity Task Force

Discussion Draft

January 18, 1999

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UNIFORM PENSION BENEFITS STANDARDS ACT

SHORT TITLE

Short title

1. This Act may be cited as the Pension Benefits Standards Act.

PURPOSE OF ACT

Purpose of the Act

2. The purpose of the Act is to:
 - i) establish minimum standards applicable to pension plans;
 - ii) provide for the enforcement of such standards;
 - iii) encourage the establishment and retention of pension plans and the provision of benefits thereunder;
 - iv) facilitate uniformity of pension benefits standards legislation in Canadian jurisdictions; and
 - v) facilitate efficient administration of the regulation of pension plans.

INTERPRETATION

Definitions

3. (1) In this Act,

"additional voluntary contribution"

"additional voluntary contribution" means a contribution made by a member that is not required to be made to the pension plan and that does not give rise to an obligation on the part of an employer to make additional contributions, but does not include a supplementary contribution;

"administrator"

"administrator" means the administrator referred to in section 8, and includes a replacement administrator appointed under subsection 41(1) or (2);

"ancillary benefit"

"ancillary benefit" means a benefit referred to in section 13;

"collective agreement"

"collective agreement" means an agreement in writing between an employer and a trade union containing provisions respecting terms and conditions of employment and related matters;

"commuted value"

"commuted value", in relation to a pension benefit or ancillary benefit of a member or former member, means the value at a particular time of that person's pension benefits that have vested and the value of ancillary benefits for which the member or former member has met all eligibility requirements, calculated in the prescribed manner;

"continuous"

"continuous", in relation to membership in a pension plan or to employment, means without regard to periods of temporary interruption of the membership or employment;

"deferred pension benefit"

"deferred pension benefit" means a pension benefit other than an immediate pension benefit;

"defined benefit plan"

"defined benefit plan" means a pension plan that is not a defined contribution plan;

"defined benefit provision"

"defined benefit provision" means a provision of a pension plan under which pension benefits for a member are determined in any way other than that described in the definition "defined contribution provision";

"defined contribution account"

"defined contribution account" means an account of a member or former member under a defined contribution plan or provision;

"defined contribution plan"

"defined contribution plan" means a pension plan that provides pension benefits that are determined only by reference to defined contribution provisions;

"defined contribution provision"

"defined contribution provision" means a provision of a pension plan under which the pension benefit for a member or former member is determined solely as a function of the amount of pension benefit that can be provided by;

- (a) contributions made by or on behalf of the member or former member to a defined contribution account of the member or former member, and
- (b) earnings or gains net of losses and expenses allocated to the defined contribution account of the member or former member;

"employer"

"employer", in relation to a member or former member of a pension plan, means the person or organization, whether incorporated or unincorporated, from which the member or former member receives or received remuneration in respect of which benefits under the pension plan are provided;

"former member"

"former member", in relation to a pension plan at a particular time, means a person who has terminated employment with an employer, and

- (a) is entitled to an immediate or deferred pension benefit from the pension plan, or
- (b) is in receipt of a pension payable from the pension fund;

"full-time basis"

"full-time basis", in relation to an employee of a particular class of employment, means engaged to work, throughout the year, all or substantially all of the normally scheduled hours of work established for persons in that class of employment;

"immediate pension benefit"

"immediate pension benefit" means a pension benefit that has commenced or that is to commence payment within one year;

"joint and survivor pension benefit"

"joint and survivor pension benefit" means a pension benefit that continues until the later of the death of the member or former member and the spouse of the member or former member;

"member"

"member", in relation to a pension plan, means a person who is an employee of an employer that participates or participated in the plan, and who is accruing or has accrued benefits under the pension plan, but does not include a former member or a person who is no longer entitled to benefits under the plan;

"Minister"

"Minister" means [the Minister responsible for pensions in the relevant jurisdiction];

"multi-employer pension plan"

"multi-employer pension plan" means a pension plan organized and administered for employees of two or more employers who contribute to the plan pursuant to an agreement, by-law or statute, where the plan provides pension benefits that are determined by periods of employment with any or all of the participating employers, but does not

include a pension plan where more than ninety-five percent of the plan members are employed by participating employers who;

- (a) are affiliates within the meaning of the [business corporations act of the relevant jurisdiction]; or
- (b) if one or more of such participating employers are not business corporations, are directly or indirectly controlled by the same person;

"normal retirement age"

"normal retirement age" means the normal retirement age under a pension plan, as referred to in subsections 22(1) and (2);

"participating employer"

"participating employer" in relation to a pension plan means an employer that is or may be required to contribute to the plan;

"participating jurisdiction"

"participating jurisdiction" means a Canadian jurisdiction having minimum pension standards legislation substantially similar to this Act, and that is prescribed as such under this Act;

"part-time basis"

"part-time basis", in relation to an employee, means engaged to work on other than a full-time basis;

"pension benefit"

"pension benefit" means a lifetime periodic amount payable under the terms of a pension plan;

"pension fund"

"pension fund", in relation to a pension plan, means a fund maintained to provide benefits under or related to the pension plan;

"pension plan"

"pension plan" means a plan organized and administered to provide pension benefits to or in respect of employees and former employees and to which the employer is required under or in accordance with the terms of the pension plan to contribute, but does not include

- (a) an employees' profit sharing plan or a deferred profit sharing plan as defined in sections 144 and 147, respectively, of the Income Tax Act (Canada);
- (b) an arrangement to provide a "retiring allowance" as defined in subsection 248(1) of the Income Tax Act (Canada);
- (c) a registered retirement savings plan as defined in subsection 248(1) of the Income Tax Act (Canada);
- (d) a supplementary pension plan; or
- (e) any other prescribed arrangement;

"pension standard"

"pension standard" means a requirement imposed in respect of a pension plan or pension fund under this Act;

"plan"

"plan" means a pension plan, unless the context clearly indicates otherwise;

"prescribed"

"prescribed" means prescribed by regulation;

"registered pension plan"

"registered pension plan" means a pension plan that is registered and in respect of which a certificate of registration has been issued by the Superintendent or by the regulatory authority of a participating jurisdiction;

"regulatory authority"

"regulatory authority" of a participating jurisdiction means the individual or body having the control and supervision of the administration of the pension legislation of that jurisdiction;

"simplified pension plan"

"simplified pension plan" means a pension plan that is prescribed to be a simplified pension plan;

"solvency ratio"

"solvency ratio" of a pension plan at a given date means the ratio of the market value of the assets of the pension fund to the aggregate liabilities of the plan, where the value of the assets and liabilities are determined as if the plan had been wound up as of that date;

"spouse"

"spouse", in relation to a member or former member, means,

- (a) a person who is cohabiting with the member or former member in a conjugal relationship, having so cohabited with the member or former member for at least one year, or
- (b) if there is no person described in paragraph (a), a person who is married to the member or former member;

"Superintendent"

"Superintendent" means the Superintendent appointed as such for the purposes of this Act;

"supplementary contribution"

"supplementary contribution" means a contribution made to a pension plan at the option of a member, to be applied to the purchase of a pension benefit or ancillary benefit in addition to a defined benefit provided to the member under the plan;

"supplementary plan"

"supplementary plan" means an arrangement to provide pension benefits to or in respect of employees or former employees, where the arrangement is in addition to a pension plan that is registered under the Income Tax Act (Canada), and

- (i) only pension or ancillary benefits that are in excess of the benefit limits applicable to the pension plan under the Income Tax Act (Canada) are provided ; or
- (ii) only contributions that are in excess of the maximum contribution limit applicable to a pension plan registered under the Income Tax Act (Canada) are permitted;

"surplus"

"surplus" means the amount by which the value of the assets of a pension plan exceeds the value of its liabilities as determined in the prescribed manner, on an ongoing or plan wind up basis as the case may be;

"trade union"

"trade union" has the same meaning as in the [relevant labour relations act];

"vested"

"vested" in relation to a member or former member, means the entitlement under section 23 to receive an immediate or deferred pension in the case of a defined benefit provision or plan, or the employer's contributions to the defined contribution account of the member or former member in the case of a defined contribution provision or plan;

"wind up"

"wind up", in relation to a pension plan, means the termination of the pension plan and the distribution of the assets of the pension plan; and

"Year's Maximum Pensionable Earnings"

"Year's Maximum Pensionable Earnings" has the same meaning as in the Canada Pension Plan.

MINIMUM STANDARDS

Minimum standards

4. (1) A pension standard under this Act shall be deemed to be a minimum requirement only.

Greater rights or entitlements

- (2) The requirements of this Act and the regulations shall not be construed as preventing the registration or operation of a pension plan containing provisions that are more advantageous to members or former members of a pension plan or their spouses, beneficiaries or estates. Except as expressly provided in this Act, a right, benefit, term or condition under any pension plan or under any other provincial legislation or regulation that provides in favour of a member, former member or their spouses, beneficiaries or estates any greater right or benefit or entitlement than the requirement imposed by a pension standard shall prevail over the pension standard.

Contracting out prohibited

- (3) Except as provided herein, no person shall contract out of or waive a pension standard, and any such contracting out or waiver is void.

APPLICATION OF ACT

Employment in jurisdiction

5. (1) This Act applies to every pension plan that is provided for persons employed in [name of jurisdiction].

Exception - federal pension benefits standards legislation

- (2) Notwithstanding subsection (1), this Act does not apply in respect of persons in employment that is subject to federal pension benefits standards legislation.

Deemed location of employment

- (3) A person shall be deemed to be employed in the province in which the establishment of his or her employer is located, and to which the person is required to report to work.

Idem

- (4) A person who is not required to report to work at an establishment of his or her employer shall be deemed to be employed in the jurisdiction where the establishment of his or her employer from which the person's remuneration is paid is located.

Registration in jurisdiction of plurality

- (5) A pension plan shall be registered with the regulatory authority in the participating jurisdiction in which there is a plurality of members.

Administration by jurisdiction of registration

- (6) The regulatory authority of the participating jurisdiction in which a pension plan governed by this Act is registered is authorized to administer the provisions of this Act in respect of members employed in or who were employed in [name of jurisdiction], and for this purpose the regulatory authority shall assume the powers and functions of the Superintendent under this Act.

Final location

- (7) If a person is entitled to payments from a pension plan at the time of the person's retirement, termination of employment or death, and the person is employed in [name of jurisdiction] at that time, this Act applies to the pension plan in respect of the person, or any spouse or beneficiary claiming through that person in respect of the person's employment in any participating jurisdiction while the person was a member of the pension plan.

Idem

- (8) If a person is entitled to payments from a pension plan at the time of the person's retirement, termination of employment or death, and the person, is employed in participating jurisdiction other than [name of jurisdiction] at that time, the minimum pension standards legislation of that jurisdiction shall

be deemed to apply to the pension plan in respect of the person, or any spouse or beneficiary claiming through that person in respect of the person's employment in [name of jurisdiction] while the person was a member of the pension plan.

Act binds the Crown

- (9) This Act binds the Crown.

AGREEMENTS WITH PARTICIPATING JURISDICTIONS

Agreements with participating jurisdictions

6. (1) The Minister, with the approval of the [Lieutenant-Governor or Governor in Council] may enter into agreements with the appropriate authority of a participating jurisdiction respecting
- (a) the administration, application and enforcement of pension legislation,
 - (b) the establishment and operation in Canada of an association of pension supervisory authorities; or
 - (c) the establishment and operation in Canada of a central regulatory authority with the power and functions of the regulatory authorities of participating jurisdictions.

POWERS OF SUPERINTENDENT

Powers of Superintendent

7. (1) The Superintendent has the control and supervision of the administration of this Act and has the powers conferred by this Act.

Information and studies

- (2) The Superintendent may
- (a) collect information to determine the nature of and extent to which benefits are provided under pension plans;

- (b) conduct studies, surveys and research programs and compile statistical and other information relating to pension plans and their operation; and
- (c) disclose information gathered under paragraph (a) or (b) or filed under this Act to any government agency or regulatory body, provided that [insert name of the relevant freedom of information or privacy legislation] and subsection 20 (3) shall continue to apply to all such information.

ADMINISTRATION OF PENSION PLANS

Administrator

8. (1) The administrator of a pension plan shall be
- (a) an employer that participates in the pension plan;
 - (b) a committee of employers that participate in the pension plan;
 - (c) a committee composed of one or more representatives of,
 - (i) the employer or employers that participate in the pension plan, and
 - (ii) members and former members of the pension plan;
 - (d) a committee composed of representatives of members and former members of the pension plan;
 - (e) the insurance company that provides the pension benefits under the pension plan, if all the pension benefits under the pension plan are guaranteed by the insurance company;
 - (f) a board, agency or commission made responsible by an Act of the Legislature for the administration of the pension plan;
 - (g) a corporation or corporate pension society established and operated solely for the administration of the pension plan;
 - (h) if the pension plan is a multi-employer pension plan established pursuant to a collective agreement or a trust agreement, the administrator shall be a board of trustees appointed pursuant to the

collective agreement or trust agreement authorizing the establishment of the multi-employer pension plan or pursuant to the pension plan, of which at least one-half of the trustees shall be representative of members and former members of the multi-employer pension plan, and of which a majority of the trustees shall be Canadian citizens or landed immigrants; or

- (i) in the case of a simplified pension plan, a prescribed person or body.

Independent member

- (2) An administrator under subsections (a), (b), (c) or (d) may include one or more persons who are independent of both the employer and members and former members, if the pension plan so provides.

Pension council

- 9. (1) An employer or committee of employers who is the administrator of a pension plan may establish a pension council. If the pension plan has 50 or more members and a majority of the members so requests, the employer or committee of employers shall establish a pension council.

Representatives of members

- (2) A pension council shall include a representative of the pension plan members. If a pension plan has 50 or more former members and a majority of the former members so requests, the pension council must include a representative of the former members.

Functions of pension council

- (3) The functions of a pension council are:
 - (a) to promote the awareness and understanding of the pension plan among members and potential members;
 - (b) to review the financial, actuarial and administrative reports prepared in respect of the pension plan;
 - (c) to perform any other functions that are specified by the pension plan or the employer; and

- (d) any other prescribed functions.

Information

- (4) The administrator and a participating employer shall provide a pension council with any information that is necessary to enable it to carry out its functions.

Members informed of right to pension council.

- (5) Where there is no pension council, the administrator shall inform the members and former members of a pension plan of their right to request the establishment of a pension council at least annually.

Choosing representatives

- (6) The representatives of a pension council shall be appointed in the prescribed manner.

Duties of administrator

- 10. (1) The administrator of a pension plan shall administer the pension plan and the pension fund in accordance with this Act and the regulations.

Employer to provide information

- (2) An employer shall provide to the administrator the information that is required by the administrator to comply with the terms of the pension plan, this Act and the regulations.

Superintendent to be informed

- (3) The administrator of a pension plan shall, within 30 days after being constituted or becoming the administrator, inform the Superintendent of
 - (a) the administrator's name and address; or
 - (b) the names and addresses of the persons who together constitute the body that is the administrator.

The administrator shall inform the Superintendent of any change to this information within thirty days after the change.

Administration of pension plan and fund

- (4) The administrator shall administer the pension plan and pension fund for the employer, the members of the pension plan, former members, and any other persons entitled to benefits or refunds under the plan.

Standard of care

- (5) In the administration of the pension plan and pension fund, the administrator shall exercise the degree of care that a person of ordinary prudence would exercise in dealing with the property of another person.

Manner of investing assets

- (6) The administrator shall invest the assets of a pension fund or shall cause the assets of a pension fund to be invested as prescribed and in a manner that a reasonable and prudent person would apply to the portfolio of investments of the pension fund having regard to the liabilities of the pension plan.

Special knowledge or skill

- (7) An administrator who in fact possesses, or by reason of profession or business ought to possess, a particular level of knowledge or skill relevant to the administration of a pension plan or pension fund shall employ that particular level of knowledge or skill in the administration of the pension plan or pension fund.

Agents

- (8) Wherever it is reasonable and prudent in the circumstances to do so, the administrator may employ or retain one or more agents to carry out any act required to be done in the administration of the pension plan and in the administration and investment of the pension fund.

Selection and supervision of agents

- (9) An administrator who employs or retains an agent shall be satisfied of the agent's suitability to perform the act for which the agent is employed, and the administrator shall carry out such supervision of the agent as is prudent and reasonable.

Conflict of Interest

- (10) An administrator or, if the administrator is a pension committee or a board of trustees, a member of the committee or board that is the administrator of a pension plan shall not knowingly permit the administrator's interest to conflict with the administrator's duties and powers in respect of the pension plan or pension fund.

Benefit to administrator

- (11) The administrator of a pension plan is not entitled to any benefit from the pension plan other than the fees and expenses of the administrator related to the administration of the pension plan and permitted by the common law or provided for in the pension plan.

Member of pension committee, etc.

- (12) Notwithstanding subsection (11), a member of a pension committee or board of trustees that is the administrator of a pension plan and a member of a board, agency or commission made responsible by an Act of the Legislature for the administration of a pension plan is entitled to any payments from a pension plan in his or her capacity as a member or former member of that plan.

Validity of documents

- (13) A document issued by a board of trustees or other similar body or a pension committee is valid notwithstanding a material conflict of interest of a member thereof.

Reliance on records as to spouse

- (14) An employer or administrator is, unless in actual receipt of notice to the contrary, entitled to assume that the person's spouse is the person named on the most recent enrolment form or other record of the administrator completed by the person.

Administrator not liable

- (15) An administrator is not liable for contravening subsection (5), (6) or (7) if the contravention occurred because the administrator relied in good faith on
- (a) financial statements of the pension plan prepared by an accountant, or a written report of the auditor or auditors of the pension plan, that have been represented to the administrator as fairly reflecting the financial condition of the pension plan; or
 - (b) a report of an accountant, an actuary, a lawyer, a notary or another professional person whose profession lends credibility to the report.

Standards applicable to employees and agents

- (16) An employee or agent of an administrator is subject to the standards that apply to the administrator under subsections (5) to (15) inclusive.

Records

11. (1) An administrator or any other person who has possession or custody of any records respecting a pension plan shall retain the records for a period of at least 6 years after:
- (a) in the case of a record relating to a person entitled to benefits under the pension plan, the date all rights or entitlements of the person under the pension plan were paid, settled or extinguished;
 - (b) in the case of any document that creates or supports the pension plan, the later of the date upon which the last assets of the pension fund were distributed and the date upon which the wind up of the pension plan is approved by the regulatory authority responsible therefor; and
 - (c) in the case of other records, the date of the last transaction to which the records relate.

Provision of information

- (2) On the written request of the administrator, a person or body who has possession or custody of any information or records relating to a pension plan shall provide that information to the administrator upon payment by the administrator of the reasonable fees and expenses of that person or body.

Idem

- (3) A request pursuant to subsection (2) must specify the information or records required and the date by which the information or records are required.

Application to court

- (4) If a person or body to whom a request is directed does not provide the information or records requested within the period specified in the request, the administrator may apply to a court by notice of motion for an order to compel provision of the information or records and the court may make any order and impose any conditions relating to the provision of the records that the court considers appropriate.

INSOLVENCY OF EMPLOYER**Amounts to be separate and apart**

12. (1) An employer shall ensure, with respect to its pension plan, that
- (a) the monies in the pension fund,
 - (b) an amount equal to the prescribed payments that have accrued to date,
 - (c) amounts deducted by the employer from members' remuneration, and
 - (d) other amounts due to the pension fund from the employer that have not been remitted to the pension fund
- are kept separate and apart from the employer's own monies.

Deemed trust

- (2) The amounts referred to in paragraphs (1) (a) to (d) shall be deemed to be held in trust for members of the pension plan, former members, and any other persons entitled to pension benefits, refunds, or other payments under the plan in accordance with their interests under the plan.

Where insolvency, etc. of employer

- (3) Where there is, in respect of an employer, a proceeding under the Companies' Creditors Arrangement Act (Canada), the Winding-up Act (Canada) or similar

provincial legislation, or a liquidation, receivership or secured creditor enforcement proceeding, or an insolvency proceeding other than under the Bankruptcy and Insolvency Act (Canada), an amount equal to the amount that by subsection (1) is deemed to be held in trust shall be deemed to be separate from and form no part of the estate of the employer, whether or not that amount has in fact been kept separate and apart from the employer's own monies or from the assets of the estate.

BENEFITS

Ancillary benefits

13. A pension plan may provide only the following ancillary benefits:
1. Disability benefits
 2. Bridging benefits
 3. Death benefits in excess of those required by this Act
 4. Supplementary benefits, other than bridging benefits, payable for a temporary period of time
 5. Early retirement benefits greater than are required by this Act
 6. Any prescribed ancillary benefit

Gradual and Uniform

14. (1) A pension plan is not eligible for registration unless it provides for the accrual of pension benefits in a gradual and uniform manner.

Variable at discretion of employer

- (2) A pension plan is not eligible for registration if the formula for computation of the employer's contributions to the pension fund or the pension benefit or any ancillary benefit provided under the pension plan is variable at the discretion of the employer or the administrator.

Idem

- (3) A deferred profit-sharing pension plan or a pension plan that provides defined contribution benefits is not eligible for registration if the formula governing allocation of contributions to the pension fund and profits among members of

the pension plan is variable at the discretion of the employer or the administrator.

Minimum contribution to defined contribution plan

- (4) A defined contribution plan is not eligible for registration unless the employer's contribution to the plan is at least 1 percent of the earnings of the members on which the eligible members' required contributions are based, whether or not the membership in the plan is mandatory.

Matching contributions

- (5) A pension plan may provide that an employer's contributions to the plan will be determined by reference to contributions made by the member to a savings plan administered by the employer for its employees, provided that the employer's contribution is at least 1% of the earnings upon which the member's permitted contributions to the savings plan are based.

Superintendent may register

- (6) Despite subsections (1) to (5), the Superintendent may register a pension plan if the Superintendent is of the opinion that registration is justified in the circumstances of the pension plan and the members.

Purchase of annuities

15. (1) The administrator may purchase an annuity for a member or former member in respect of the immediate or deferred pension to which the member or former member is entitled.

Membership continues

- (2) A member or former member does not cease to be a member or former member by reason only of the purchase of an annuity in respect of the member's or former member's immediate or deferred pension.

Termination and wind up

- (3) Upon the purchase of an annuity at the request of a former member in respect of the former member's entitlement to pension benefits or ancillary benefits under a pension plan on termination of employment, retirement, or the wind

up or partial wind up of the pension plan, the member or former member ceases to be a member or former member of the plan.

Compliance

16. To the extent that a pension plan does not include a provision that is a pension standard, the pension plan is deemed to include the provision.

REGISTRATION OF PENSION PLANS

Duty of administrator to file documents

17. (1) The administrator of a pension plan shall file with the Superintendent, within 90 days after the pension plan is established,
- (a) a copy of the pension plan;
 - (b) a copy of every document that creates or supports the pension plan or the pension fund; and
 - (c) a declaration in the prescribed form signed by the administrator that the pension plan complies with this Act and the regulations.

Documents creating and supporting a pension plan

- (2) The documents that create and support a pension plan shall expressly set out the following:
- (a) the identity, method of appointment and the details of appointment of the administrator of the pension plan;
 - (b) the conditions for membership in the pension plan;
 - (c) the benefits and rights that are to accrue upon termination of employment, termination of membership, retirement or death;
 - (d) the normal retirement date under the pension plan;
 - (e) the requirements for entitlement under the pension plan to any pension benefit or ancillary benefit;

- (f) the contributions or the method of calculating the contributions required by the pension plan;
- (g) the method of determining benefits payable under the pension plan;
- (h) the method of calculating interest to be credited to contributions under the pension plan;
- (i) the obligation for payment of the cost of administration of the pension plan and the pension fund;
- (j) the mechanism for establishing and maintaining the pension fund;
- (k) the treatment of surplus during the continuation of the pension plan and on the wind up of the pension plan;
- (l) the obligation of the administrator to provide members with information and documents required to be disclosed under this Act and the regulations;
- (m) the method of allocation of the assets of the pension plan on wind up;
- (n) particulars of any predecessor pension plan under which members of the pension plan may be entitled to pension benefits;
- (o) the means of determining member and employer contributions; and
- (p) any other prescribed information related to the pension plan or pension fund.

Registration of pension plan

- (3) Subject to subsection (4), the Superintendent shall register a pension plan and issue a certificate of registration in respect of the pension plan if the administrator has filed the documents under subsection (1).

Refusal to register

- (4) The Superintendent may refuse to register a pension plan if the pension plan does not comply with this Act or the regulations.

Notification

- (5) If the Superintendent refuses to register a pension plan, the Superintendent shall notify the administrator of the particulars of the non-compliance.

Administration of plan prohibited

- (6) An administrator shall not administer a pension plan before complying with subsection (1) and shall, while the pension plan remains in force, ensure that it complies with this Act and the regulations.

Idem

- (7) Subsection (6) does not apply to prevent administration during the first 90 days after the establishment of the pension plan.

Filing of amendments

18. (1) The administrator of a pension plan shall file with the Superintendent, within 60 days after making an amendment to any document referred to in subsection 17(1), a copy of the amendment, and, in the case of an amendment to the pension plan, a declaration in the prescribed form signed by the administrator that the pension plan as amended complies with this Act and the regulations.

Void amendments

- (2) Unless the Superintendent authorizes the amendment in writing, an amendment is void if it would have the effect of reducing
- (a) the amount or the commuted value of a pension benefit accrued under the pension plan with respect to employment before the effective date of the amendment;
 - (b) the amount or the commuted value of a pension or deferred pension accrued under the pension plan; or
 - (c) the amount or the commuted value of an ancillary benefit for which a member or former member has met all the eligibility requirements under the pension plan necessary to exercise the right to receive payment of the benefit.

Idem

- (3) Subsection (2) does not apply in respect of a pension plan,
- (a) if the amendment is necessary to avoid registration of the pension plan being revocable under the Income Tax Act (Canada), or
 - (b) if a pension plan provides defined benefits and the obligation of the employer or participating employers to contribute to the pension plan is limited to a fixed amount set out in a trust agreement that establishes the pension plan or in a collective agreement.

Registration of Amendment

- (4) Subject to subsection (5), the Superintendent shall issue a certificate of registration in respect of any amendment filed under subsection (1).

Refusal to Register

- (5) The Superintendent may refuse to register an amendment if the amendment does not comply with this Act or the regulations.

Notification

- (6) If the Superintendent refuses to register an amendment, the Superintendent shall notify the administrator of the particulars of the non-compliance.

Idem

- (7) Subject to subsection (8), within 6 months after the date the certificate of registration of an amendment to a pension plan is issued, the administrator shall provide notice and a written explanation of each amendment to the pension plan to each member, former member, each employee eligible to join the pension plan, and to any other person who is entitled to a payment from the pension fund, where the pension benefits, ancillary benefits, rights or obligations of such member, former member, employee or other person under the plan are affected by the amendment.

Dispensing with notice

- (8) The Superintendent may, upon application by the administrator, dispense with the requirement to transmit notice under subsection (7) to any one or more of

the classes of persons listed therein or, alternatively, may extend the time period during which notice is to be transmitted under subsection (7) in order to permit notice to be given as part of the annual statement required under paragraph 19(5)(a), if the Superintendent is of the opinion that:

- (i) the amendment is of a technical nature, is required to be made in order for the pension plan or pension fund to comply with federal or provincial laws, or will not substantially affect the pension benefits, ancillary benefits, rights or obligations of a member, former member or any other person entitled to payments from the pension fund;
- (ii) the amendment is in respect of a multi-employer pension plan established pursuant to a collective agreement; or
- (iii) the rights of any persons affected by the amendment would not be substantially prejudiced by permitting notice to be given as part of the annual statement required under paragraph 19 (5) (a).

Significant amendments

- (9) Where an amendment to the pension plan that would result in:
 - (i) a reduction of pension benefits or other ancillary benefits accruing subsequent to the effective date of the amendment; or
 - (ii) the solvency ratio of the pension plan being less than one or, where the solvency ratio is already less than one, the solvency ratio being further reduced;
 - (iii) a change in the nature or fundamental design of the pension plan, including but not restricted to, the conversion of the nature of the pension plan on a prospective or past basis;
 - (iv) the merger of the pension plan or a part of the pension plan with another pension plan;
 - (v) a division of the plan into two or more separate pension plans; or
 - (vi) a change in the provisions in the pension plan relating to entitlement to surplus or to the obligation of the members or the employer to contribute to the plan;

the administrator shall give written notice containing an explanation of the amendment to such persons with such information and within such time period as may be prescribed, and the administrator shall provide the Superintendent with a copy of the notice together with a certification as to the date(s) on which the notice was transmitted.

Notice to trade union

- (10) Where a proposed amendment affects members represented by a trade union that is a party to a collective agreement filed as a document that creates or supports a pension plan, the administrator shall also transmit a copy of the written notice under subsection (7) and (9) to the trade union.

PROVISION OF INFORMATION

Duty to provide information

19. (1) The administrator of a pension plan shall file with the Superintendent annually, or at such other intervals or times and in such form as the Superintendent directs, an information return relating to the pension plan, containing the prescribed information.

Other reporting requirements

- (2) The administrator of a pension plan shall file with the Superintendent actuarial reports, financial statements, and any other prescribed information.

Actuarial reports and financial statements

- (3) (a) Actuarial reports required to be provided under this Act must be prepared in accordance with the standards of practice adopted or recommended by the Canadian Institute of Actuaries; and
- (b) Financial statements required to be provided under this Act must be prepared in accordance with generally accepted accounting principles.

Time limit for filing

- (4) Unless otherwise authorized by the Superintendent in writing, every document required to be filed pursuant to subsection (2) shall be filed within the prescribed period of time.

Member specific information

- (5) (a) Each member of a pension plan will be given within 6 months (or such longer interval as is permitted by the Superintendent) after the end of each year of operation of the plan, a written statement containing the prescribed information.
- (b) Where a member terminates employment or retires, or where a member or former member dies, or where a member or former member is affected by a full or partial termination of the pension plan, the administrator shall give such member or former member, or in the case of the member's or former member's death, the member's legal representative, a written statement of the member's pension benefits and other benefits payable under the plan, in the prescribed form and within the prescribed period.

Idem

- (6) The administrator of a pension plan shall provide to the members, former members and any other persons entitled to pension benefits or refunds under the pension plan, any other information that is prescribed, within the time period and in the manner prescribed.

Right to review plan documents

20. (1) Each member or former member and any other person entitled to a payment from the pension fund, and each such person's spouse may, by written request, once in each year of operation of the pension plan, either personally or by an agent authorized in writing for that purpose, examine the documents and information prescribed under this subsection at the Canadian head office of the administrator or at such other place as is agreed to by the administrator and the person requesting examination of the documents.

Idem

- (2) The administrator shall, within 10 days after receipt of a written request to examine documents pursuant to subsection (1), permit the examination and shall permit the person making the examination to copy the prescribed documents and information or extracts therefrom. The administrator shall provide the person making the inspection with copies of any prescribed

documents or information upon payment to the administrator of a reasonable fee.

No right to personal information

- (3) Notwithstanding anything to the contrary in subsection (1), no person has the right to examine any information which is specific to any member, former member, or any other person entitled to a payment from the pension fund (other than the person making the examination) without that person's prior written consent.

Persons previously entitled to benefits under the plan

- (4) Within 30 days after written request, the administrator shall permit any person who is not within the category of persons listed in subsection (1) but who previously was entitled to a benefit or payment under a pension plan at any time since its inception, or his or her agent authorized in writing for that purpose, to examine:
- (i) a provision of the plan that was in force on any date included in a period during which that person (or the person through whom that person derives a benefit) was a member;
 - (ii) any document that concerns the conditions of that person's employment and that contains provisions relating to the plan;
 - (iii) any trust deed or agreement, insurance contract, by-law or resolution relating to the plan that was in effect during the period mentioned in (i) above; and
 - (iv) any other prescribed document;

where such records are in the possession of the administrator.

The administrator shall provide the person making the inspection with copies of the relevant documents or extracts therefrom upon payment to the administrator of a reasonable fee.

Right to review documents relating to surplus

- (5) Where it is proposed that surplus assets of a pension plan will be paid or transferred to an employer, the employer shall permit any person currently or

previously entitled to a benefit under the plan, or such person's agent authorized in writing for such purpose, to examine any provision of the plan that is currently or ever was in force, which is in the possession of the administrator. The administrator shall provide the person making the inspection with copies of the relevant documents or extracts therefrom upon payment to the administrator of a reasonable fee.

Review at Office of the Superintendent

- (6) The persons referred to in subsections (1) (4) and (5) may examine the documents referred to in subsections (1) (4) and (5) respectively at the office of the Superintendent upon reasonable notice.

Employer's right to examine documents

- (7) Each employer may, at any time and at its own cost and expense, either personally or by an agent authorized in writing for that purpose, examine any of the documents relating to a pension plan of which the employer is or has been a participating employee, or to the pension fund, which are in the possession of the administrator or which have been filed with the Superintendent.

ELIGIBILITY FOR MEMBERSHIP

Eligibility (full-time employees)

21. (1) Each employee who works on a full-time basis for an employer and is a member of a class of employees for which a pension plan is provided by that employer shall be eligible to become a member of the pension plan on the first day of any month following the day on which the employee has completed 24 months of continuous service with one or more participating employers in the pension plan.

Eligibility (part-time employees)

- (2) Where a pension plan is provided for a class of employees, each employee who works on a part-time basis for that employer, and is a member of that class of employees, shall be eligible to become a member of the plan on the first day of the month following the day on which both the following requirements have been fulfilled:

- (a) the employee completes 24 months of continuous employment with the employer or one or more participating employers, and
- (b) either
 - (i) the employee has earned, in respect of employment with the employer or with one or more participating employers, at least 35 percent of the Year's Maximum Pensionable Earnings in each of two consecutive calendar years; or
 - (ii) the employee has worked 700 hours of continuous service with the employer or with one or more participating employers in each of two consecutive calendar years.

Mandatory participation

- (3) A pension plan may provide that membership in the pension plan is compulsory, except for employees who, because of their religious beliefs, object to becoming members of the pension plan.

Eligibility continues

- (4) A member of a pension plan who is employed continuously on a less than full-time basis does not cease to be a member by reason only that the member has earnings of less than 35 percent of the Year's Maximum Pensionable Earnings in a calendar year or is employed fewer than 700 hours in a calendar year.

Membership status

- (5) When a person is no longer entitled to any benefit from the pension plan, other than a contingent or future right to a distribution of surplus from the pension plan, the person ceases to be a member or former member of the pension plan.

Suspension of participation

- (6) A pension plan may provide for a period or periods of suspension of participation of a member, at the member's election, during which period or periods the member neither contributes to the pension plan nor earns pension benefits. During periods of suspension of participation, membership continues.

Idem

- (7) Where a member elects to suspend participation in a pension plan, the member is entitled to resume participation on the first day of January of any subsequent year.

ENTITLEMENT TO PENSION BENEFIT

Entitlement to immediate pension

- 22. (1) A member who is vested shall be entitled to an immediate pension benefit commencing payment no later than the first day of the month following the month in which the member attains normal retirement age under the pension plan.

Normal retirement age

- (2) The normal retirement age under a pension plan shall not be later than age 65.

Entitlement before normal retirement age

- (3) A member who is vested shall be eligible to receive an immediate pension benefit commencing on any date in the ten year period before normal retirement age.

Idem

- (4) A member shall be entitled to elect the date as of which his or her pension benefit commences under subsection (3) upon the member's retirement or termination of employment.

Reduction on early retirement

- (5) The amount of a pension benefit which commences before the normal retirement age may be reduced, provided that the commuted value of the pension benefit payable is not less than the commuted value of the pension benefit payable at the normal retirement age.

Employment after normal retirement age

- (6) Subject to subsection (7), a pension plan must provide that if a member continues employment after attaining normal retirement age and has not yet commenced receipt of a pension benefit from the pension plan, the member shall be entitled to continue membership in the plan and has the right to accrue pension benefits under the pension plan. Such a member shall be entitled to receive a pension benefit upon actual retirement under a defined benefit provision or plan that is the greater of:
- (a) the pension benefit resulting from the continued accrual from normal retirement age to the date of actual retirement; and
 - (b) the pension benefit which would otherwise have been payable at normal retirement age, actuarially increased.

In the case of a defined contribution provision or plan, the member is entitled to continue to accumulate contributions in the member's defined contribution account in accordance with the terms of the plan applicable to the period before normal retirement age.

Pension limitation

- (7) A pension plan may limit the number of years of employment taken into account in calculating a member's pension benefits or may place a maximum dollar limit on pension benefits earned annually or in the aggregate.

Offset from pension after normal retirement age

- (8) A pension plan may provide that a pension benefit payable on and after age 65 may be reduced by the amount of pension payable at age 65 to the member under the Canada Pension Plan or Quebec Pension Plan.

Reduction for old age security benefit

- (9) A pension plan may not reduce a pension benefit by any amount payable under the Old Age Security Act.

Defined contribution provisions

- (10) Notwithstanding anything in this section, where a benefit is provided under a defined contribution provision, subject to subsection 23(1), the member is

entitled to the benefit that can be purchased with the amount in the member's account or otherwise allocable to the member at the date as of which the benefit is purchased.

VESTING OF BENEFITS

Provision respecting vesting

23. (1) A member who,
- (a) completes two years of membership in a pension plan, or
 - (b) is affected by a wind up of a pension plan, in whole or in part,
- is entitled to receive, at normal retirement age
- i) in the case of a benefit under a defined benefit provision, the pension benefit accrued under the pension plan; and
 - ii) in the case of a defined contribution provision, the benefit that can be purchased with the amount in the member's defined contribution account.

Relevant terms of plan

- (2) A pension plan may provide for an earlier vesting period than is set out in subsection (1) above.

LOCKING-IN

Provisions respecting locking-in

24. (1) No member or former member may withdraw any of the contributions made by the member or former member or employer or any earnings thereon in respect of membership in the pension plan.

Idem

- (2) Notwithstanding subsection (1),
- (a) in the case of a defined benefit plan or provision,

- (i) if a member is not vested, the member shall be entitled, on termination of employment or on retirement, to a refund of the member's own contributions plus interest thereon payable in a lump sum amount; and
 - (ii) where the pension plan permits, a member shall be entitled to withdraw any additional voluntary contributions plus interest thereon as prescribed at any time;
- (b) In the case of a defined contribution plan or provision,
 - (i) if a member is not vested, the member shall be entitled, on termination of employment or on retirement, to a refund of the member's contributions to the pension plan plus interest thereon as prescribed; and
 - (ii) where the pension plan permits, the member shall be entitled to withdraw any additional voluntary contributions plus interest thereon as prescribed, at any time.

Exceptions

- (3) Notwithstanding subsection (1) above, a pension plan may provide that:
 - (a) on a member's termination of employment, if the annual pension benefit payable is less than 4 percent of the Year's Maximum Pensionable Earnings for the calendar year of the termination, the commuted value of the pension benefit, or in the case of a defined benefit plan or provision, the member's defined contribution account, may be paid in a lump sum amount to the member;
 - (b) if a member or former member has a terminal illness or a mental or physical disability that is likely to shorten considerably his or her life expectancy, the member or former member is entitled to elect to receive a lump sum payment or series of payments partly or wholly in place of the defined pension benefit described in section 22, or in the case of a defined contribution plan or provision, all or a portion of the monies in the member or former member's defined contribution account.

Assignment etc. prohibited

- (4) Subject to section 31,
- (a) A transaction that purports to assign, charge, anticipate, give as security, surrender or commute any interest in or under a pension plan or any monies payable under a pension plan is void; and
 - (b) any interest in or under a pension plan or any monies payable under a pension plan is exempt from execution, seizure or attachment or other process of law.

Void agreements

- (5) Any agreement or arrangement to assign, charge, anticipate or give as security
- (a) any benefit provided under a pension plan, or
 - (b) any money payable from a pension fund on the retirement or termination of employment or death of a member or former member, or payable to a spouse of a member or former member under section 31,
- is void.

Exception

- (6) Subsection (2) does not apply to prevent the assignment of an interest in a pension benefit, where the assignment
- (a) is ordered by a court pursuant to provincial family law legislation under section 31; or
 - (b) is made pursuant to a domestic agreement between the spouses as contemplated by provincial family law legislation.

Idem

- (7) Unless permitted by this Act, any agreement or arrangement to surrender or commute a benefit, or any right or interest therein, is void.

INTEREST**Interest to be prescribed**

25. Contributions to and amounts payable from a pension plan shall be credited with interest as prescribed.

50% RULE**50% Rule For Defined Benefits**

26. (1) If a person who is a member of a defined benefit plan retires, dies, or otherwise ceases to be a member of the plan, or if a defined benefit is converted to a defined contribution amount, the amount by which
- (a) the aggregate of the member's contributions made to the pension plan together with investment earnings thereon

exceeds
 - (b) 50 percent of the commuted value of the member's accrued defined pension benefit under the pension plan;
- shall be used to increase the pension benefits payable to or in respect of the member. The person entitled to payment may elect within the prescribed period of time to
- (i) transfer the amount to a prescribed retirement savings arrangement; or
 - (ii) receive a lump sum payment of the excess.

Idem

- (2) For the purposes of subsection (1),
- (a) the member's contributions shall not include supplementary contributions or additional voluntary contributions ; and
 - (b) the pension benefit shall include ancillary benefits but shall not include pension benefits or ancillary benefits arising from the member's supplementary contributions or additional voluntary contributions.

Exception

- (3) Subsection (1) does not apply to a defined contribution plan or provision.

JOINT AND SURVIVOR PENSION BENEFIT**Joint and survivor benefit**

27. (1) A pension benefit payable to a former member of a pension plan who has a spouse at the time the pension benefit commences to be paid shall be a joint and survivor pension benefit.

Reduction in spousal benefit

- (2) A pension benefit payable to a spouse of a former member described in subsection (1) may be reduced by reason of death of the former member to an amount not less than 60 percent of the amount of the pension benefit that was payable in respect of the former member before the member's death.

Idem

- (3) Subject to subsection (4), in order to provide the joint and survivor benefit required by subsection (1), the amount of the pension benefit that would be otherwise payable to the former member may be reduced, provided that the commuted value of the pension benefit is not less than the commuted value of the pension benefit that would otherwise have been payable.

Spousal Waiver

- (4) Notwithstanding subsections (1) to (3), a pension plan may provide that a former member may elect to receive a pension benefit in any other form provided for under the terms of the pension plan; except that if the former member has a spouse at the time the pension benefit commences, an election that would reduce the pension benefit payable to the spouse or former spouse on the death of the former member to less than 60 percent of the amount payable to the former member may be made only with the spouse's or former spouse's written agreement, in the prescribed form, and deposited with the administrator of the pension plan.

PRE-RETIREMENT DEATH BENEFIT

Death of a member before benefit payments begin

28. (1) If a member or former member who is entitled to a pension benefit dies before the pension benefit commences to be paid, the person who is the spouse of the member or former member is entitled to receive a lump sum payment equal to the commuted value of the pension benefit to which the member or former member would have been entitled on the date of death, determined as if the member or former member had terminated employment on that date, or in the case of a defined contribution plan or provision, the monies in the member or former member's defined contribution account. The spouse may elect, within the prescribed time, to pay the amount
- (a) to a prescribed retirement savings arrangement, or
 - (b) to purchase an immediate or deferred pension benefit or life annuity.

Idem

- (2) Subsection (1) does not apply
- (a) if the member or former member and the spouse of the member or former member are living separate and apart on the date of the death of the member or former member;
 - (b) if the member or former member and the spouse of the member or former member waive the spouse's entitlement in the prescribed form;
or

- (c) if the member or former member does not have a spouse on the date of death.

Idem

- (3) If subsection (1) does not apply, a beneficiary designated by the member or former member in the form required by the pension plan, or where there is no designated beneficiary, the member's estate, is entitled to receive a lump sum payment equal to the commuted value of the pension benefit or the amount in the member's or former member's defined contribution account determined in accordance with subsection (1).

Remarriage of Former Spouse or Surviving Spouse

- 29. A pension benefit payable to the surviving spouse of a deceased former member shall not terminate by reason only of the remarriage of the surviving spouse.

PORTABILITY OF PENSION BENEFITS

Portability of vested pension benefits or defined contribution accounts

- 30. (1) A member who is vested is entitled to require the administrator to pay an amount equal to the commuted value of his or her accrued pension benefits, or the amount in the member's defined contribution account, as the case may be, on termination of the member's employment,
 - (a) to another registered pension plan, if the other pension plan permits;
 - (b) to a prescribed retirement savings arrangement; or
 - (c) for the purchase for the former member of a prescribed life annuity.

Exception - within 10 years of normal retirement age

- (2) Subsection (1) does not apply to the defined benefits of a member who is within 10 years of the normal retirement age, unless the pension plan provides for such an entitlement.

Idem

- (3) A member may exercise the entitlement under subsection (1) by delivering to the administrator within the prescribed time a written notice in the prescribed form.

Default of election

- (4) A member who does not exercise the entitlement under subsection (1) within the prescribed time shall receive a deferred benefit commencing at the earliest age at which at unreduced pension benefit is provided under the pension plan.

Administrator shall comply

- (5) The administrator shall comply with an election of the member given under subsection (3) within the prescribed period of time after delivery of the direction to the administrator.

Idem

- (6) The administrator of a pension plan shall not transfer monies out of the pension fund of a pension plan pursuant to this section if such a transfer is not in accordance with prescribed limitations applicable to the transfer of the commuted value of pension benefits from a pension fund, except as authorized in writing by the Superintendent.

Termination of pension plan

- (7) On the termination of a pension plan in whole or in part, a member or former member who is affected by the termination or partial termination is entitled to the elections provided in subsection (1).

Idem - former members in receipt of benefit payments

Notwithstanding subsection (8), the administrator shall purchase an annuity in the prescribed form for a former member who is affected by a partial or full termination of a pension plan who is in receipt of pension payments from the plan.

PENSION SPLITTING ON BREAKDOWN OF SPOUSAL RELATIONSHIP

Pension splitting

31. (1) Benefits of a member or former member under a defined benefit plan or provision, or amounts in a defined contribution account of a member or former member, may be paid to a spouse or former spouse of the member or former member in the event of divorce, separation or annulment as provided in this section.

Disclosure of Information

- (2) Within the prescribed time after receiving the written request of a person who is the spouse or former spouse of a member, the administrator shall transmit to the person a written statement containing prescribed information in respect of the pension plan and the pension benefits and ancillary benefits of the member or former member.

Orders and Contracts

- (3) An administrator shall comply with a court order or domestic agreement made in accordance with provincial family law legislation affecting the entitlements of a member or former member under a pension plan. No such order or contract shall be effective to cause a spouse or former spouse of a member or former member to become entitled to more than 50 percent of the commuted value of the pension benefits accrued by the member or former member during the period when the person and the member or former member were spouses, as determined by the administrator on the assumption that the member had terminated employment at the end of the period.

Administrator discharged

- (4) The administrator is discharged from any further obligation to a spouse or former spouse upon making payment in accordance with an order or agreement referred to in subsection (3).

Revaluation of member's benefit

- (5) If an order or agreement referred to in subsection (3) affects a pension benefit, or ancillary benefit of a member or former member, the administrator shall

revalue the entitlement of the member or former member in the prescribed manner.

Portability of spouse's entitlement

- (6) The amount to which a spouse or former spouse of a member or former member is entitled under this section shall be payable, at the election of the spouse or former spouse,
- (a) to another pension plan if the other pension plan permits ;
 - (b) to a prescribed retirement savings arrangement;
 - (c) for the purchase of for the spouse or former spouse of a prescribed life annuity;
 - (d) to a registered retirement savings plan; or
 - (e) in a lump sum.

FUNDING

Funding of pension plan

32. (1) A pension plan shall provide for funding in accordance with the prescribed tests and standards for solvency. The funding shall be adequate to provide for payment of all pension benefits and other benefits required to be paid under the terms of the pension plan.

Funding in accordance with report

- (2) A pension plan shall be funded in accordance with the most recent report filed under this Act.

Actuarial reports

- (3) Where the Superintendent is of the opinion
- (a) that the assumptions or methods used in the preparation of a report required under this Act or the regulations are inappropriate for a pension plan;

- (b) that the assumptions or methods used in the preparation of a report required under this Act or the regulations do not accord with generally accepted actuarial principles; or
- (c) that a report submitted in respect of a pension plan does not meet the requirements and qualifications of this Act, the regulations or the pension plan,

the Superintendent shall notify the administrator in writing of this opinion and shall direct the administrator to cause the appropriate changes to be made to the report.

Amended report

- (4) A direction under this section may include, but is not limited to, requiring the preparation of a new report and specifying the assumptions or methods or both that shall be used in the preparation of the new report.

Sex Discrimination Prohibited

- 33. (1) The sex of a member or former member or of that person's spouse may not be taken into account in determining:
 - (a) the amount of any contribution required to be paid by the member under a pension plan; or
 - (b) the amount of any benefit to which the member or former member or that person's spouse becomes entitled under the plan.

Idem

- (2) In order to comply with subsection (1), a pension plan may:
 - (a) use annuity factors that do not differentiate as to sex;
 - (b) in the case of a defined benefit provision provide for employer contributions that vary according to the sex of the employee; or
 - (c) use any other method approved by the Superintendent.

Notification of remittance

34. (1) The administrator of a pension plan shall give written notice to the agent of the administrator that is responsible for receiving contributions under the pension plan of all estimated amounts that are required to be remitted to the pension fund and the expected date of the remittance not later than 30 days prior to the date on which such amounts are required to be remitted.

Effect of late remittance

- (2) If a payment to a pension fund as described in the notice referred to in subsection (1) above is not remitted to the agent referred to in subsection (1) within 30 days of the expected date of remittance,
- (a) the agent shall immediately notify the administrator in writing; and
 - (b) if payment to the pension fund is not remitted within 60 days of sending the notice referred to in subsection (a), the agent shall immediately notify the Superintendent in writing.

SURPLUS**Payment of surplus**

35. (1) No payment of surplus may be made from a pension plan to an employer without the written consent of the Superintendent.

Conditions for Superintendent's consent

- (2) The Superintendent shall not consent to payment of surplus to an employer unless
- (a) a written application is made to the Superintendent;
 - (b) the Superintendent is satisfied, based on reports provided with the application, that the pension plan has a surplus and that the employer has complied with prescribed requirements; and
 - (c) the employer establishes that
 - (i) it is entitled to payment of the surplus under the terms of the pension plan,

- (ii) it files with the application an order of a court authorizing payment of the surplus to the employer, or
- (iii) it files with the application the written agreement of at least two-thirds of each of
 - (A) the members of the pension plan, and
 - (B) the former members and any other prescribed persons.
- (d) for the purposes of subparagraph (c)(iii), former member includes a person who has been a vested member of the pension plan at any time within the 6 year period before the date as of the proposed surplus payment to the employer.

Decision binding

- (3) A decision of the Superintendent under this section is binding on the parties to the application and on any other person with an interest in the pension plan or the pension fund, including the trustee or custodian of the pension fund.

Submission to arbitration

- (4) Subject to subsection (4), if more than one half and fewer than two-thirds of the persons in each of the categories referred to in subparagraph (2)(c)(iii), consent to a proposal to pay surplus to an employer, the employer may, or if the pension plan is terminated shall, submit the proposal to arbitration. The employer shall forthwith notify the Superintendent and the persons in those categories if the proposal is to be submitted to arbitration.

Winding up of employer

- (5) The Superintendent may require an employer or the legal representative of the employer to submit the issue of payment of surplus to arbitration within eighteen months after the termination of the pension plan, if
 - (a) the employer has not taken steps to receive payment of the surplus; and
 - (b) the employer is insolvent or is in the process of being dissolved.

Deemed agreement

- (6) If a proposal for the employer or the employer's estate to receive payment of surplus is submitted to arbitration, the employer and all interested persons are deemed to have agreed to have the employer's claim determined by the arbitration.

Choice of arbitrator

- (7) The arbitrator shall be chosen by the employer or by the legal representative referred to in subsection (4) and the persons in the categories set out in subsection (2)(iii). If they cannot agree on an arbitrator within the prescribed period, the Superintendent shall choose the arbitrator.

Arbitration

- (8) The arbitrator is not bound by any legal or technical rules of evidence in conducting any matter that comes before the arbitrator, and shall deal with the arbitration as informally and expeditiously as the circumstances and considerations of fairness and natural justice permit.

Standard of Review

- (9) The arbitrator shall consider the substance of the matter and the respective merit of the positions of the parties in respect of that matter and is not bound by a strict legal interpretation of the matter.

Retention of experts

- (10) An arbitrator may retain any experts that the arbitrator reasonably considers necessary.

Costs of arbitration

- (11) Subject to the provisions of the pension plan, the arbitrator may
- (a) order that the costs of the arbitration be paid out of the surplus, or
 - (b) order the parties to an arbitration to pay its costs in the amount and in the proportion that the arbitrator determines.

Issuance of decision

- (12) The arbitrator shall issue a written decision with reasons, file them with the Superintendent within ten days after issuing them and make them available for inspection by any interested person.

Scheme of division

- (13) In respect of a claim submitted to arbitration under subsection (3) and (4), the arbitrator may impose a scheme of division of the surplus between the parties to the arbitration.

Decision binding

- (14) An arbitrator's decision is final and binding on the parties and on any other person that has or could have an interest in the pension plan or pension fund and is not subject to appeal.

SALE OF BUSINESS**Retention of Accrued Benefits**

36. (1) Where an employer sells, assigns or otherwise disposes of all or part of its business or undertaking or all or part of the assets of its business or undertaking, and
- (a) employees of that employer becomes the employees of the person acquiring the business, undertaking or assets (in this section called the "transferring employees" and the "successor employer"), and
 - (b) the successor employer does not assume responsibility for the accrued benefits of the employer's pension plan,
- the transferring employees continue to be entitled to the benefits provided under the employer's plan in respect of their respective periods of membership in that employer's plan, without further accrual.

Idem

- (2) Where the events described in subsection (1) occur and the successor employer provides a pension plan for the transferring employees, whether or not the

successor employer assumes responsibility for the accrued benefits of the employer's pension plan,

- (a) the membership in the employer's pension plan of a transferring employee referred to in shall be deemed not to have ceased by reason of those events; and
- (b) for the purposes of determining the period of employment with respect to any eligibility or vesting requirement of the pension plan of the employer or that of the successor employer, the period of employment shall be deemed to include employment with both the employer and the successor employer.

Transfers of pension assets and liabilities

- (3) Where an event set out in subsection (1) occurs and responsibility is assumed by the pension plan of the successor employer in whole or in part for the pension benefits provided under the employer's pension plan, no transfer of assets or liabilities shall be made from the employer's pension fund to the pension fund of the successor employer's pension plan without the prior consent of the Superintendent, or that is contrary to the prescribed terms and conditions.

Consent by Superintendent

- (4) The Superintendent shall refuse to consent to a transfer of assets if the Superintendent is not satisfied that the pension benefits, ancillary benefits and other payments to which the member or former member are entitled under employer's pension plan are protected or that does not meet prescribed requirements and qualifications. The Superintendent by order may require the transferee to return to the pension fund, with interest at the prescribed rate, assets transferred without the prior consent required by subsection (3).

Release from liability

- (5) If an event set out in subsection (1) occurs and there is a transfer of assets and liabilities from the employer's pension plan to a pension plan of the successor employer in respect of the transferring employees, or if the successor employer assumes responsibility for the employer's pension plan, then the employer shall have no further liabilities or obligations under the employer's pension plan with respect to the transferring employees or the members and former members of

the plan, as the case may be, for periods after the effective date of the event set out in subsection (1).

Idem

- (6) Notwithstanding paragraph (2)(a), an employer may, following an event set out in subsection (1), terminate the membership in the employer's pension plan of the transferring employees and provide them with rights under section 30, provided that such transferring employees shall be fully vested in any benefits under the employer's pension plan accrued up to the effective date of the relevant event.

CONSOLIDATION AND DIVISION OF PENSION PLANS

Transfer of liabilities and assets

37. (1) An employer may, subject to the provisions of the pension plan or plans;
- (a) provide another registered pension plan or plans for the future accrual of benefits, or in the case of a defined contribution plan or provision, the contributions by and on behalf of a member;
 - (b) consolidate the liabilities and assets of a pension plan in whole or in part with those of another registered pension plan or plans maintained by the employer or an affiliate of the employer; or
 - (c) transfer the liabilities of the members or former members of a pension to another registered pension plan maintained by the employer or an affiliate of the employer.

Consent of Superintendent

- (2) A transaction described in paragraph (b) or (c) may not be effected without the consent of the Superintendent.

Protection of benefits

- (3) The Superintendent may refuse to consent to a transaction referred to in subsection (1) (b) or (c) where it does not meet the prescribed conditions, or where the Superintendent is not satisfied that the pension benefits or defined

contribution accounts, as the case may be, of the members and former members of the pension plans involved are protected.

INVESTMENTS

General

38. (1) The administrator and each employee or agent of the administrator with authority over the direction or management of pension fund investments shall ensure that a pension fund's assets are invested in accordance with the requirements of the Act and the regulations.

Idem

- (2) Where, at the time it was made, an investment complies with the requirements of the Act and the regulations and then subsequently ceases to comply with such requirements as the result of the events not caused by the administrator or its agents, the pension fund may, subject to section 10, continue to hold such investments and such investments shall be deemed not to be in contravention of the Act or the regulations.

Member directed investments

- (3) Where, under the terms of a defined contribution provision, members are permitted to direct, in whole or in part, the investment of the assets of the pension fund, then the following shall apply:
- (a) the provisions of subsections 10(5), (6) and (7) shall be deemed to apply to the pension fund (or to the defined contribution portion of the pension fund, as applicable) as a whole and not to any individual investment of the pension fund or any individual member of the pension plan;
 - (b) the employer or administrator may, where it is prudent and reasonable in the circumstances to do so, retain the services of a qualified professional to provide investment education or investment advice to members and former members, where the person retained for such purposes has been selected and supervised by the administrator or employer in compliance with its duties under subsections 10(8) and (9), then the employer or administrator, as applicable, shall not be liable for the investment education or investment advice given by that person or

for the investment return on assets of the pension fund invested by members or former members acting or relying on such investment advice or investment education; and

- (c) where an employer or an administrator otherwise complies with the requirements of the Act and the regulations regarding the investment of pension fund assets and has provided or made available to members investment education or investment advice and the prescribed investment information, the employer or administrator shall not be liable for any loss or breach resulting from the investments as directed by members; and
- (d) the employer or administrator is not relieved from liability pursuant to paragraphs (b) or (c) unless,
 - (i) the pension plan provides members and former members with at least three core investment options, each of which has meaningfully different risk and return characteristics and none of which invest in or hold securities of the employer;
 - (ii) members and former members are permitted to change the allocation of their investments under each option not less frequently than quarterly; and
 - (iii) the employer or administrator has otherwise complied with its duties under section 10.

TERMINATION OF PLAN

Effect of Revocation of Registration

39. (1) The revocation of registration of a pension plan shall be deemed to constitute termination of the plan effective as of the date of revocation.

Termination of Plan by Superintendent

- (2) The Superintendent may declare a pension plan terminated, where:
- (a) the employer fails to make or remit employer or employee contributions to the pension fund as required by this Act or the regulations and the Superintendent is of the opinion that the employer does not intend to

make the required contributions and notifies the employer in writing of that fact;

- (b) the Superintendent is of the opinion that the pension plan fails to meet the prescribed tests and standards for solvency referred to in subsection 32 (1);
- (c) control of all or substantially all of the employer's business is granted to or assumed by a receiver, liquidator, trustee in bankruptcy or any similar insolvency administrator;
- (d) the employer has discontinued or is discontinuing all or substantially all of its business operations in Canada to which the pension plan relates;
or
- (e) all or substantially all of the employer's business or all or substantially all of the assets of the employer's business are sold, assigned or otherwise disposed of and the person who acquires the business or assets does not provide a pension plan for the members of the employer's pension plan who become employees of that person.

Date of Termination and Notice

- (3) A declaration made under subsection (2) shall declare a pension plan to be terminated as of the date specified by the Superintendent. The Superintendent shall give notice of a declaration to order a pension plan terminated to each participating employer and to the administrator at least 14 days prior to making such order or declaration.

Partial Termination

- (4) Where an employer, within any 6 month period, terminates either:
 - (a) 50 or more employees in one location who are members of the plan, or
 - (b) 20% of the members of the pension plan,the Superintendent may declare a partial termination of the plan.

Representations

- (5) Before declaring a termination of a pension plan either in whole or in part, the Superintendent shall give the administrator and/or the employer the opportunity to present written representations on why a termination should not be declared and shall consider these representations in making the declaration.

Adoption of new plan

- (6) Where employer contributions to a pension plan are suspended or cease as a result of the adoption of a new pension plan by that employer, the original pension plan may not be terminated by the Superintendent for that reason alone and the pension benefits and other benefits provided under the original plan shall be deemed to be benefits provided under the new plan in respect of any period of membership before the adoption of the new plan, whether or not the assets and liabilities of the original plan have been consolidated with those of the new plan.

Voluntary termination or winding-up

- (7) An employer or, in the case of a multi-employer pension plan, an administrator, may declare a pension plan terminated in whole or in part and shall notify the Superintendent in writing of that intention and of the proposed date of the termination or partial termination, and shall give such notice to the members and former members of the plan as is prescribed.

Payments by employer to meet solvency requirements

- (8) On the termination of the whole of a pension plan, the employer shall pay into the plan all amounts that would otherwise have been required to be paid to meet the prescribed tests and standards for solvency referred to in subsection 32(1) and, without limiting the generality of the foregoing, the employer shall pay into the pension plan the following amounts:
- (a) all amounts deducted by the employer from members' remuneration and other amounts due to the pension fund from the employer that have not been remitted to the pension fund at the date of termination; and
 - (b) any prescribed payments necessary to fully fund the pension plan as at the date of termination;

provided that the amounts in (b) may be paid over the prescribed period of time.

Exception

- (9) An employer in a multi-employer plan or in a plan referred to in paragraph 18(3)(b) is exempt from the payments referred to in paragraph (8)(b).

Effect of termination on assets

- (10) After a pension plan is declared terminated by the employer, administrator or the Superintendent, no part of the assets of the plan shall revert to the benefit of the employer until the Superintendent's consent is obtained and provision is made with the payment to members and former members and any other person entitled to a payment from the pension fund, of all accrued benefits in respect of membership up to the date of termination.

Expenses of termination and windup

- (11) Notwithstanding subsection (9), assets of the pension plan may be used to pay the expenses of the termination and windup of the pension plan if the pension plan so provides, or if the consent of the Superintendent is obtained.

Assets of the plan

- (12) The pension fund of a pension plan that is terminated continues to be subject to this Act and the regulations until all of the assets of the pension fund have been disbursed.

Report to the Superintendent

- (13) On the termination of a pension plan, in whole or in part, the administrator of the plan shall file with the Superintendent a report, prepared by a person having the prescribed qualifications, containing the prescribed requirements.

Assets not to be applied until report approved

- (14) Assets of a pension plan may not be applied toward the provision of any benefits under the plan until the Superintendent has approved the report required by subsection (12) or otherwise consented to the payment of benefits. The administrator of the plan may nevertheless without the consent of the

Superintendent pay to persons entitled, as they fall due, pension benefits or refunds of employee contributions and interest thereon, as the case may be.

Discharge of administrator

- (15) On the distribution of the assets of the pension fund in accordance with the pension plan and the report as approved by the Superintendent under this section, the employer and the administrator shall be discharged from all liabilities to provide benefits under the pension plan.

DIRECTIONS OF COMPLIANCE

Superintendent's directions to administrators

40. (1) If, in the opinion of the Superintendent, a pension plan does not comply with this Act or the regulations or is not being administered in accordance with this Act, the regulations or the pension plan, the Superintendent may direct the administrator, the employer or any person to
- (a) cease or refrain from committing the act or pursuing the course of conduct that constitutes the non-compliance; and
 - (b) perform such acts as in the opinion of the Superintendent are necessary to remedy the situation.

Opportunity for representations

- (2) Subject to subsection (3), no direction shall be issued under subsection (2) unless the Superintendent gives the administrator, employer or other person a reasonable opportunity to make written representations.

Temporary direction

- (3) If, in the opinion of the Superintendent, the length of time required for representations to be made under subsection (2) might be prejudicial to the interests of the members, former members or any other persons entitled to pension benefits or refunds under the pension plan, the Superintendent may make a temporary direction with respect to the matters referred to in subsection (1) that has effect for a period of not more than 15 days.

Continued effect

- (4) A temporary direction under subsection (5) continues to have effect after the expiry of the 15 day period referred to in that subsection if no representations are made to the Superintendent within that period or, if representations have been made, the Superintendent notifies the administrator, employer or other person that the Superintendent is not satisfied that there are sufficient grounds for revoking the direction.

Revocation of registration

- (5) The Superintendent may revoke the registration and cancel the certificate of registration in respect of a pension plan if the administrator of the plan does not comply with a direction under section 14 within 60 days, or such longer period as the Superintendent may determine, after being informed by the Superintendent of the failure to comply. The Superintendent shall notify the administrator of the measures taken, including the date of the revocation and cancellation.

APPOINTMENT OF PLAN ADMINISTRATOR**Superintendent may direct administrator**

41. (1) Where a pension plan has been terminated and the Superintendent is of the opinion that no action or insufficient action has been taken to wind up of the plan, the Superintendent may direct the administrator to distribute the assets of the plan in accordance with prescribed requirements and may direct that any expenses incurred in connection with that distribution be paid out of the pension fund and the administrator shall forthwith comply with any such direction. Where the administrator fails to comply with such direction, the Superintendent may, by order, remove the administrator and appoint a replacement administrator for the purposes of carrying out the termination or winding up of the pension plan.

Appointment of a new administrator

- (2) If the administrator of a pension plan is insolvent or unable to act or if the Superintendent is of the opinion that it is in the best interests of the members or former members or any other persons entitled to a payment from the pension fund that the administrator of the plan be removed, the

Superintendent may, by order, remove the administrator and appoint a replacement administrator.

Recovery of costs

- (3) A replacement administrator may recover its reasonable costs from the pension fund.

Notification requirements

- (4) The Superintendent shall, prior to making an order for the removal of an administrator and the appointment of a replacement administrator, provide the current administrator with notice of the Superintendent's intention to make the order to remove the administrator and shall provide the administrator with an opportunity to present written representations to the Superintendent as to why such an order would not be warranted in the circumstances.

Effect of replacement

- (5) The replacement administrator shall have the duties and responsibilities of an administrator under this Act in respect of the pension plan as of the date of the order under subsection (1) or (2).

Publication

- (6) The replacement administrator shall publish a notice in the [relevant provincial Gazette] and in one or more newspapers in general circulation, as directed by the Superintendent and for such time periods as are directed by the Superintendent, in respect of its appointment as administrator of the pension plan.

Subrogation

- (7) The members, former members and any other persons entitled to payments from the pension fund immediately before the appointment of the replacement administrator are entitled to exercise to those rights and claims of the replacement administrator that the replacement administrator has elected in writing not to pursue.

OBJECTIONS AND APPEALS**Notice of objection**

42. (1) An administrator or employer who is affected by an order, direction, or decision of the Superintendent may, within 60 days after the day the notification, direction or decision is given or made, serve on the Superintendent a notice of objection in the prescribed form and manner, setting out the reasons for the objection and all facts relevant to it.

Reconsideration by Superintendent

- (2) On receipt of a notice of objection, the Superintendent shall immediately reconsider the refusal, the revocation, cancellation, direction or decision, as the case may be, and vary or confirm the action taken, and shall immediately notify the administrator or employer of the decision.

Appeal to court

43. (1) Where an administrator has served a notice of objection under section 42(1), the administrator may,
- (a) within 90 days after the Superintendent has confirmed the action taken; or
 - (b) after 90 days and before 180 days have elapsed after service of the notice of objection and the Superintendent has not notified the administrator that the Superintendent has varied or confirmed the action taken,

appeal to the [name of the court relevant to the jurisdiction] for an order as described in subsection (5).

Institution of appeal

- (2) An appeal to the [name of court relevant to the jurisdiction] shall be instituted by filing in the registry of the court, or by sending by registered mail addressed to it at [location of relevant court], three copies of a notice of appeal in prescribed form.

Registry to transmit copies

- (3) On receipt of the copies of the notice of appeal referred to in subsection (2), the Registry of the Court shall transmit two copies to the Superintendent.

Documents relevant to appeal

- (4) Forthwith after receiving a copy of the notice of appeal, the Superintendent shall forward to the Registry of the Court copies of all documents relevant to the appeal.

Disposal of appeal

- (5) The Court may dispose of an appeal on such terms and conditions as it sees fit.

Application to court]

44. (1) If an administrator, employer or other person has omitted to do any thing under this Act that is required to be done by them or on their part, or contravenes a direction of the Superintendent or a provision of this Act or the regulations, the Superintendent may, in addition to any other action that the Superintendent may take, apply to the **[name of court relevant to the jurisdiction]** for an order requiring the administrator, employer or other person to cease the contravention or do any thing that is required to be done, and on such application the **[name of court relevant to the jurisdiction]** may so order and make any other order it thinks fit.

Appeal

- (2) An appeal from an order made under subsection (1) lies in the same manner as an appeal from any other order of the **[name of court relevant to the jurisdiction]**.

Inspection

45. (1) The Superintendent or any person authorized in writing by the Superintendent for any purpose relating to the administration of this Act may, at any reasonable time,
- (a) inspect any books, records or other documents, regardless of their physical form or characteristics, relating to a pension plan or to any

securities, obligations or other investments in which pension fund monies are invested; and

- (b) require the administrator of a pension plan to furnish such information and in such form as the Superintendent deems necessary for the purpose of ascertaining whether or not the provisions of this Act or the regulations have been or are being complied with.

Powers of Superintendent

- (2) The Superintendent has the same powers as those conferred on commissioners under Part II of the [inquiries act of the relevant jurisdiction] with respect to the taking of evidence, and may delegate those powers.

Payment of expenses

- (3) The fees and expenses of persons appointed on a temporary basis by the Superintendent for the purposes of an inspection under paragraph (1)(a), including their fees and expenses related to preparing a report to the Superintendent relating to that inspection, are payable by the pension fund on being approved by the Superintendent.

No action against person for withholding, etc.

- 46. No action lies against any person for withholding, deducting, paying or crediting any sum of money in compliance or intended compliance with this Act or the regulations.

OFFENCES AND PUNISHMENT

Definition of Offences

- 47. (1) Every person is guilty of an offence who:
 - (a) contravenes any provision of this Act or the regulations or who contravenes any direction of the Superintendent given under the authority of this Act or the regulations;

- (b) to hinder, delay or avoid compliance with any provision of this Act or the regulations or any direction of the Superintendent or to hinder, delay or avoid prosecution under any provision of this Act:
 - (i) destroys, alters, mutilates, secretes or otherwise disposes of any record, writing or other document;
 - (ii) makes a false, misleading or deceptive statement;
 - (iii) makes a false, misleading or deceptive entry in any record, writing or other document; or
 - (iv) neglects or fails to include any material entry or particular in any statement or in any record, writing or other document;
- (c) prevents, hinders, delays, or obstructs, or attempts to prevent, hinder, delay or obstruct, another person doing anything which that other person is authorized to do by or pursuant to subsection 45(1) (unless unable to do so) or fails to do anything which is required to be done by or pursuant to that subsection;
- (d) being an employer, fails to remit to the pension fund all amounts which the employer is liable so to remit; or
- (e) being an employer, withdraws from the pension fund any amount which it was not entitled to withdraw.

Penalties

- (2) A person who commits an offence under subsection (1) is liable on summary conviction:
 - (a) in the case of an individual, for the first conviction, to a fine not exceeding 100,000 dollars, or to imprisonment for a term not exceeding 12 months, or to both, and for each subsequent conviction, a fine not exceeding 200,000 dollars, or imprisonment for a term not exceeding 24, or both; and
 - (b) in the case of a corporation or other body (including an unincorporated organization which carries on business), for the first conviction, to a fine not exceeding 500,000 dollars, and for each subsequent conviction, a fine not exceeding 1,000,000 dollars.

Remittance of amount owing

- (3) If an employer is found guilty of an offence under paragraph (1)(d) or (e), the court may, in addition to imposing a penalty under subsection (2), order the employer to remit to the pension fund all amounts found by it not to have been remitted, with interest, or the amounts found by it to have been wrongly withdrawn, with interest.

Idem

- (4) The rate of interest under subsection (3) will be equivalent to the rate of return for that pension fund.

Officers and Directors

- (5) Every officer, director, official or agent of a corporation and every person acting in a similar capacity or performing similar functions in an unincorporated body who:
- (a) caused, directed, authorized, assented to, acquiesced in, participated in or permitted the commission of an offence referred to in subsection (1) by the corporation or unincorporated body; or
 - (b) failed to take all reasonable care in the circumstances to prevent the corporation or unincorporated body from committing an offence referred to in subsection (1);

is guilty of an offence.

Idem

- (6) A person who is guilty of an offence described in subsection (5) is liable on summary conviction to the penalties referred to in paragraph (2)(a), whether or not the corporation or unincorporated body has been prosecuted for, or convicted of, an offence arising from the same facts or circumstances.

Restrictions as to Prosecution

- (7) A prosecution for an offence under this section may be commenced at any time within, but not later than five years after the time when the subject matter of the offence first occurred.

Idem

- (8) No prosecution for an offence under this section shall be commenced:
- (a) arising out of any action which has been made the subject matter of a notice of objection under section 42, pending completion of all proceedings under sections 42 and 43, and all appeals from any order of the Court made under section 44;
 - (b) arising out of any omission or contravention which is the subject matter of an application under section 42, pending the hearing of that application and the final determination of all appeals from any order made within that application.

Idem

- (9) The limitation period set out in subsection (7) shall run in all periods prior to which any prosecution is prohibited by subsection (8) and shall commence again after that prohibition ends, but shall be stayed and shall not run during the period of that prohibition.

Evidence

- (10) In any prosecution for an offence under this section, a certificate signed by the Superintendent certifying any document filed with the Superintendent, or certifying that any such document had not been filed as required by the Act or certifying as to the status of registration of a pension plan or of an amendment to any such plan, is admissible as evidence and, in the absence of evidence to the contrary, is proof of the matters so certified.

Information and Complaints

- (11) An information or complaint under this section may be laid or made by any the Superintendent, any member of the [Provincial Police], or any person authorized in writing by the Minister.

REGULATIONS

Regulations

48. (1) The Governor in Council may make regulations
- (a) respecting applications for registration of pension plans or of amendments to pension plans;
 - (b) respecting simplified pension plans;
 - (c) prescribing the conditions under which, on the cessation of a member's membership in a pension plan or on the termination or winding-up of a pension plan, pension benefits may be transferred to the administrator of another pension plan or to a prescribed retirement savings arrangement;
 - (d) prescribing the manner in which payments to a person under a pension plan who is entitled thereto shall be made if the person cannot be located after reasonable attempts by the administrator;
 - (e) respecting the time by which contributions to a pension plan are required to be remitted to the pension fund by an employer;
 - (f) providing for the determination of the date on which a member or former member of a pension plan becomes entitled to a particular pension benefit or other benefit under the plan;
 - (g) prescribing the manner in which the commuted value of pension benefits or ancillary benefits is to be determined in the various circumstances under this Act, and fixing the time as of which the determination is to be made;
 - (h) for enabling the Superintendent to require administrators to provide up-to-date consolidations of their pension plans and respecting the form and certification of those consolidations;
 - (i) respecting refunds of surplus assets and arbitrations referred to in section 35;

- (j) requiring or enabling the Superintendent to require administrators to provide information to the Superintendent in respect of pension plans, in addition to the information referred to in section 19;
- (k) respecting the distribution of the assets of a pension plan that is being wound up;
- (l) respecting tests and standards for solvency under section 32;
- (m) in respect of the governance, administration or funding of multi-employer pension plans;
- (n) exempting certain employees or pension plans, or classes of employees or pension plans or certain benefits or kinds of benefits under a pension plan from the application of this Act or any provision thereof; or
- (o) prescribing anything which by this Act is required to be prescribed.

Idem

- (2) The [Governor or Lieutenant Governor in Council] may make regulations respecting any fees that may be charged for the registration of pension plans, and for the supervision, including inspection, of registered pension plans.

Regulations issued for public comment

- (3) No regulation shall be made under this section without it first having been published for public comment for a period of three months.

Validity of regulations

- (4) No regulation made under this section shall be valid if it is contrary to or conflicts with any provision of the Act.

Amendments - participating jurisdictions

- (5) No amendment shall be made to this Act without it first having been provided to the participating jurisdictions for a period of three months before the effective date of the amendment.

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