



Indemnities & Allowances Commission 2018 Report

Legislative Assembly of Prince Edward Island

Barbara Stevenson, Q.C., Chair
Ron Profit, Q.C., Commissioner
Sharon O'Halloran, C.P.A., C.G.A., Commissioner

December 17, 2018

Hon. Francis (Buck) Watts, MLA
Speaker of the Legislative Assembly
Province House
PO Box 2000
Charlottetown PE C1A 7N8

Dear Mister Speaker,

The Indemnities and Allowances Commission has completed its review of the remuneration and benefits paid to the Members of the Legislative Assembly and to others, as defined in section 46 of the *Legislative Assembly Act*.

The Commission is pleased to submit its 2018 report, which includes the Commission's decisions effective April 1, 2019.

Respectfully submitted,



Barbara Stevenson, Q.C., Chair



Ron Profit, Q.C., Commissioner



Sharon O'Halloran, C.P.A., C.G.A., Commissioner

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I. Legislation and Commissioners

The Commission's authority arises from Section 46 of the *Legislative Assembly Act*, which establishes an independent Commission to review annually the remuneration and benefits of Members of the Legislative Assembly and others, as defined in the legislation, and to report its findings and decisions to the Speaker by December 1 each year:

Legislative Assembly Act, Section 46, R.S.P.E.I. 1988, Cap. L-7.

46. Indemnities and Allowances Commission

(1) The Speaker, after consultation with such persons as the Speaker considers appropriate, shall appoint an independent commission to be known as the Indemnities and Allowances Commission to review and determine the remuneration and benefits to be paid to the Members of the Legislative Assembly, Ministers, the Speaker, Deputy Speaker, the Leader of the Opposition, Government House Leader, Opposition House Leader, Leader of a Third Party, Government Whip and Opposition Whip.

Composition

(2) The Commission shall be comprised of three independent, neutral and knowledgeable persons from private life.

Duration of appointment

(3) The persons appointed pursuant to subsection (1) shall serve until the dissolution of the Assembly during which they are appointed, or for a maximum of five years, and are eligible for reappointment.

Appointment of replacement

(4) On the resignation, inability to act or death of a commissioner, the Speaker shall appoint a replacement.

Powers, privileges, immunities

(5) The persons appointed pursuant to subsection (1) have all the powers and privileges and immunities of a commissioner pursuant to the *Public Inquiries Act* R.S.P.E.I. 1988, Cap. P-31.

Report

(6) The Commission, annually and at such other times as the Speaker may request, shall carry out a review of remuneration and allowances paid to the persons referred to in subsection (1), and shall on or before the first day of December of each year deliver a report to the Speaker which shall be final and binding.

Tabling of report

(7) The Speaker shall, within five sitting days of the commencement of the Legislative Assembly next following the receipt of the report, cause a copy thereof to be laid before the Legislative Assembly.

Effect of determination in report

(8) The report shall, from such date as may be specified therein, have effect for the purposes of determining the remuneration and allowances of the persons referred to in subsection (1) as if the provisions contained in it had been enacted by the Legislative Assembly.

Remuneration and benefits

(9) For the purposes of this section, remuneration and benefits include salaries, indemnities, allowances and pension benefits.

No increase in remuneration during 2012

(10) Notwithstanding anything contained in this section, there shall be no increase in the remuneration and benefits paid to the Premier or non-ministerial members of the executive council committees or to any person referred to in subsection (1) in accordance with this section until January 1, 2013. 1994,c.34,s.5; 1997,c.28,s.3; 2010,c.39,s.1; 2012,c.23,s.1.

The Honourable Francis (Buck) Watts, Speaker of the Legislative Assembly, appointed Barbara Stevenson, Q.C., Ron Profit, Q.C., and Sharon O’Halloran, C.P.A, C.G.A., to the Indemnities and Allowances Commission in 2015.

II. Research & Review

- i. Current PEI MLA remuneration and benefits
- ii. Review of previous Commission reports
- iii. MLA remuneration in New Brunswick and Nova Scotia
- iv. Consumer Price Index (CPI) and Gross Domestic Product (GDP) for PEI
- v. PEI public sector negotiated salary increases
- vi. Written submissions to the Commission

i. Current PEI MLA remuneration and benefits

Remuneration is provided to Members according to their responsibilities in the assembly: a base salary is received by all Members, and positions of additional responsibility receive additional remuneration. Additional salaries and allowances are provided for the Premier, Ministers, Speaker, Deputy Speaker, Leader of the Opposition, Government House Leader, Opposition House Leader, Leader of a Third Party, Government Whip, Opposition Whip and non-ministerial members of Executive Council Committees (see page 5 for current remuneration information).

The chart at right illustrates the base salary paid to Members over the past ten years, including the percent increase received as of April 1 in each year indicated.

Benefits, including health, dental, pension, group insurance and life insurance, are

provided for MLAs based on the same terms and conditions applied to the Excluded Group of Employees in the Provincial Civil Service, with the exception of the long term disability benefit which is not provided to MLAs.

MLAs receive support from the Legislative Assembly in the form of professional procedural and operational supports, research and administrative staff, communication and internet services, office facilities, kilometer reimbursement, and computer hardware.

Additional supports are provided to MLAs on a claim basis by the Caucus Offices and may include a cell phone, kilometer mileage not covered by the Legislative Assembly, some meals, advertising, community support, and eligible overnight accommodation.

Year (as of April 1)	Percent increase in all salaries	Base salary in \$ as at April 1 of year noted
2009	2.5	65,344
2010	0	65,344
2011	0	65,344
2012	0	65,344
2013	(Jan-Mar) 2	66,700
	(Apr-Mar) 1	67,400
2014	0.75	67,906
2015	1.2	68,721
2016	2	70,095
2017	2	71,497
2018	1.5	72,569

Supports provided by the Legislative Assembly and the Caucus Offices are summarized in the following chart:

Mileage*	
Inter-Sessional	5 round-trips per month - intersessional period only.
Sessional	1 round-trip for each sitting day.
Committee	1 round-trip for each committee meeting. If there are two meetings on the same day (committee or session) only one meeting is eligible for reimbursement.
<i>*Round-trip mileage is reimbursed at the prevailing civil service mileage rates (per section 17.02 of Treasury Board Policy) from the MLAs' homes to the Legislative Assembly, or to the committee meeting location, including return.</i>	
Vehicle*	
Premier Speaker Minister Leader of the Official Opposition	Government vehicle plus maintenance, fuel, registration and insurance. OR Vehicle Allowance of \$775/month (taxable) plus mileage at half of the prevailing civil service rates.
<i>*Based on Executive Council Vehicle Policy.</i>	
Group Insurance*	
Health	Health, dental and drug coverage at 80%.
Life Insurance	Equal to three times annual earnings upon death up to a maximum of \$300,000. Additional life insurance increments of \$10,000 can be purchased at a preferred rate by the MLA to a maximum of \$300,000.
Long Term Disability	Not provided to MLAs.
<i>*As provided to the Excluded Employees Group of the Government of PEI.</i>	
Equipment & Services*	
Computer	Tablet and docking stations
Printer	Multi-function printer
Home Internet	
<i>*Non-Ministerial members only.</i>	

Supports provided to MLAs by Caucus Offices:

Caucus Supports	<p>The Indemnities and Allowances Commission is aware that additional supports are provided to MLAs on a claim basis through the Government, Official Opposition and Third Party Caucus offices. These supports may include:</p> <ul style="list-style-type: none"> - provision of a cell phone - mileage not covered by the Legislative Assembly - some meals - advertising - community support - eligible overnight accommodation per internal Caucus Office policies <p>For details see MLA expense disclosures at www.assembly.pe.ca.</p>
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Following are current salaries for MLAs, which became effective April 1, 2018:

Position	Base Salary	Additional Salary	Total
MLA	\$72,569	n/a	\$72,569
Premier**	\$72,569	\$78,815	\$151,384
Minister	\$72,569	\$50,711	\$123,280
Speaker*	\$72,569	\$42,638	\$115,207
Deputy Speaker*	\$72,569	\$21,319	\$93,888
Leader of the Opposition*	\$72,569	\$50,711	\$123,280
Leader of a Third Party	\$72,569	\$20,241	\$92,810
Government House Leader*	\$72,569	\$13,674	\$86,243
Opposition House Leader*	\$72,569	\$4,738	\$77,307
Government Whip* & Opposition Whip*	\$72,569	\$3,984	\$76,553
Non-Ministerial Member of Executive Council Committee**	\$72,569	\$6,596	\$79,165

**provided the Member is not receiving an additional salary as Premier or as a member of Executive Council, or any other position identified in section 45(4) of the Legislative Assembly Act*

***as per the Executive Council Act*

ii. Review of previous Commission reports

Previous Commission reports were reviewed to provide a history of MLA remuneration and benefits since the Indemnities and Allowances Commission was established by Section 46 of the *Legislative Assembly Act* in 1994. It was noted that over time the varying methods by which Commissions implemented decisions has resulted in discrepancies in the salaries for the positions of Speaker, Deputy Speaker, and Leader of a Third Party.

iii. MLA remuneration in New Brunswick and Nova Scotia

In reviewing the base salaries received by Members in New Brunswick, Nova Scotia, and Prince Edward Island, the Commission notes that as of April 1, 2018, Prince Edward Island MLAs continue to receive the lowest base salary in the region, equal to 83% of the average of New Brunswick and Nova Scotia, as illustrated in the table below:

	PEI	NB	NS	NB & NS Avg.
Base salary:	\$72,569	\$85,000	\$89,235	\$87,118
PEI base salary as a % of :		85%	81%	83%
\$ difference:		\$12,431	\$16,666	\$14,549

The Commission also notes that for three of the last nine years (2010-2012), MLA salaries in PEI were frozen at 2009 levels, as illustrated by the table in Section II(i).

During the Commission's review of the compensation provided to Members in Nova Scotia and New Brunswick it was also noted that Prince Edward Island Members do not receive additional compensation for legislative committee work, while committee members in New Brunswick and committee chairs in Nova Scotia receive additional compensation for attending legislative committee meetings.

In PEI, Government Members serving on Executive Council Committees receive compensation for their work on such committees, but legislative committee work receives no additional compensation.

The following chart illustrates Members' base and additional salaries, as well as compensation for committee work, in the three Maritime Provinces:

Jurisdictional Survey Members' Pay as at April 1, 2018

	NB	NS	PE
Basic Salary	\$85,000.00	\$89,234.90	\$72,569.00
Speaker*	\$52,614.00	\$49,046.51	\$42,638.00
Deputy Speaker*	\$26,307.00	\$24,523.25	\$21,319.00
Premier**	\$79,000.00	\$112,791.20	\$78,815.00
Ministers	\$52,614.00	\$49,046.51	\$50,711.00
Government House Leader*	\$26,307.00	\$10,506.00	\$13,674.00
Government Whip*	\$26,307.00	\$5,253.00	\$3,984.00
Leader Official Opposition*	\$55,300.00	\$49,046.51	\$50,711.00
Official Opposition House Leader*	\$8,000.00	\$10,506.00	\$4,738.00
Official Opposition Whip*	\$19,730.25	\$5,253.00	\$3,984.00
Leader of the Third Party	\$19,750.00	\$24,523.25	\$20,241.00
Third Party House Leader	\$0.00	\$10,506.00	\$0.00
Standing/ Special Committees	Compensation provided for Private Members only as follows: - round trip mileage plus \$170/meeting attended (if within 50km) - round-trip mileage plus \$250/meeting attended (if more than 50km away)	- Chair of Public Accounts receives a maximum of \$3,152/year. - Chairs of all other House Committees receive a maximum of \$2,101/year. - Vice-Chairs of all other House Committees receive a maximum of \$525/year. <i>Payments for Committee Chairs or Vice Chairs are made at the end of every six month period of work, provided the committee met.</i>	\$0
Non-Ministerial Member of Executive Council Committees**			\$6,596.00

**provided the Member is not receiving an additional salary as Premier or as a member of Executive Council, or any other position identified in section 45(5) of the Legislative Assembly Act*

***as per the Executive Council Act*

iv. Consumer Price Index (CPI) and Gross Domestic Product (GDP) for Prince Edward Island

The All Items Consumer Price Index information for Prince Edward Island for October 2018 (most recent data available), was considered by the Commission as a measure of increases in the cost of living for consumers over the past year. The Commission notes that CPI for PEI increased 2.5% year over year (Appendix A).

The Commission reviewed the November 2017 GDP data released by Statistics Canada for Prince Edward Island as a measure of the provincial economy's performance. According to the

Prince Edward Island Statistics Bureau's summary report, "the PEI GDP for all industries in chained 2012 dollars was valued at \$5,540 million in 2017, an increase of 3.4 per cent over 2016." (*Statistics Canada Releases 2017 GDP Data*: Department of Finance, Government of Prince Edward Island. Accessed December 4, 2018. Full report available online at: https://www.princeedwardisland.ca/sites/default/files/publications/fin_gdp_by_ind.pdf)

v. PEI public sector negotiated salary increases

The Commission reviewed the status of negotiated salaries for public sector collective bargaining units in Prince Edward Island.

vi. Written submissions to the Commission

The Commission canvassed public opinion on the subject of MLA remuneration; accordingly, advertisements were placed in local newspapers inviting written submissions on the subject of MLA remuneration and benefits. Notice was also posted on the home page of the Legislative Assembly's website, and on its social media channels.

The Commission gratefully acknowledges and appreciates the submissions it received. In summary, Gary A.O. MacKay of Tyne Valley presented the opinion that current compensation levels are adequate or generous for publicly-elected officials, and the Union of Public Sector Employees supports the independent annual review undertaken by the Indemnities and Allowances Commission and believes annual wage increases are necessary to keep compensation abreast of cost of living increases.

III. Decisions

Note: Decisions in this report are effective April 1, 2019, unless otherwise indicated.

- i. The Commission has concluded, based on its research, that there shall be a 1.0% increase (rounded to the nearest dollar) to the base salary and additional salaries of Members of the Legislative Assembly and others, as defined in Section 46 of the *Legislative Assembly Act*, (as illustrated in the chart below).

Position	Base Salary	Additional Salary	Total
MLA	\$73,295	n/a	\$73,295
Premier**	\$73,295	\$79,603	\$152,898
Minister	\$73,295	\$51,218	\$124,513
Speaker*	\$73,295	\$51,218	\$124,513
Deputy Speaker*	\$73,295	\$25,609	\$98,904
Leader of the Opposition*	\$73,295	\$51,218	\$124,513
Leader of a Third Party	\$73,295	\$25,609	\$98,904
Government House Leader*	\$73,295	\$13,811	\$87,106
Opposition House Leader*	\$73,295	\$6,906	\$80,201
Third Party House Leader	\$73,295	\$3,453	\$76,748
Government Whip* Opposition Whip* Third Party Whip	\$73,295	\$4,024	\$77,319
Non-Ministerial Member of Executive Council Committee**	\$73,295	\$6,662	\$79,957

*provided the Member is not receiving an additional salary as Premier or as a member of Executive Council, or any other position identified in section 45(4) of the Legislative Assembly Act

**as per the Executive Council Act

ii. The salary for the Speaker will equal the salary of a Minister and the Leader of the Opposition, in keeping with practices in most other Canadian jurisdictions, and commensurate with the parliamentary and administrative duties required of the position. As Chair of the Legislative Management Committee, the Speaker is responsible for the financial and administrative policy of the Legislative Assembly, and provides support to the independent offices which report directly to the legislature.

iii. The additional salary for the Deputy Speaker will equal 50% of the additional salary of the Speaker.

iv. The salary for the Leader of the Third Party will equal the salary of the Deputy Speaker, in keeping with the 1997 Commission decision that the salary for Leader of the Third Party equal the salary of the Deputy Speaker (p.9, *Report of the Indemnities and Allowances Commission, December 1997*).

v. The additional salary for the Opposition House Leader will equal 50% of the additional salary for the Government House Leader.

vi. The additional salary for the Third Party House Leader will equal 25% of the additional salary of the Government House Leader, effective February 15, 2018, when the position was first recognized by the Speaker.

vii. The additional salary of \$6,662.00 paid to non-Ministerial members of Executive Council Committees is discontinued upon commencement of the 66th General Assembly.

viii. Permanent members or properly-authorized substitute members of Legislative Assembly committees and Executive Council committees shall receive a per diem based on the Category B honoraria established by Treasury Board for attending meetings outside of regular sitting days of the Legislative Assembly. The following positions are excluded from this compensation: Premier, Minister, Speaker, Deputy Speaker, Leader of the Opposition, and Leader of a Third Party. No Member shall receive more than \$4,500.00 annually.

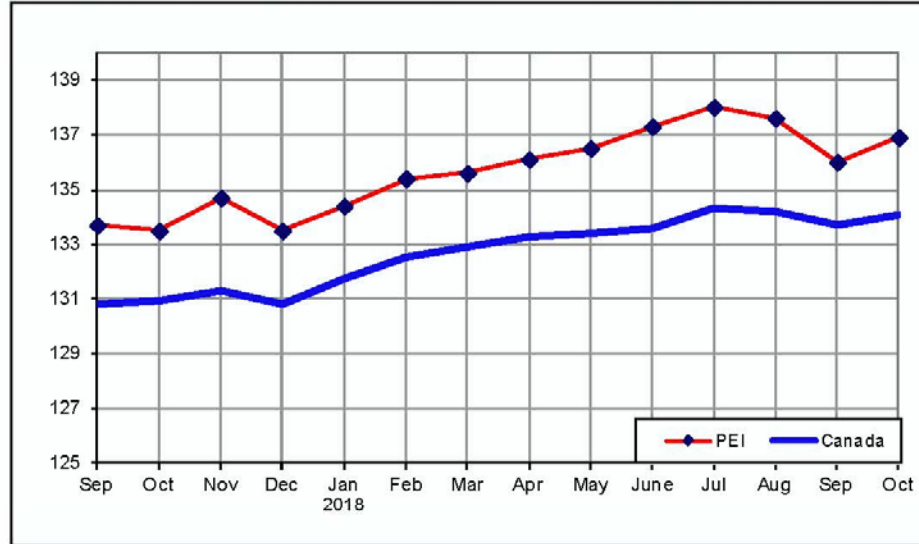
ix. The Commission discussed and approved administrative updates to the *Pension Plan for Members of the Legislative Assembly of the Province of Prince Edward Island* to bring the Plan text into alignment with current provincial and federal legislation. (An updated Plan text is attached to this report.)

IV. Conclusion

In conclusion, the members of the Commission respectfully acknowledge Honourable Francis (Buck) Watts, Speaker of the Legislative Assembly, for the trust he has shown in appointing them to serve on this Commission. Further, the Commissioners thank the Office of the Legislative Assembly and Terry Hogan, Manager of Pensions and Benefits in the Department of Finance, for the support provided in the preparation of this report.

Appendix A
October 2018 Consumer Price Index

PEI / CANADA CONSUMER PRICE INDEX, OCTOBER 2018



OCTOBER 2018 ALL-ITEMS CONSUMER PRICE INDEX (2002=100)

	CAN	NL	PE	NS	NB	QC	ON	MB	SK	AB	BC
Oct-18	134.1	139.0	136.9	136.6	135.1	129.4	135.6	135.0	138.7	141.4	129.4
Sep-18	133.7	138.3	136.0	135.5	134.2	129.3	135.2	134.0	137.3	141.1	128.9
Oct-17	130.9	136.1	133.5	132.8	131.4	127.2	132.3	131.4	135.4	137.6	125.6
Year Over year Change (%)	2.4%	2.1%	2.5%	2.9%	2.8%	1.7%	2.5%	2.7%	2.4%	2.8%	3.0%
Monthly Change (%)	0.3%	0.5%	0.7%	0.8%	0.7%	0.1%	0.3%	0.7%	1.0%	0.2%	0.4%

SUMMARY

Statistics Canada reported that the year-over-year change in the *All-Items Consumer Price Index* for P.E.I. was 2.5 per cent in October 2018. This compares to a rise of 2.4 per cent for Canada. Year-over-year price increases for P.E.I. were led by *fuel oil and other fuels* (30.2%), followed by *gasoline* (15.4%), *inter-city transportation* (9.0%), *purchase and leasing of passenger vehicles* (1.4%), and *mortgage interest cost*¹. These increases were partially offset by year-over-year declines for *electricity* (-4.8%), *women's clothing* (-3.7%), *bakery products* (-4.1%), *recreational equipment and services excluding recreational vehicles* (-2.9%), and *sugar and confectionery* (-4.9%).

The monthly change for P.E.I. in October 2018 was 0.7 per cent. Lower prices for *traveler accommodation* (-20.7%), *gasoline* (-1.5%), *other fresh or frozen poultry*¹, *fresh fruit* (-6.5%), and *passenger vehicle parts, maintenance and repairs* (-0.9%) were offset by higher prices for *fuel oil and other fuels* (8.8%), *purchase and leasing of passenger vehicles* (2.2%), *telephone services* (3.2%), *travel tours*¹, and *inter-city transportation* (4.4%).

¹ data not published at the provincial level.

Appendix B

Section 9: Honoraria, Treasury Board Policy and Procedures Manual

SECTION 9

HONORARIA

9.01 HONORARIA

AUTHORITY: EXECUTIVE COUNCIL

ADMINISTRATION: FISCAL MANAGEMENT DIVISION
TREASURY BOARD SECRETARIAT

9.01 HONORARIA

(1) PURPOSE

This Policy is intended to clarify policy and procedures with respect to the establishment of standardized rates of compensation for members appointed to various Provincial Government corporations, boards, commissions and agencies.

The Policy includes:

- (a) a Schedule of Honoraria Rates for these corporations, boards, commissions and agencies, and
- (b) certain amendments in the Schedule of Boards (Attachment 9.01-II) classified under the various categories to remove inactive Boards and to add newly-established Boards.

(2) APPLICATION OF POLICY

The application of this policy is referenced to the schedules of the *Financial Administration Act* [FAA] and applies as follows:

- Schedule “A” - Departments (except the Legislative Assembly)
- Schedule “B” - Crown corporations
- Schedule “C” - School Boards
- Schedule “D” - Commissions

Except to the extent that their enabling legislation may incorporate alternate requirements such as Ministerial or Board Authority.

While this policy **does not apply** to the Legislative Assembly or Reporting Entities subject to alternate legislation, **the spirit and intent** of the policy should serve as a **guideline** for these entities in developing their own policies.

(3) INTERPRETATION/DEFINITIONS

For the purpose of this policy and its implementation, the following definitions will apply:

- (a) **“advisory”** agency, board or commission is one where the provision of information will assist in the development of policy or in the ongoing delivery of programs.
- (b) **“boards”** means provincial Crown corporations, boards, commissions and agencies, as well as committees established by the Provincial Government.

- (c) **“chair”** means the person appointed to hold that position by the appointing authority, or such other person designated by statute or named by the members to act as chair in the absence of the chair.
- (d) **“operational”** agency, board or commission means one where the direct provision of goods and/or services is necessary in order to implement approved government policy and programs.
- (e) **“per diem”** means rate of compensation paid to a person for attending a meeting of a commission, board or agency to which he/she has been appointed or any other meeting where the person’s attendance and participation is required in his/her capacity as chair or member of the commission, board or agency. A person who is a chair, vice-chair, secretary-treasurer, director or member of a commission, board or agency may claim and be paid only one “per diem” per board, per day regardless of the duration of the meeting or the number of meetings attended in any one day.
- (f) **“regulatory”** classification of an agency, board or commission means the control of public or private sector operations is authorized by legislation, the exercising of a license review function, or the exercising of an appeal function with respect to both government and third-party decisions.

(4) POLICY STATEMENT

- (a) Executive Council has the authority and responsibility for the establishment of the Honoraria Policy for all Provincial Government boards. More specifically, Executive Council has the authority and responsibility to determine the rates of compensation, to classify the various boards within a standardized rate structure, and to maintain the rate structure based on the recommendations of Treasury Board.
- (b) The rates of compensation for chairs and members of the various boards, **effective April 1, 2016** are set out in Attachment 9.01-II.
- (c) Executive Council, on the recommendation of Treasury Board, will annually review and approve a standard honoraria rate structure for each of the Categories A-1, A, B, and C, as well as the level of compensation paid to the chairpersons in Category A-1. and changes to the status of the Boards.

- (d) The rate of compensation paid to the vice-chair of a board will be equal to that of other members, except when the vice-chair is required to act as the chair in his/her absence, in which case, the vice-chair would be compensated in an amount not in excess of the compensation rate for the chair on a pro rata basis.
- (e) Each Minister responsible for a board is requested to review situations where board members are receiving an annual stipend, with a view to determining if any ongoing administrative responsibilities now carried out by chair or board members, can be carried out by staff of the organization.
- (f) An employee of the Province of Prince Edward Island who is appointed to a commission, board or agency, and who is representing the Government of Prince Edward Island, shall not be paid an honorarium under this Policy.
- (g) An element of public service is implied in any appointment to an agency, board or commission. As a result, any remuneration paid is not necessarily expected to fully compensate appointees for lost income from other endeavours.
- (h) Expenses (e.g. travel, meals) incurred by members when on the business of the commission, board or agency, will be reimbursed in accordance with Treasury Board's Travel Regulation and Policy.
- (i) Responsibility for overall co-ordination of the Honoraria Policy, as set out in the following section on administrative procedures, rests with Treasury Board.

(5) ADMINISTRATIVE PROCEDURES

- (a) The rates for new boards/agencies that require the approval of Lieutenant-Governor-in-Council are normally set by Executive Council when the boards/agencies are established. The rates for other boards/agencies are recommended by Treasury Board and approved by Executive Council. In specific circumstances, the rates may be determined by other procedures (e.g.: Physician Master Agreement).
- (b) Executive Council will issue Order(s)-in-Council confirming the Treasury Board honoraria and expense policy only when the statutory authority under which the board is paid requires that the remuneration paid to the chairpersons or members be set by the Lieutenant-Governor in Council.
- (c) On or before January 31st each year, departments shall provide an Annual Report to Treasury Board listing each board, commission and/or agency under the jurisdiction of the department at December 31st of the previous year. The annual report shall include the following: Name of Board, Purpose of Board, Membership (names and positions), Date of Appointment, Remuneration, Authority (i.e. Order-in-Council),

Frequency of Meetings, Total Annual Expenditures, and where applicable, departmental recommendation for disbanding a board with the reason for disbanding. The Reports are also to be approved by the Deputy Head and submitted on the standard report form as set out in Attachment 9.01-IV.

- (d) Departments should annually review the appropriateness of the honoraria categories of Boards in relation to their responsibilities. If a Department believes that a particular Board is not correctly categorized, the Department's Annual Board Report to Treasury Board should include sufficient information to support a recommendation that the category be changed. Where an increase in compensation will result, the request should be submitted to Treasury Board.

(6) CATEGORIES - BOARDS, COMMISSIONS AND AGENCIES

Executive Council, at its meeting of April 5, 2016 confirmed the following honoraria rate structure, effective April 1, 2016:

CATEGORY	POLICY RATES	DESCRIPTION
A-1	Chairperson - as per Attachment 9.01-II Members - \$142/diem	Category A boards where the Chairperson receives either annual salary or stipend as approved under the Senior Compensation Plan or by Executive Council.
A	Chairperson - \$200/diem Members - \$142/diem	Boards requiring a high level of responsibility and decision making authority. Regulatory: Board is required to adjudicate, judge, or arbitrate. Operational: Board provides direct operational/managerial functions for a specified entity.
B	Chairperson - \$161/diem Members - \$109/diem	Boards requiring a moderate level of responsibility and decision-making authority. Boards are intended to assist the Minister in the administration of the respective Acts. Regulatory: Board has appeal and/or licensing function. Operational: Board provides general supervisory role or performs a combination of advisory and moderate operational duties.
C	Chairperson - \$113/diem Members - \$73/diem	Boards with a lower level of direct decision making authority. Boards perform advisory function to Ministers.

D	Chairperson - N/A Members - N/A	Boards for which its members receive no remuneration from the Province.
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(7) AUTHORITY

Treasury Board Minute #157/90 of June 14/90; Order-in-Council No. EC409/90 of June 21/90
 Executive Council Decision D670/90 of Oct 18/90;
 Treasury Board Minute #317/91 of Sept 12/91; Executive Council Decision D618/91 of Sept 19/91
 Treasury Board Minute #113/92 of May 28/92; Executive Council Decision D325/92 of June 4/92
 Management Board Minute #44/94 of June 1/94; Executive Council Decision D315/94 of June 9/94
 Treasury Board Minute #28/95 of May 18/95; Executive Council Decision D302/95 of June 1/95
 Treasury Board Minute #108/96 of Sept 5/96; Executive Council Decision D469/96 of Sept 12/96
 Treasury Board Minute #81/97 of July 17/97; Executive Council Decision D418/97 of July 24/97
 Treasury Board Minute #168/97 of Nov 5/97; Executive Council Decision D725/97 of Dec 30/97
 Treasury Board Minute #231/97 of Jan 21/98; Executive Council Decision D1998-41 of Jan 27/98
 Treasury Board Minute #277/98 of Jan 13/99; Executive Council Decision D1999-30
 (re-issued) of Feb 11/99
 Treasury Board Minute #39/99 of April 28/99; Executive Council Decision D1999-202 of May 11/99
 Treasury Board Minute #88/00 of July 5/00; Executive Council Decision D2000-324 of July 11/00
 Treasury Board Minute #159/00 of Sept 13/00; Executive Council Decision D2000-392 of Sept 19/00
 Treasury Board Minute #49/01 of May 16/01; Executive Council Decision D2001-252 of May 29/01
 Treasury Board Minute #97/02 of June 12/02; Executive Council Decision D2002-3.22 of June 18/02
 Treasury Board Minute # 49/03 of April 30/03; Executive Council Decision D2003-213 of May 6/03
 Treasury Board Minute # 441/03 of March 31/04; Executive Council Decision D2004-232 of April 28/04
 Treasury Board Minute # 113/05 of May 25/05; Executive Council Decision D2005-420 of July 26/05
 Treasury Board Minute #337/06 of Nov 29/06; Executive Council Decision D2007-285 of April 30/07
 Treasury Board Minute #416/06 of January 31/07; Executive Council Decision D2007-77 of Feb 6/07
 Treasury Board Minute #429/07 of Feb 13/08; Executive Council Decision D2008-130 of Feb 19/08
 Treasury Board Minute #279/08 of Oct 1/08; Executive Council Decision D2008-578 of Oct 21/08
 Treasury Board Minute #473/10 of March 30/11; Executive Council Decision D2011-169 of April 5/11
 Treasury Board Minute #65/12 of May 22/12; Executive Council Decision D2012-221 May 29/12
 Treasury Board Minute #197/13 of July 24, 2013; Executive Council Decision D2013-307, Aug.6/13
 Treasury Board Minute #451/15 of March 30, 2016; Executive Council Decision D2016-114, April 6/16

Appendix C

*Pension Plan for Members of the Legislative Assembly
of Prince Edward Island as amended and restated for January 1, 2019*



**PENSION PLAN
FOR MEMBERS OF THE
LEGISLATIVE ASSEMBLY
PROVINCE OF PRINCE EDWARD ISLAND**

Amended and restated at January 1, 2019

January 2019

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PART I

ARTICLE 1

DEFINITIONS

The following words and phrases, when used in the Plan, shall have the following meanings unless the context clearly indicates otherwise.

- 1.01 "Actuarial(ly) Equivalent" means an equivalency of value as determined by the application of a particular set of actuarial assumptions recommended by the Actuary, approved by the Indemnities and Allowance Commission and acceptable by the Minister of National Revenue.
- 1.02 "Actuary" means a Fellow of the Canadian Institute of Actuaries (who may be a member of a firm of consulting actuaries) appointed by the Plan Sponsor to render actuarial services under the Plan.
- 1.03 "Administrator" means the means the Provincial Treasurer of the Province of Prince Edward Island.
- 1.03.1 "Commission" means the Indemnities and Allowances Commission as appointed by the Speaker of the Legislative Assembly.
- 1.04 "Beneficiary" means the person designated by a Participant to receive any death benefits payable under the Plan. If at the time when any payment is to be made to a Beneficiary there is no Beneficiary living, the Beneficiary shall mean the estate of the Participant.
- 1.04.1 "Benefits" means any pension, allowance, annuity, return of contributions or other benefits or amount payable under the Plan.
- 1.05 "Commuted Value" means the present value of benefit determined in accordance with the Revised Standards of Practice for Pension Commuted Values (Section 3800) as adopted by the Canadian Institute of Actuaries in December 2008, or modifications to these Standards of Practice as may be introduced from time to time.

- 1.06 "Continuous Service" means a Legislative Member's most recent period of unbroken service in the Legislative Assembly, as a Legislative Member.

In the case of a previously terminated Legislative Member who is re-elected, is entitled to a deferred pension under the Plan, and did not receive the commuted value of the previous pension benefit, Continuous Service is deemed not to have been interrupted at the initial termination date.

- 1.07 "**CPI**" means the ***Consumer Price Index, (Canada All Items) as published by Statistics Canada, and "Average CPI" means, for a Calendar Year, the amount obtained by dividing by 12 the aggregate of all amounts each of which is the CPI for a month in the 12 month period ending on March 31st of the immediately preceding calendar year.***

- 1.08 "Deferred Pension" means the pension benefits, calculated in accordance with the terms of Article 6, to which a Participant becomes entitled as a result of credited service while a Participant of the Plan.

- 1.09 "Deferred Supplemental Pension" means the pension benefits, calculated in accordance with the terms of Article 13, to which a Participant becomes entitled as a result of credited service while a Participant of the Plan.

- 1.10 "Dependent Child(ren)" means the child of a deceased Participant who at the time of the Participant's death was dependent on the Participant for support and

- (a) is under 18 years of age in the calendar year of the Participant's death; or
- (b) is under 25 years of age and in full-time attendance at an educational institution; or
- (c) is dependent on the individual by reasons of mental or physical infirmity,

provided that the Dependent Child shall cease to be a Dependent Child on the earlier of the date of death of the Dependent Child and the following dates, as applicable:

- (d) where the Dependent Child is dependent by reason of being under 18 years of age, the end of the month in which the Dependent Child attains age 18; or

- (e) where the Dependent Child is dependent by reason of being in full-time attendance at an educational institution, the end of the month in which the Dependent Child attains age 25 or ceases full-time education, if earlier; and
 - (f) where the Dependent Child is dependent by reason of mental or physical infirmity, the date on which the Dependent Child ceases to have that infirmity.
- 1.11 "Early Retirement Date" means the date a Participant retires prior to the Participant's Normal Retirement Date.
- 1.12 "Effective Date" means July 1, 1994.
- 1.13 "Former Participant" means an individual who has ceased to be a Participant but who retains an entitlement to a Deferred Pension or Deferred Supplemental Pension.
- 1.14 "Indemnity" means the remuneration, excluding allowances and salary, paid to a Participant by the Government in a fiscal year during which the Participant was a Legislative Member.
- 1.14 "Interest" means a rate that is equal to the average of the CANSIM series v122526 rates, published by Statistics Canada, for the twelve-month period ending October 31.**
- 1.16 "Legislative Member" means a person who is receiving an indemnity as a Member of the Legislative Assembly of the Province of Prince Edward Island.
- 1.17 "Life Income Fund" or LIF, means a fund established under a contract entered into by a financial institution duly authorized for that purpose and a purchaser who is a Participant, a Former Participant or a Spouse thereof, and under the terms of which the institution, in return for the capital that it receives, must pay the purchaser an income of which the amount may vary annually. That contract is a registered retirement income fund as defined under the Rules and Regulations of the Income Tax Act and must fulfill the requirements of the New Brunswick *Pension Benefits Act* or similar legislation in another jurisdiction.

- 1.18 "Life Insurance Company" means a life insurance company licensed to transact business in Canada.
- 1.19 "Lifetime Retirement Benefits" means benefits payable for the lifetime of the Participant.
- 1.19.1 "Limited Participant" means a Spouse or Former Spouse of a Participant, Former Participant or Pensioner to whom Benefits have been transferred as a separate pension under Article 14.
- 1.20 "Normal Retirement Date" means the date described in Article 5 for benefits under Part II.
- 1.20.1 "Non-taxable Allowance" means the annual (non-taxable) MLA expense allowance, other than any car or mileage allowance, paid to a Participant by the Government in a fiscal year during which the Participant was a Legislative Member.
- 1.21 "Participant" means a Legislative Member who has enrolled in the Plan and whose membership has not ceased by reason of death, Termination or Retirement.
- 1.21.1 "Pensionable Service" means service since July 1, 1994 under this Plan, after a Legislative Member has become a Participant of the Plan and during which the Participant makes the Required Contributions or contributions are made on behalf of the Participant, either directly or indirectly by use of surplus during a contribution holiday.
- 1.22 "Pensioner" means an individual who has commenced to receive a pension payable from the Pension Fund.
- 1.23 "Pension Fund" means the trust fund established by the Plan Sponsor under the terms of the Plan which provides for the accumulation of contributions as herein described and for the payment of benefits defined in Part II and in Appendix A.
- 1.24 "Plan" means the Pension Plan for Members of the Legislative Assembly of Prince Edward Island as set out on these and the following pages and as amended from time to time.
- 1.25 "Plan Sponsor" means the Government of the Province of Prince Edward Island

as represented by Treasury Board.

1.26 "Plan Year" means for the year commencing July 1, 1994, July 1, 1994 and ending December 31, 1994 and thereafter commencing on January 1st and ending on December 31st of each subsequent year.

1.27 "Prescribed Savings Arrangement" means either

- (a) a registered retirement savings plan as defined in the Rules and Regulations of the Income Tax Act: *or*
- (b) a Life Income Fund as defined in Article 1.17

which does not permit commutation of the funds deposited therein other than to purchase an immediate annuity or deferred life annuity that complies with the terms of the Plan or to transfer to another savings arrangement as described in paragraph (a) or (b) above.

1.28 "Postponed Retirement Date" means the date a Participant retires in respect of benefits under Part II subject to the Participant's Normal Retirement Date.

1.29 "Required Contributions" means the contributions each Participant must make to the Plan in accordance with Article 3.

1.30 "Retirement" means retirement under the Plan.

1.31 "Retirement Date" means the date on which a Participant, Former Participant or Limited Participant has opted for pension payments to commence. For purposes of this definition, pension payments must commence on the same date for both Part II and Part III benefits.

1.32 "Salary" means the remuneration, excluding allowances and indemnity, paid to a Participant by the Government in a fiscal year during which the Participant served the Executive Branch of Government in any capacity in addition to serving as a Legislative Member.

1.32.01 "Separate Pension" means the share of the Benefits of a Participant, Former Participant or Pensioner to which the Spouse or former Spouse of the Participant, Former Participant or Pensioner is entitled in accordance with the Plan.

- 1.32.1 "Special Contributions" means, effective April 1, 2004 the contributions each Participant must make to the Plan in respect of the Non-taxable Allowance and in accordance with Article 13. For the purposes of the Plan, effective May 29, 2007, the Participants ceased Special Contributions.
- 1.33 "Spouse" means an individual who, in respect of a Participant, Former Participant or Pensioner,
- (a) is married to the Participant, Former Participant or Pensioner,
 - (b) has entered into a marriage with the Participant, Former Participant or Pensioner that is voidable or void,
 - (c) where the Participant, Former Participant or Pensioner is not married to anyone, is cohabiting with the Participant, Former Participant or Pensioner in a conjugal relationship and has done so continuously for a period of at least three years, or
 - (d) where the Participant, Former Participant or Pensioner is not married to anyone, is cohabiting with the Participant, Former Participant or Pensioner in a conjugal relationship and together they are the natural or adoptive parents of a child.
- 1.34 "Supplemental Benefit" means a benefit payable under Part III and paid out of the Operating Fund of the Province of Prince Edward Island.
- 1.35 "Supplemental Retirement Pension" means the annual retirement pension determined under Article 13 and paid out of the Operating Fund of the Province of Prince Edward Island.
- 1.36 "Surplus" means the excess of the value of the assets of the Pension Fund over the value of the liabilities under Part II of the Plan and under Appendix A to the Plan as calculated by the Actuary at a specified point in time.
- 1.37 "Termination" means termination of membership by reason other than death or Retirement.
- 1.38 "YMPE" means the Year's Maximum Pensionable Earnings as defined under the Canada Pension Plan. *2003-1,s.3,s.4,s.5,s.6; 2006-2,s.1,s.2; 2008-1,s.1,s.2,s.3,s.4.*

PART II – Basic Portion

ARTICLE 2

ELIGIBILITY AND MEMBERSHIP

- 2.01 An individual who, on July 1, 1994, was a sitting Member of the Legislative Assembly of Prince Edward Island, shall become a Participant in the Plan on that date.
- 2.02 A Legislative member who, on July 1, 1994, was not a Member of the Legislative Assembly of Prince Edward Island, shall become a Participant of the Plan on the day of election to the Legislative Assembly.
- 2.03 To enroll as a Participant of the Plan, a Legislative Member must complete and sign the form or forms prescribed for that purpose by the Administrator.
- 2.04 A Participant who terminates his or her office as a Legislative Member and is subsequently re-elected and other Legislative Members who are similarly re-elected shall be treated as a re-instated Participant for all purpose of the Plan, subject to Article 2.05.

Where a Pensioner is re-elected and becomes eligible to join the Plan, pension payments from this Plan shall cease for the period of office during which he or she is a Participant. However, this shall not be construed as alienating any previously granted entitlements. This pension shall be increased during the period of interruption of pension at the same rate as applied to a Deferred Pension under Article 12.02.

- 2.05 Notwithstanding anything to the contrary contained herein, if a person takes a commuted value payment for a pension benefit under Part II of this Plan, that person forfeits all future claims and rights under Part II of this Plan and if re-elected shall be treated as a new participant for purposes of Part II of the plan.
- 2.06 Notwithstanding anything to the contrary stated herein, an individual elected or a Pensioner re-elected after December 31st of the year of attainment of age 71 shall not become a Participant to the Plan and, in the case of a Pensioner,

pension payments shall continue to be paid during the period of office. *2003-1,s.7; 2003-3,s.1; 2008-1,s.5.*

- 2.07 An individual who is a Spouse or former Spouse of a Participant, a Former Participant or a Pensioner shall become a Limited Participant entitled to a Separate Pension on the date the division of Benefits of the Participant, Former Participant or Pensioner is effected under Article 14.

ARTICLE 3**CONTRIBUTIONS**

- 3.01 Effective April 13, 2014, a Participant shall make Required Contributions to the Plan each year, by payroll deduction, of an amount equal to 9% of the Participant's combined Indemnity and Salary but not on the combined Indemnity and Salary in excess of that which would result in a contribution greater than that permitted under the Income Tax Act.
- 3.02 A Participant's Required Contributions in any year in respect of benefits accruing to the Participant in that year may not exceed an amount that is the lesser of:
- (a) 9% of the Participant's compensation, for income tax purposes, from the Government in that year; and
 - (b) the aggregate of \$1,000 and 70% of the Participant's pension credit for the year, determined in accordance with Regulation 8503(4)(a) of the Income Tax Act
- and which complies in all other respects with the conditions of section 8503(4)(a) of the Income Tax Act.
- 3.03 All sums received from a Participant or deducted from a Participant's pay as the Participant's Required Contributions to the Plan, shall be deposited into the Pension Fund within 30 days following the month the sum was received or deducted. *2014-1,s.1.*

ARTICLE 4**INTEREST**

- 4.01 Interest shall accrue on a Participant's Required Contributions from the first of the month following the month in which such Required Contributions are required to be remitted to the Pension Fund.

Interest shall be credited to Participant's Required Contributions annually at the end of each Plan Year.

- 4.02 In the event of cessation of membership, Termination, Retirement, death or Plan termination, Interest shall be credited to a Participant's Required Contributions from the end of the prior calendar year to the end of the month of Termination, Retirement, death or Plan termination, as applicable, at the most recently calculated rate determined in accordance with Article 4.01.
- 4.03 Interest on a lump sum amount due as a result of the Termination, Retirement or death of a Participant or in the event that an election to transfer is made shall accrue at the rate used in Article 4.01 from the date the lump sum payment is due until the beginning of the month payment is made from the Pension Fund.
- 4.04 In the event that an election to transfer is made on Plan termination, Interest shall be accrued on the Commuted Value of the Deferred Pension from the date of Plan termination to the beginning of the month of payment at the same rate used to calculate the Commuted Value in the wind-up report.

ARTICLE 5

RETIREMENT DATES

5.01 In respect of benefit payable under Part II only, the Normal Retirement Date of a participant shall be the first day of the month coincident with or immediately following the earlier of:

- (a) the Participant's 60th birthday; or
- (b) the date on which the Participant's age plus Pensionable Service as a Legislative Member equals 80.

For purposes of 5.01(b), the Participant's age shall be the age at the Retirement Date and not the age at the date of Termination.

5.01.1 For participants elected for the first time after the 64th General Assembly,

in respect of benefit payable under Part II only, the Normal Retirement Date of a participant shall be the first day of the month coincident with or immediately following the earlier of:

- (a) the Participant's 62nd birthday; or
- (b) the date on which the Participant's age plus Pensionable Service as a Legislative Member equals 84.

For purposes of 5.01.1(b), the Participant's age shall be the age at the Retirement Date and not the age at the date of Termination.

5.02 A Participant may elect to retire early and receive a reduced pension on the first day of the month coincident with or on the first day of any month following the date the Participant has attained age 50. The date on which the Participant retires prior to Normal Retirement Date shall be the Participant's Early Retirement Date.

5.03 In respect of benefit payable under Part II only, a Participant who continues to be a Legislative Member beyond the Normal Retirement Date and who is not in

receipt of a pension from the Plan shall continue to participate as a Member under the Plan and shall continue to make Required Contributions. A Participant may postpone retirement until the last day of the calendar year in which the participant attains age 71. The date on which the Participant retires after the Normal Retirement Date shall be the Participant's Postponed Retirement Date. *2008-1,s.5; 2014-1,s.2.*

ARTICLE 6

BASIC RETIREMENT PENSION

6.01 Normal Retirement Pension

In the normal form outlined in Article 7.01, the amount of annual pension payable to a Participant who retires on the Normal Retirement Date shall be equal to the amount accrued as at April 1, 2001 plus 25% of the Required Contributions made by the Participant from April 1, 2001 up to and including April 12, 2014, plus 22.22% of the Required Contributions made by the Participant on and after April 13, 2014.

6.01.1 Indexation for Participants

The annual pension payable shall be increased each January 1, prior to January 1, 2015, by the rate of increase in the CPI subject to a maximum of 8%, and thereafter shall be increased each January 1 by a percentage equal to the indexing provided to active members under the Civil Service Superannuation Act.

Effective January 1, 2015, where the last day of employment for which a member has credited pensionable service is a date other than January 1 of a calendar year, the indexation percentage shall be prorated so as to be proportionate to the part of the calendar year from January 1 to the last day of that year for which the member is credited with pensionable service.

6.02 Early Retirement Pension

A Participant who retires early will be entitled to receive a pension in an amount equal to the Participant's pension determined in accordance with Article 6.01 at the Participant's Early Retirement Date, but reduced by one quarter of one percent ($\frac{1}{4}\%$) for each month between the Participant's actual Retirement Date and the Participant's Normal Retirement Date.

6.03 Postponed Retirement Pension

A Participant, who continues to be a Legislative Member beyond the Normal Retirement Date, shall continue to contribute to the Plan until the Postponed

Retirement Date. In this event the Participant's pension will be calculated and payable as outlined in Article 6.01 with that Article being read as if the words Normal Retirement Date were replaced by the words Postponed Retirement Date.

Notwithstanding anything to the contrary contained herein, if a Participant remains a Legislative Member beyond November 30th of the year in which the Participant attains age 71, the Participant's pension contributions shall cease and pension payments under Part II shall commence no later than December 1st of the calendar year in which the Participant attains that age.

6.04 Maximum Pension

Notwithstanding anything to the contrary contained herein, the maximum annual Lifetime Retirement Benefits payable to a Participant under Part II, determined at the time of pension commencement and payable in the normal form as set out in Article 7.01 and 7.02 shall not exceed any applicable limitations contained the Income Tax Act and associated regulations.

6.05 Indexation for Pensioners

Effective January 1, 2015, the amount of pension payable to a Participant who has retired pursuant to this Article or who was already retired at April 1, 2001 shall be increased on January 1st of the calendar year following the calendar year of pension commencement and on each subsequent January 1st thereafter, by a percentage equal to the indexing provided to pensioners under the *Civil Service Superannuation Act*.

Where the last day of employment for a member is a date other than January 1 of a year, indexation in respect of the year shall be prorated so as to be proportionate to the part of the year from the last day of employment to January 1. *2006-1,s.1; 2008-1,s.5; 2014-1,s.3,s.4,s.5,s.6.*

ARTICLE 7**NORMAL AND OPTIONAL FORMS OF RETIREMENT PENSION**

7.01 The normal form of pension payable under the Plan shall be a joint and survivor form of pension which provides a monthly pension for the lifetime of the Participant, with 60% of that pension continuing to the Spouse, if surviving at the time of the Participant's death, for the remainder of the Spouse's lifetime; provided however that, the Spouse and the Participant, by signing a written waiver, may elect not to receive the joint and survivor form of pension payable under this Article.

If the Participant or the Participant and the Spouse at the time pension payments commence did not elect an optional form of pension under Article 7.02, and if survivor benefits become payable under Article 7.01, the Spouse shall be the Spouse at the date of death.

In the event that the Participant's Spouse is more than ten years younger than the Participant, the pension payable to the Spouse shall be actuarially adjusted to reflect the difference in age between the Participant and the Spouse which is in excess of 10 years.

In addition to the pension payable to the Spouse under Article 7.01, an allowance equivalent to one-tenth of the pension paid to the Spouse shall be paid to the Spouse or guardian of the Dependant Children on behalf of each Dependant Child to a maximum of three.

- 7.02 A Participant may elect, at any time prior to the retirement date, by a written notice to the Administrator, to receive the pension in any of the following forms:
- (a) life pension guaranteed 15 years;
 - (b) joint and survivor pension with 66 2/3% continuing to the spouse;
 - (c) joint and survivor pension with 75% continuing to the spouse;
 - (d) joint and survivor pension with 100% continuing to the spouse.

To elect (a) above, a waiver of the normal form of pension signed by both spouses is required.

If a benefit is elected under Article 7.02(a), benefits on death of the Participant shall be paid to the beneficiary designated by the Participant only if the Participant has no Dependent Children at the date of death of the Participant. If the participant has Dependent Children, the benefits shall be payable to the Spouse of the Participant if he/she is the designated beneficiary or to the Dependent Children.

If a benefit is elected under Article 7.02(b), (c) or (d), the survivor benefits shall be payable only to the Spouse of the Participant at the date of election of the optional form of pension.

- 7.03 Where a pension is payable in any form other than the normal form, the amount the pension shall be the Actuarial Equivalent of the pension payable under the normal form. *2003-1,s.8,s.9.*

ARTICLE 8**GOVERNMENT COST-SHARING**

- 8.01 The Government shall, from time to time, make contributions for deposit to the Pension Fund in such total amount as, based on the advice of an Actuary, is required to, in addition to Participant's Required Contributions, provide the normal cost of the Participant's current accruals in respect of the benefits under Part II of the Plan, after taking into account the assets of the Pension Fund and all other relevant factors, and to provide for the proper amortization of any unfunded liability or experience deficiency with respect to previous accruals.

ARTICLE 9**COMMUTATION OF DEFERRED PENSION**

- 9.01 Notwithstanding anything to the contrary contained herein, if at Termination or Retirement, the amount of a Participant's annualized Deferred Pension payable from Normal Retirement Date is less than 8% of the YMPE in the year of Termination or Retirement, the Administrator, in lieu of making periodic pension payments, may pay the Commuted Value of such pension in complete discharge of all Plan obligations to the Participant, the Participant's Spouse, Beneficiary or estate.
- 9.02 Notwithstanding anything to the contrary contained herein, if the Administrator is satisfied, on the basis of written certification by a medical practitioner with a license to practice medicine in Canada, that the Participant or Former Participant's life expectancy is considerably reduced from what would normally be expected, then the Administrator may pay to the Participant, or Former Participant, the Commuted Value of the Participant's or Former Participant's annual Deferred Pension in complete discharge of all Plan obligations to the Participant or Former Participant and the respective Spouse, Beneficiary or estate.

ARTICLE 10**VESTING PROVISIONS**

- 10.01 A participant shall become immediately entitled to a Deferred Pension payable, in the event of Termination, death, Retirement or Plan termination, in accordance with the terms of the Plan.

ARTICLE 11**DEATH BENEFITS**

- 11.01 In the event of the death of a Participant prior to Retirement where the Participant has a Spouse at the date of death, the Spouse shall be entitled to a pre-Retirement death benefit in the form of a pension in an amount equal to 60% of the Deferred Pension that the Participant would have received if the Participant had terminated employment on the date of death.

In the event that the Participant's Spouse is more than ten years younger than the Participant, the pre-Retirement death benefit payable to the Spouse shall be actuarially adjusted to reflect the difference in age between the Participant and the Spouse which is in excess of 10 years.

In addition to the pension payable to the Spouse under Article 11.01, an allowance equivalent to one-tenth of the pension paid to the Spouse shall be paid to the Spouse or guardian of the Dependant Children on behalf of each Dependant Child to a maximum of three.

- 11.02 In the event of the death of a Participant prior to Retirement where the Participant is not survived by a Spouse but is survived by Dependent Children, the Dependent Children shall be entitled to share equally a pre-Retirement death benefit in the form of a pension in an amount equal to 60% of the Deferred pension that the Participant would have received if the Participant had terminated employment on the date of death. In the event that a Dependent Child ceases to be a Dependent Child, the pension shall be divided into equal shares amongst the remaining Dependent Children.

- 11.03 In the event that there is no Spouse or Dependent Children, a pre-Retirement death benefit, equal to the Commuted Value of the Deferred Pension accrued by the Participant to the date of death, shall be payable to the Participant's Beneficiary in the form of a cash lump sum.

For any member elected for the first time on or after January 1, 2009, the following treatment shall prevail. In the event that there is no Spouse or Dependent Children, a pre-Retirement death benefit, equal to two times the member's contributions plus interest, shall be payable to the Participant's Beneficiary in the form of a cash lump sum.

- 11.04 In the event of the death of a Former Participant who has not elected a transfer of the Commuted Value of the Deferred Pension in accordance with Article 12.01(c), a pre-Retirement death benefit shall be payable in accordance with the preceding Articles.
- 11.05 In the event of the death of a Pensioner, the death benefit payable will depend upon the form of pension elected by the Pensioner.
- 11.06 Where a Participant, Former Participant, Pensioner, or eligible survivor of a Participant, Former Participant, or Pensioner dies, and the total of the benefit payments made to the Participant, Former Participant, or Pensioner, and their eligible survivors, is less than the total of two times the member's contributions plus interest, then the difference shall be paid to the personal representatives, or estate, of the Participant, Former Participant, Pensioner, or the children of the Participant, Former Participant, or Pensioner in a lump sum. *2003-1, s.10.*

ARTICLE 12**TERMINATION OF EMPLOYMENT OR MEMBERSHIP**

12.01 Upon Termination, other than retirement or death, a Participant shall receive the Deferred Pension in accordance with one of the following options:

- (a) the Participant may elect to receive a pension payable commencing at the Participant's Normal Retirement Date; or
- (b) the Participant may elect to receive early payment of the pension in accordance with the terms of the Plan; or
- (c) if the Participant terminates prior to attaining the age of 50, the Participant, may elect, within 180 days of termination, to transfer the Commuted Value of the Deferred Pension to a Prescribed Savings Arrangement. Upon commutation, the Participant shall cease to have any further benefits or rights under the Basic Portion of the Plan and shall not be permitted to re-instate the commuted service under the Plan.

12.02 The Deferred Pension of a Former Participant who has terminated employment or membership in the Plan and who has elected to receive the entitlement in accordance with Article 12.01(a) or 12.01(b), shall be increased

- (a) each January 1, prior to January 1, 2015, by the rate of increase in the CPI subject to a maximum of 8%, and
- (b) thereafter shall be increased each January 1 by a percentage equal to the indexing provided to pensioners under the *Civil Service Superannuation Act*.

Effective January 1, 2015, where the last day of employment for a member is a date other than January 1 of a year, indexation in respect of the year shall be prorated so as to be proportionate to the part of the year from the last day of employment to January 1.

The Deferred Pension shall be increased as described herein until the Participant elects to receive the pension. *2005-1,s.1; 2008-1,s.6; 2014-1,s.7.*

PART III

Unless modified by provisions under Article 13 below, all provisions under Part II and Part IV of the plan shall apply to Part III and should be read with Supplemental Retirement Pension replacing Retirement Pension and Deferred Supplemental Pension replacing Deferred Pension.

ARTICLE 13

SUPPLEMENTAL RETIREMENT BENEFITS

- 13.01 The Supplemental Pension under Article 13 is dependent on whether the Participant is vested as per the provisions of Article 13.07 below. A vested Participant is entitled to the Supplemental Benefit as calculated under Article 13.09. A non-vested Participant is entitled to the Supplemental Pension as calculated under Article 13.10.
- 13.02 In respect of benefits payable under Part III only, a Participant shall be entitled to an unreduced pension on the first day of the month coincident with or immediately following the earlier of:
- (a) the Participant's 55th birthday; or
 - (b) for retirement after April 1, 2000, the date on which the Participant's age plus Continuous Service as a Legislative Member equals 70, to the extent the Participant has attained the age of 50.

For purposes of 13.02 b), the Participant's age shall be the age at the Retirement Date and not the age at the date of Termination.

- 13.02.1 For participants elected for the first time after the 64th General Assembly, in respect of benefits payable under Part III only, a Participant shall be entitled to an unreduced pension on the first day of the month coincident with or immediately following the earlier of:
- (a) the Participant's 57th birthday; or

- (b) the date on which the Participant's age plus Continuous Service as a Legislative Member equals 74, to the extent the Participant has attained the age of 50.

For purposes of 13.02.1(b), the Participant's age shall be the age at the Retirement Date and not the age at the date of Termination.

- 13.03 A Participant may elect to retire earlier than specified in Article 13.02 and 13.02.1 and receive a reduced pension on the first day of the month coincident with or on the first day of any month following the date the Participant has attained age 50.

13.04 Early Retirement Pension Reduction

A Participant, who retires prior to the date eligible for an unreduced pension under Part III as specified in Article 13.02 and 13.02.1, will be subject to an Early Retirement Pension Reduction equal to the pension calculated under Articles 13.09(a) or 13.10(a) as applicable multiplied by one half of one percent ($\frac{1}{2}\%$) for each month between the Participant's Early Retirement Date and the date at which the Participant's would become entitled to an unreduced pension as per Article 13.02 and 13.02.1.

- 13.05 ***In respect of benefits payable under Part III only, a Participant who continues to be a Legislative Member beyond the Normal Retirement Date and who is not in receipt of a Supplemental Retirement Pension from the Plan may continue to participate as a Member under the Plan, and may postpone retirement, until November 30th of the calendar year in which the participant attains age 71, at which time the participant shall be deemed to be vested. The date on which the Participant retires after Normal Retirement Date shall be the Participant's Postponed Retirement Date.***

- 13.06 Subject to 13.05 a Participant, who continues to be a Legislative Member beyond the Normal Retirement Date, shall continue to participate in the Plan until the Postponed Retirement Date. In this event the Participant's pension will be calculated and payable as outlined in Articles 13.09 or 13.10 as applicable.

Notwithstanding anything to the contrary contained herein, if a Participant remains a Legislative Member beyond November 30th of the year in which the Participant attains age 71, pension payments under Part III shall commence no

later than December 1st of the calendar year in which the Participant attains that age.

- 13.07 For purposes of Article 13, at Termination, Death, Retirement or Plan termination, in accordance with the terms of the Plan, a Participant shall be vested:
- (a) if the Participant has five years of total service prior to, or on or after, July 1, 1994; and after being elected for the second time as a Legislative Member, or
 - (b) ***on November 30th of the year in which the Participant attains age 71 regardless of the years of service or number of elections, provided that the Participant is, at that time, a sitting Member of the Legislative Assembly of Prince Edward Island.***

13.08 Article 12.01(c) does not apply to benefits payable under Part III.

13.09 Supplemental Retirement Pension – Vested Participant

A Participant who meets the requirements of Article 13.07 shall be deemed to be a Vested Participant for purposes of Article 13 and the Supplemental Retirement Pension shall be calculated as described below.

In the normal form outlined in Article 7.01, the amount of Supplemental Retirement Pension payable to a Participant shall be equal to:

- (a) The sum of
 - i. an amount equal to two times the amount accrued as at April 1, 2001, plus
 - ii. 50% of the Required Contributions and Special Contributions made by the Participant from April 1, 2001 to April 13, 2014, plus
 - iii. 44.44% of the Required Contributions made by the Participant from April 13, 2014 to the start of the 65th General Assembly, plus
 - iv. 38.89% of the Required Contributions made by the Participant after the start of the 65th General Assembly

indexed in the manner described in 6.01.1,

less

(b) the Early Retirement Pension Reduction if applicable,

less

(c) an amount equal to the benefit available from Part II of the Plan after the application of the limit described in 6.04.

13.10 Supplemental Retirement Pension – Non-Vested Participant

A Participant who does not meet the requirements of Article 13.07 shall be deemed to be a Non-Vested Participant for purposes of Article 13 and the Supplemental Retirement Pension shall be calculated as described below.

In the normal form outlined in Article 7.01, the amount of Supplemental Retirement Pension payable to a Participant, shall be calculated as follows:

(a) the unreduced Basic Pension as per the provisions of Article 6,

LESS

(b) the Early Retirement Pension Reduction if applicable,

LESS

(c) an amount equal to the benefit available from Part II of the Plan after the application of the limit described in Article 6.04.

13.11 Supplemental Deferred Pension

At Termination of participation in the plan prior to retirement a Participant is entitled to a deferred pension calculated in accordance with Articles 13.09 or 13.10 as applicable at the date of Termination of participation except that part b) of the calculation under 13.09 or 13.10 as applicable would only apply if the Participant elects retirement prior to becoming eligible for an unreduced pension under article 13.02 and 13.02.1. The deferred pension shall be indexed in the same manner as that outlined in Article 12.02.

The Supplemental Deferred Pension of a Vested Participant for purposes of

Article 13 shall not be affected by a decision to take the Commuted Value of the Deferred Pension as allowed under Article 12.01(c).

A Non-Vested Participant shall not be entitled to a Supplemental Deferred Pension for purposes of Article 13 if the Participant decides to take the Commuted Value of the Deferred Pension as allowed under Article 12.01(c).

13.11.1 Indexation of Supplemental Pension

The amount of supplemental pension payable to a pensioner shall be indexed in the same manner as that outlined in Article 6.05.

13.12 Payments out of Operating Fund

All Supplemental Benefits payable under Part III, including payments of a Supplemental Deferred Pension, shall be paid out of the Operating Fund of the Province of Prince Edward Island.

13.13 For greater clarity, the Retirement Date and the date of Termination, as the case may be, shall be the same date for benefits under Part III as the date used for benefits under Part II and any optional form of pension elected under Article 7.04 shall be the same for Part II and Part III benefits.

13.14 A Participant shall make Special Contributions to the Operating Fund of the Province of Prince Edward Island, by payroll deduction, of an amount equal to 8% of the Participant's Non-Taxable Allowance. Special Contributions shall not be deductible for income tax purposes.

Effective May 29, 2007, a participant shall no longer make Special Contributions to the Operating Fund.

13.15 All sums received from a Participant or deducted from a Participant's pay as the Participant's Special Contributions to the Plan, shall be deposited into the Province of Prince Edward Island's general revenues within 30 days following the month the sum was received or deducted. *2003-2,s.1,s.2; 2005-2,s.1; 2006-2,s.3,s.4; 2008-1,s.5,s.7; 2008-2,s.1,s.2. 2014-1, s.8,s.9,s.10,s.11,s.12,s.13,s.14 .*

PART IV – General Provisions

ARTICLE 14

MARRIAGE BREAKDOWN

14.01 A division of Benefits under the Plan may be initiated by a person who is a Participant, Former Participant or Pensioner, or his or her Spouse or former Spouse, on written application to the Administrator, where

- (a) a court of competent jurisdiction in Canada, in proceedings in relation to a divorce or an annulment of marriage, makes an order that provides for the division of Benefits under this Plan between the person and the Spouse or former Spouse;
- (b) the person and the Spouse or former Spouse have entered into a written witnessed domestic contract that provides for the division of Benefits under this Plan between them upon divorce or annulment of marriage or upon separation;
- (c) one of the spouses commences an application based on subsection 6(2) of the *Family Law Act* respecting improvident depletion that is subsequently granted; or
- (d) a court of competent jurisdiction, in proceedings under the *Family Law Act*, makes an order that provides for the division of Benefits under this Plan between the person and the Spouse or former Spouse.

14.02 The Benefits available for division under this Plan shall be determined as of the valuation date in the same manner provided for under section 18 of the *Civil Service Superannuation Act*, and shall be divided in accordance with an order of the court, the terms of a domestic contract or an order under the *Family Law Act*.

14.03 A division of Benefits shall not result in a reduction of the value of the Participant's, Former Participant's or Pensioner's Benefits by more than fifty percent.

14.04 A division of Benefits shall be effected by transferring a share of the Benefits of

- the Participant, Former Participant or Pensioner that is subject to division to the Spouse or former Spouse as a Separate Pension.
- 14.05 Where the Benefits of a Participant, Former Participant or Pensioner have been divided under this Article, the Benefits shall be adjusted in the same manner used to adjust pension benefits following a division of pension benefits under the *Civil Service Superannuation Act*.
- 14.06 Where the Benefits of a Participant, Former Participant or Pensioner have been divided under this Article
- (a) no further division of Benefits may be made under this Article in respect of that period; and
 - (b) the Spouse or former Spouse of the Participant, Former Participant or Pensioner has no further right under the Plan to death benefits referred to under Article 11.
- 14.07 The amount of yearly separate pension payable to a Limited Participant who is eligible to receive a Separate Pension shall be determined in the same manner as the amount of yearly separate pension payable to a Spouse or former Spouse of a member, vested former member or Pensioner is determined under subsection 27.02(1) of the *Civil Service Superannuation Act*.
- 14.08 Where the Benefits of a Participant, Former Participant or Pensioner have been divided under this Article, the Limited Participant is eligible, upon written application, to receive an unreduced yearly Separate Pension, payable monthly, on or after the Normal Retirement Date of the Participant, Former Participant or Pensioner.
- 14.09 Where the Benefits of a Participant, Former Participant or Pensioner have been divided under this Article, the Limited Partner is eligible, upon written application, to receive a reduced yearly Separate Pension, payable monthly, if the Participant, Former Participant or Pensioner has attained, or would have attained if he or she was alive, the age of fifty years.
- 14.10 The amount of reduced Separate Pension payable under Article 14.09 shall be equal to the difference between
- (a) the amount of Separate Pension the Limited Participant would receive under Article 14.08 if the Limited Participant were eligible to receive such

a pension; and

(b) the amount determined by the formula

$$\frac{1}{4}\% \times A \times B$$

where

A is the amount of Separate Pension determined under Article 14.08,

B is the number of months between the Limited Participant's actual Retirement Date and the Normal Retirement Date of the Participant or Limited Participant whose benefits have been divided under this Article.

14.11 A Separate Pension shall be indexed in the same manner and at the same rate as a separate pension under the *Civil Service Superannuation Act*.

14.12 Where a Limited Participant dies prior to commencing receipt of a Separate Pension, the estate of the Limited Participant is entitled to receive from the Plan an amount determined by the formula

$$2 \times A$$

where

A is the share of the Required Contributions made by the Participant, Former Participant or Pensioner that are attributed to the Limited Participant on division of Benefits under Article 14.04, plus interest to the date of the death of the Limited Participant.

14.13 Where a Limited Participant dies after commencing receipt of a Separate Pension, the estate of the Limited Participant is entitled to receive from the Plan an amount determined by the formula

$$2 \times A - B$$

where

A is the share of the Required Contributions made by the Participant, Former Participant or Pensioner that are attributed to the Limited Participant on division of Benefits under Article 14.04, plus interest to the date that the Limited Participant commenced receiving the Separate Pension; and

B is the amount of payments from the Plan that have been received by the Limited Participant prior to the date of his or her death.

ARTICLE 15**FUNDING AND INVESTMENT**

- 15.01 The Plan Sponsor shall establish and maintain a Pension Fund for the accumulation and investment of all contributions in accordance with the provisions of the Plan and any applicable legislation.
- 15.02 Subject to the Administrator's right to purchase annuities in accordance with Article 19.04, and any individual's rights to transfer the Commuted Value of the Deferred Pension under Article 12.01, all Plan obligations, with the exception of Supplemental Benefits described in Article 13, shall be provided by the Pension Fund.
- 15.03 The Pension Fund shall be invested as permitted in accordance with the Statement of Investment Policies and Goals as approved by Executive Council on the recommendations of the Investment Advisory Committee of the Prince Edward Island Master Trust. The Speaker shall recommend a representative from current or past Legislative Members to sit on the Investment Advisory Committee of the Prince Edward Island Master Trust.
- 15.04 All reasonable fees and expenses, both internal and external for administrative services, accounting and auditing services, investment and actuarial services, custodial and legal fees under the Plan may be paid or reimbursed (if first paid by the Administrator) from the Pension Fund. For the purpose of paying internal fees and expenses, the Administrator shall present such accounts and reports as may be necessary to document such costs.
- 15.05 The Administrator shall cause the actuary to perform an actuarial valuation of the plan in respect of benefits under Part II at least once every three years. In the event the actuarial valuation reveals an excess of assets over liabilities, with the approval of the Plan Sponsor, the Administrator may use such surplus:
- (a) to reduce or eliminate any or all future Government contributions;
 - (b) to establish or increase a contingency reserve subject to any limitations contained in the Income Tax Act and Regulations;
 - (c) to provide a cash refund of the surplus to Government provided that the amount of surplus retained in the Pension Fund shall be at least equal to the greater of two years of Government current service cost or 25% of

the liabilities of the Plan in respect of benefits under Part II; and

- (i) if required, Canada Revenue Agency consents to the refund;
and/or
- (ii) a court so orders.

ARTICLE 16**ADMINISTRATION**

- 16.01 The Administrator shall be responsible for the overall day-to-day operation and administration of the Plan and shall have the power to decide all matters concerning the operation, administration and interpretation of the Plan except as specified in 15.03 and Article 16.1.
- 16.02 The Administrator shall keep or cause to be kept any and all such records as it may deem necessary for the performance of its functions.
- 16.03 The Administrator, in addition to the powers otherwise conferred on it in this Plan, shall have the authority to:
- (a) give written directions to make payments out of the Pension Fund for such purposes as the Administrator may certify;
 - (b) determine any dispute, difference or question of any kind arising with respect to the administration of the Plan;
 - (c) request such information and elections, in any prescribed form, from the Participants, Former Participants and Pensioners as are deemed necessary to enable it to administer the Plan;
 - (d) consult with and obtain opinions, advice and information from any lawyer, auditor, accountant, Actuary or other expert;
 - (e) delegate any and all of its authorities to such agents or employees as it deems reasonable; and
 - (f) exercise any and all such powers, take such acts and employ such persons as the Administrator may deem necessary, desirable or proper to the performance of the Administrator's functions.
- 16.04 The Administrator shall report to the Commission on Plan activity not less than once a year or as requested by the Commission.

ARTICLE 16.1**COMMISSION**

- 16.1.01 The Commission shall be responsible for establishing and amending the benefits levels provided under the Plan.
- 16.1.02 The Commission shall keep or cause to be kept any and all such records as it may deem necessary for the performance of its functions.
- 16.1.03 The Commission, in addition to the powers otherwise conferred on it in this Plan, shall have the authority to:
- (a) determine any dispute, difference or question of any kind arising with respect to the benefit levels provided under the Plan (such decisions of the Commission shall be final and binding on all persons);
 - (b) consult with and obtain opinions, advice and information from any lawyer, auditor, accountant, Actuary or other expert;
 - (c) direct the Administrator to implement and administer any benefit level changes it may determine.
- 16.1.04 The Commission may make recommendations to the Administrator respecting the operation, administration and interpretation of any aspect of the Plan.

ARTICLE 17**EXPLANATION AND DISCLOSURE**

17.01 The Administrator shall:

- (a) Provide each Legislative Member with an explanation of the terms of the Plan and the Legislative Member's rights and obligations thereunder within 60 days following to the date on which the Legislative Member will become eligible for membership in the Plan.
- (b) Provide each Participant in the plan or other person affected by an amendment to the Plan with a notice and explanation of the amendment within 60 days after the adoption of the amendment.
- (c) Provide each Participant in the plan with a written annual statement outlining the Participant's status in a form acceptable to the Administrator. Such annual statement shall be provided within nine months of the end of the plan year.
- (d) Upon termination, retirement or death, provide a statement in a form acceptable to the Administrator, to the Participant, to the Participant's Spouse or other persons as appropriate in the circumstances.

17.02 Any person who has an entitlement under the Plan, or any agent of any such person, may attend the Provincial Treasurer's office, or such other place agreed upon by the person and the Administrator, to examine or make extracts of copies of those documents constituting and supporting the Plan, once during each plan year. Any request to release documents shall be made in writing to the Administrator.

The documents that constitute and support the Plan include:

- (a) pension plan documents that contains the provisions of the Plan, including any amendments to it;
- (b) pension plan documents that contains the provisions of a previous plan, including amendments to it;
- (c) the Statement of Investment Policies and Goals;

- (d) any actuarial valuation report prepared in accordance with Paragraph 15.05;
- (e) any document that delegates the administration of the pension plan or pension fund.

ARTICLE 18**AMENDMENT OR TERMINATION OF THE PLAN**

- 18.01 The Plan Sponsor intends to maintain the Plan in force indefinitely but reserves the right to amend or terminate the Plan unilaterally at any time, either in whole or in part, subject to the Rules and Regulations of Income Tax Act, to reflect the recommendations in its report provided to the Government, reviewing and determining the benefits payable to the Participants and Former Participants under the Plan. In such event, the liability of the Plan Sponsor shall be limited to the contributions that have been made to the date of amendment or discontinuance.
- 18.02 If the Plan is amended, any Participant or other person's entitlement under the amended Plan in respect of Continuous Service prior to the date of amendment of the Plan shall not be less than the person's entitlement at the date of amendment as provided under the Plan. Replacement of the Plan by another pension plan shall be considered an amendment to the Plan.
- 18.03 If the Plan is terminated and not replaced by a new pension plan, the assets of the Pension Fund shall be first used to provide the Deferred Pension and pension to which the Participants, Former Participants and Pensioners are entitled at the date of termination. Any assets remaining after the satisfaction of all Plan obligations and after payment of all expenses shall be paid to the Government.
- 18.04 In the event that the Plan is terminated and the assets in the Pension Fund at that time are insufficient to meet all Plan obligations, such obligations shall be payable to the extent and in the priority as determined by the Administrator, subject to the provisions of the Income Tax Act.

ARTICLE 19GENERAL

- 19.01 Benefits payable under the Plan shall not be assigned, charged, anticipated, alienated, surrendered or given as security except in respect to payments regarding a division of property on marriage breakdown under a provincial family property law.

Benefits payable under the Plan shall not be subject to execution, seizure or assignment except in regards to support of maintenance orders made under a provincial family property law.

- 19.02 The Administrator shall have the right to require satisfactory proof of age for the purposes of the calculation of payment of the Commuted Value of any Deferred Pension and the commencement of any pension or annuity and proof of survival on the due date of each payment, in respect of the life or lives upon which the pension or annuity depends. No payment or transfer shall be made until such proof of age or survival is submitted.

Where the age of any Participant, Former Participant, Pensioner, or that person's Spouse or Beneficiary is found to have been incorrectly stated, the Government shall be empowered to make or cause to be made such adjustments respecting the pension, deferred pension or lump sum amount due or paid to such person under the Plan as the Administrator deems equitable.

The policies and practices used under the *Civil Service Superannuation Act* to determine co-habitation rules, proof of entitlement, etc, shall be used when administering spousal benefit entitlements under this plan.

- 19.03 Where the records of the Administrator or Commission are required for use for the purposes of the Plan, such records shall be presumed to be conclusive unless shown to be in error.
- 19.04 The Administrator reserves the right to purchase an annuity, if it so elects, from a Life Insurance Company of its choice in the amount and form of any pension described herein and as elected by the Participant, Former Participant or Pensioner which shall be in accordance with the

Plan. Delivery by the Administrator of the annuity contract shall constitute a complete discharge of all such Plan obligations.

- 19.05 Subject to any applicable legislation, a Participant may, by written notice, satisfactorily to the Administrator, designate a Beneficiary or Beneficiaries to receive any death benefits payable under the Plan and alter or revoke such a designation from time to time.
- 19.06 All contributions and payments under the Plan shall be made in lawful currency of Canada.
- 19.07 Notwithstanding anything to the contrary herein, no language in the Plan shall be construed to give rise to a double payment of entitlements.
- 19.08 Where there is more than one person claiming that he or she is entitled to a division of Benefits or to Benefits as a Spouse or surviving Spouse of a Participant, Former Participant or Pensioner, the Administrator may
- (a) defer any decision on the application for Benefits until the Administrator is able to ascertain which person is entitled to make a claim for benefits as a Spouse or surviving Spouse;
 - (b) where Benefits are being paid to a Spouse or surviving Spouse, cease to make payments to the recipient until the Administrator is able to ascertain which person is entitled to make the claim for Benefits as a Spouse or surviving Spouse.
- 19.09 The Administrator shall not recognize more than one Spouse or surviving Spouse of a Participant, Former Participant or Pensioner for the purposes of dividing Benefits or providing Benefits under the Plan.

ARTICLE 20

MODIFICATIONS TO THE PENSION SCHEME CONTAINED IN THE *LEGISLATURE AND EXECUTIVE PENSION ACT*, STATS. P.E.I. 1994, CAP. 35 AS APPLIED BY THE INDEMNITIES AND ALLOWANCES COMMISSION”

- 20.01 Effective September 1, 2003, Dependent under the L.E.P.A. shall have the same meaning as defined under Article 1.10 of the Pension Plan for Members of the Legislative Assembly Province of Prince Edward Island.
- 20.02 Effective September 1, 2003, Spouse under the L.E.P.A. shall have the same meaning as defined under Article 1.33 of the Pension Plan for Members of the Legislative Assembly Province of Prince Edward Island.
- 20.03 Effective September 1, 2003, Articles 7 and 11 of the Pension Plan for Members of the Legislative Assembly Province of Prince Edward Island apply to all Members entitled to benefits under the L.E.P.A. who were not in receipt of a pension from the L.E.P.A. at September 1, 2003.
- 20.04 Effective September 1, 2003, Article 14 of the Pension Plan for Members of the Legislative Assembly Province of Prince Edward Island shall apply to the L.E.P.A.
- 20.05 Effective September 1, 2003, the annual increase (indexing) of pension (allowance) under the L.E.P.A. shall be calculated using the provisions under the Plan in lieu of the similar provisions under the L.E.P.A. For the annual increase in pension (allowance) earned under the L.E.P.A. effective January 1, 2004, the increase shall be calculated as nine-tenths (9/10) of the increase in the average CPI for the ten (10) month period ending October 31, 2003 over the average CPI for the twelve (12) month period ending December 31, 2002. At each January 1 following January 1, 2004, the annual increase in pension (allowance) under the L.E.P.A. shall be calculated as per the provisions of the Plan. *2003-1,s.11.*

SCHEDULE A*Preamble*

The pension and benefits described in this Plan Text apply only to Participants who retire on or after April 1, 2001.

Pension and benefits accruing prior to April 1, 2001 are governed by the *Legislature and Executive Pensions Act, Stats. P.E.I. 1994, c.35*, (the “L.E.P.A.”) which replaced the *Legislative Assembly Retirement Allowances Act, Stats. P.E.I. 1971, c.24*, (the “Old Act”) retroactive to April 7, 1971.

The retroactive effect of the L.E.P.A. was challenged by participants in the pension scheme legislated under the Old Act resulting in three decisions of the Supreme Court, namely *Canfield v. Prince Edward Island (Government of)*, considered by both the Trial and Appeal Divisions, and *Rossiter v. P.E.I. (Attorney General of)*, considered by the Trial Division only.

The decisions of *Canfield* and *Rossiter* provide a thorough analysis of the legislative history of the Old Act and the introduction of the L.E.P.A. in upholding the retroactive effect of that legislation to April 7, 1971. In particular, the decision of the Appeal Division in *Canfield* confirms that those participating in the pension scheme under the L.E.P.A. who retired prior to July 1, 1994, and the survivors of any such deceased former members, get their pension entitlements pursuant to the L.E.P.A. even though this legislation ceased to have effect on June 30, 1994.

Section 20(3) of the L.E.P.A. also empowered the board administering the legislation (the Indemnities and Allowances Commission) with broad discretion to wind-up the pension scheme legislated there under and make appropriate arrangements for the transition to a replacement pension scheme, resulting in this Plan Text effective April 1, 2001. An interim pension arrangement established on July 1, 1994 as part of the transition contemplated under the L.E.P.A. and modified several times until the establishment of the current pension arrangement on April 1, 2001 was in place between July 1, 1994 and March 31, 2001.

In order to clarify the entitlements of Participants whose pension and benefits accumulated under the L.E.P.A. and under the interim pension arrangement and prior to April 1, 2001, this Plan Text sets out how these pension and benefits will be calculated and, in some circumstances, provides for minor adjustments for the purpose of properly administering the Plan without affecting the benefits accruing prior to April 1, 2001. The Plan Text also provides those with deferred pension accumulated under the L.E.P.A. (service prior to July 1, 1994) with options which would not otherwise be available.

The accrued benefits for each active, deferred and retired member were calculated in accordance with the Plan rules in effect prior to April 1, 2001. For purposes of this calculation, benefits for active members between July 1, 1994 and March 31, 2001 were calculated independently for each type of service using years of service and salary levels for the type of service rendered. The service categories are MLA service; Minister service which includes Leader of the Opposition; Premier service; Speaker service; Deputy Speaker service which includes Leader of a Third Party; and Non-Ministerial Appointee service. The amount of pension accrued under the L.E.P.A. for service prior to July 1, 1994 are unchanged from that available under that Act except for the annual pension index adjustment since July 1, 1994.

More specifically, the initial benefit for active members who had not started to receive their annual pension from the Plan as at April 1, 2001 for service between July 1, 1994 and March 31, 2001 were calculated by taking 2% of the Average Indemnity for the years 1999, 2000 and 2001 multiplied by the years of service as a Member of the Legislative Assembly plus 2% of the Average Salary for the years 1999, 2000 and 2001 multiplied by years of service in an additional capacity such as Premier, Minister, Non-Ministerial Appointee or other similar positions. The accrued pension was calculated separately for each of those types of Appointment. For example, for someone who served as Minister in one period and Non-Ministerial Appointee in another period, the benefit was calculated for service as a Minister based on Salary as a Minister plus the benefit for service as Non-Ministerial Appointee based on the salary for Non-Ministerial Appointee.

The definitions and terms and conditions regarding ancillary benefits for the portion of the pension earned between July 1, 1994 and March 31, 2001 under the interim pension arrangement are the same as those contained in this plan document for benefits earned on or after April 1, 2001. The definitions and terms and conditions for benefits earned prior to July 1, 1994 are the same as contained in the L.E.P.A. except as modified by amendments adopted by the Indemnities and Allowance Commission since July 1, 1994. None of these amendments reduce in any way the benefits accrued under the L.E.P.A.

The benefits accrued under the L.E.P.A. and under the interim pension arrangement will be indexed in January 1 of each subsequent year until retirement at the rate of increase in the CPI subject to a maximum of 8% each year. *2003-1,s.1.*