



Province of Alberta

TEACHERS' PENSION PLANS ACT

**TEACHERS' PENSION PLANS
(LEGISLATIVE PROVISIONS)
REGULATION**

Alberta Regulation 204/1995

With amendments up to and including Alberta Regulation 188/2018

Current to November 7, 2018

Office Consolidation

© Published by Alberta Queen's Printer

Alberta Queen's Printer
Suite 700, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952
Fax: 780-452-0668

E-mail: qp@gov.ab.ca
Shop on-line at www.qp.alberta.ca

Copyright and Permission Statement

Alberta Queen's Printer holds copyright on behalf of the Government of Alberta in right of Her Majesty the Queen for all Government of Alberta legislation. Alberta Queen's Printer permits any person to reproduce Alberta's statutes and regulations without seeking permission and without charge, provided due diligence is exercised to ensure the accuracy of the materials produced, and Crown copyright is acknowledged in the following format:

© Alberta Queen's Printer, 20__.*

*The year of first publication of the legal materials is to be completed.

Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

(Consolidated up to 188/2018)

ALBERTA REGULATION 204/95

Teachers' Pension Plans Act

**TEACHERS' PENSION PLANS
(LEGISLATIVE PROVISIONS) REGULATION**

Table of Contents

1	Interpretation
	Part 1
	General Provisions
2	Board of trustees
3	Chair and vice-chair of Board and committees
3.1	Application of EPPA provisions to Teachers' Pension Plans
3.2	Application of EPPA to all Plans
4	Board committees
5	Quorum of Board and committees
6	Casting votes
7	Remuneration and costs of Board members
8	Non-delegable functions, etc.
9	Collection and provision of information
10	Immunity from suit for damages
11	Indemnification
12	Plan rules
12.1	Interest rate — payment of post-1992 assets to post-1992 fund
12.2	Plan costs
13	Application of plan rules from prior date
14	Provision of reports, etc., to Ministers and Association
16	Beneficiaries
18	Employers' liability for contribution amounts
19	Liability of benefits to legal process
20	Allocation of surpluses
21	Extra-statutory benefits or remedies
22	Winding up of Private School Plan
23	Dis-application of Trustee Act

Part 2

Division and Distribution of Benefits on Relationship Breakdown

- 29 Interpretation
- 30 Application of this Part
- 31 Prevalence of this Part in relation to benefits
- 32 Effect of matrimonial property orders
- 33 Requirements for matrimonial property orders
- 34 Division and distribution of benefits generally
- 35 Total entitlement
- 36 Total pre-division benefit
- 37 Non-member pension partner's share
- 38 Distribution of non-member pension partner's share
- 39 Adjustment of member pension partner's benefit
- 40 Bar against further claims
- 41 Disclosure of information
- 42 Application to Court for clarification
- 43 Assignment and protection from execution, etc.
- 44 Fees
- 45 Filing of documents with Board

Schedule

Interpretation

1(1) For the purposes of section 1(1)(d)(i) of the Act, the bodies listed in the Schedule are the employer-contributors, along with the Crown, under the Principal Plan.

(2) Repealed AR 345/2009 s2.

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

AR 204/95 s1;99/2001;251/2001;345/2009

Part 1

General Provisions

Board of trustees

2(1) The number of persons prescribed for the purposes of section 5(3)(a) of the Act is 4.

(2) Subject to section 20(1)(b) of the *Interpretation Act*, a member of the Board nominated under section 5(3)(a) of the Act holds

office under the appointment for such term, not exceeding 4 years, as is fixed in relation to that member by the Lieutenant Governor in Council.

(3) A member of the Board nominated under section 5(3)(b) of the Act holds office under the appointment for such term, not exceeding 4 years, as is fixed in relation to that member by the Lieutenant Governor in Council, but may be previously removed or suspended by the Lieutenant Governor in Council only

- (a) on the written recommendation of the Association, or
- (b) for cause.

(4) Repealed AR 345/2009 s3.

AR 204/95 s2;345/2009;210/2014

Chair and vice-chair of Board and committees

(1) The Board shall elect its chair, for the term decided by it, from among members of the Board nominated under section 5(3)(b) of the Act.

(2) The Board shall elect its vice-chair, for the term decided by it, from among the remaining 7 members of the Board.

(3) If the Board fails to elect a chair or a vice-chair, the Minister may appoint any member of the Board from either category in section 5(3) of the Act to fill the vacant position.

(4) A committee of the Board shall elect a chair and a vice-chair from among its members.

(5) The vice-chair of the Board or of a committee shall act as chair when the chair is absent or unable to act.

AR 204/95 s3;210/2014

Application of EPPA provisions to Teachers' Pension Plans

3.1(1) For the purposes of applying the plan rules,

- (a) "funding requirements" means the minimum funding requirements, but excluding any requirements for the funding of solvency deficiencies, of the *Employment Pension Plans Act* (RSA 2000 cE-8) and the *Employment Pension Plans Regulation* (AR 35/2000), as that legislation was in force immediately before the commencement of section 160(5) of the *Employment Pension Plans Act* (SA 2012 cE-8.1);

- (b) “solvency deficiencies” means a solvency deficiency within the meaning of and calculated according to the *Employment Pension Plans Regulation* (AR 35/2000) under the *Employment Pension Plans Act* (RSA 2000 cE-8), as that legislation was in force immediately before the commencement of section 160(3) of the *Employment Pension Plans Act* (SA 2012 cE-8.1).

AR 154/2014 s168

Application of EPPA to all Plans

3.2 For the purposes of section 17(3)(a) of the Act, assets of the plan fund are to be invested or loaned in a manner that is not excluded by the rules in the *Employment Pension Plans Act* (SA 2012 cE-8.1) and the regulations under it.

AR 154/2014 s168

Board committees

4 The Board may designate members of its committees as voting or non-voting committee members.

Quorum of Board and committees

5(1) A majority of the appointed members of the Board constitutes a quorum of the Board.

(2) A majority of the appointed voting members of a committee of the Board constitutes a quorum of that committee.

Casting votes

6 With respect to the Board and its committees, if a tie vote occurs on a motion, the chair (including the vice-chair when acting under section 3(5)) has a casting vote which, if exercised, creates a majority for the purposes of section 17(2)(b) of the *Interpretation Act*.

Remuneration and costs of Board members

7(1) Members of the Board who are not employed by an employer or by an employer-contributor are entitled to the remuneration, if any, decided by the Board.

(2) Notwithstanding subsection (1), the Board may, on the application of an employer or an employer-contributor that employs a Board member, reimburse that employer or employer-contributor in respect of costs incurred in employing another person to perform the Board member’s duties while engaged in Board responsibilities.

(3) To avoid any doubt, the Board may regard any payment under subsection (1) or (2) as plan costs.

Non-delegable functions, etc.

8 The following are prescribed for the purposes of section 10(4)(d) of the Act:

- (a) appointment or removal of the chief executive officer;
- (b) the election or removal of the chair or the vice-chair of the Board;
- (c) approval of the annual financial statements or the annual budget;
- (d) approval of statements of investment policies or goals and any amendments to those policies or goals;
- (e) any indemnification given under section 11.

Collection and provision of information

9(1) In this section, “employment information” has the meaning assigned to it in section 25(1)(c) of the Act.

(2) The Board may by written notice require any employer to provide employment information to it, within the time and in the manner specified in the notice.

(3) An employer shall provide to the Board, before the date and with respect to the period specified by the Board by written notice, an independent auditor’s opinion on matters established by the Board with respect to the employer’s compliance with the employer’s obligations under the Plan during the relevant period.

(4) Where the opinion required by subsection (3) is not received within the time specified by the Board, the Board may order that an audit be conducted at the expense of the employer.

(5) An employer shall comply with an order made by the Board under subsection (4).

(6) An employer shall report to the Board each year, forthwith after fixing them,

- (a) a school year which, in the case of an employer that is required to report a school year under the *School Act*, will be that school year, and

- (b) the minimum time that is required to constitute a full-time basis for employment for the purposes of the Plan,

and, if any such information is subsequently changed during the year, shall forthwith report the change to the Board.

(7) Revenue Canada is prescribed for the purposes of section 25(2)(c) of the Act for the purpose of the disclosure of employment information that is or may be required to enable the Board to maintain a Plan's registration.

(8) The Association is prescribed for the purposes of section 25(2)(c) of the Act.

AR 204/95 s9;41/96;21/2009;188/2018

Immunity from suit for damages

10(1) No action for damages may be commenced against a member of the Board for anything done or not done by the member while carrying out duties or exercising powers as a member of the Board under the Act, this Regulation, the plan rules or any other enactment, provided that the member has acted honestly, in good faith, without negligence and without a wilful failure to observe the best interests requirement of section 11(1)(a) (as affected by section 11(2)) of the Act.

(2) No action for damages may be commenced against a member of a committee of the Board who is not a member of the Board for anything done or not done by the member honestly, in good faith and without negligence while carrying out duties or exercising powers as such a committee member.

AR 204/95 s10;188/2018

Indemnification

11(1) Except in respect of an action by or on behalf of the Board to procure a judgment in its favour, the Board may indemnify a present or former member of the Board or of any of its committees, an officer or employee or a person who acts or acted at the Board's request as a director or officer of a corporation of which the Board is or was a shareholder or creditor (in this section referred to as the "other corporation") against costs, charges and expenses, including any amount paid to settle an action or satisfy a judgment, reasonably incurred by him or her with respect to a civil, criminal or administrative action or proceeding to which he or she is made a party by reason of being or having been such a Board member, committee member, officer, employee or director but only in accordance with this section.

(2) Notwithstanding anything in this section, the Board may indemnify the person only if

- (a) the person acted honestly, in good faith and with a view
 - (i) where applicable, to the best interests of the other corporation, and
 - (ii) subject to subclause (i), to the observance of the best interests requirement described (as to Board members) in section 11(1)(a) (as affected by section 11(2)) of the Act,

and

- (b) in the case of a criminal or administrative action or proceeding, the person had reasonable grounds for believing that the conduct was lawful.

(3) Notwithstanding anything in this section except subsection (2), the person is entitled to indemnity from the Board in respect of all costs, charges and expenses reasonably incurred by the person with respect to the defence of any civil, criminal or administrative action or proceeding to which the person is made a party by reason of the person's being or having been a Board member, committee member, officer, employee or director referred to in subsection (1) if the person was substantially successful on the merits in the person's defence of the action or proceeding and the person is fairly and reasonably entitled to indemnity.

(4) Any payment under this section under an indemnity or any premium for indemnity insurance constitutes a plan cost.

(5) Members of the Board who vote for a resolution authorizing the payment of an indemnity in contravention of this section are jointly and severally liable to restore to the Board any amount so paid that is not otherwise recovered by the Board, with interest at the rate of 8% per year.

AR 204/95 s11;188/2018

Plan rules

12(1) Subject to section 14 of the Act and to this section, the Board may, following consultation with the Education Minister and the Association, by regulation establish new plan rules or amend existing plan rules, with respect to the matters referred to in subsection (2) (not being matters respecting which the Board has an obligation under this Regulation to make plan rules).

(2) The matters referred to in subsection (1) are

- (a) participation in the Plans,

- (b) contributions, including remuneration with respect to which contributions are payable,
- (c) service and combined pensionable service,
- (d) benefits,
- (e) beneficiaries,
- (f) administration of the Plans,
- (g) methods of payment of amounts owed by or owing to the Plans, including interest and how it is to be applied, and
- (h) reduction or suspension of pensions during periods of re-employment.

(3) Subject to subsection (4), plan rules made by the Board have no effect unless they have been approved by the Lieutenant Governor in Council.

(4) Subsection (3) does not apply with respect to plan rules made under section 14(5) or 16(2) of the Act or made with respect to the following matters (being matters falling within the jurisdiction covered by subsection (2)):

- (a) alternative forms of pension to be made available to pensioners that are the actuarial equivalent of the pension in the form of a normal pension,
- (b) categories of prior service eligible for acquisition on an actuarial reserve basis,
- (c) administration of the Plans insofar as it does not purport to carry into effect benefit adjustments resulting in a change in the actuarial costs of the Plans, and
- (d) the matters specified in subsection (2)(g).

(5) Subject to section 14(3) and (6) of the Act, the Lieutenant Governor in Council has authority to amend plan rules made by the Board.

(6) Subject to section 14 of the Act and this section, the Board has authority to amend plan rules made by the Lieutenant Governor in Council on matters within its legislative jurisdiction.

(7) Plan rules made by the Board may be integrated with those made by the Lieutenant Governor in Council, and plan rules made by the Lieutenant Governor in Council may be integrated with those made by the Board.

(8) Amendments to plan rules may be made only by regulation.
AR 204/95 s12;345/2009

Interest rate — payment of post-1992 assets to post-1992 fund

12.1 The rate of interest prescribed for the purposes of section 19.2(2) of the Act is 0.30% per year.

AR 345/2009 s5

Plan costs

12.2 The costs and expenses prescribed for the purposes of section 19.3(a) of the Act are any investment costs related to the pre-1992 fund and the costs of valuations, extrapolations, reports, projections and analyses referred to in section 14(1)(d), (e) and (f).

AR 345/2009 s5

Application of plan rules from prior date

13 A provision of the plan rules of either Plan that

- (0a) repealed AR 99/2001 s4,
- (a) relates to the determination of who is an employee or employer, or
- (b) withdraws any employees or employers from participation in the Plan following an application by the employer for withdrawal, or attaches any terms or conditions to a withdrawal,

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

AR 204/95 s13;99/2001

Provision of reports, etc., to Ministers and Association

14(1) The Board shall

- (a) provide to the Education Minister, the Finance Minister and the Association copies of a report on the business and affairs of the Board as soon as practicable after the close of each fiscal year, based on its operations for that fiscal year,
- (b) table each actuarial valuation report for each Plan at the first Board meeting after its completion and provide to the Education Minister, the Finance Minister and the Association copies of that report within 90 days after the completed report is so tabled,

- (c) provide to the Education Minister, the Finance Minister and the Association copies of each auditor's report on the Plans within 30 days after the Board receives it,
- (d) at least every 3 years, have an actuarial valuation performed of the pre-1992 benefits, with related cash-flow projections, and forthwith thereafter provide to the Finance Minister the actuarial valuation report on that valuation, with those projections,
- (e) each year, have an actuarial extrapolation performed of the pre-1992 benefits as at March 31, based on the assumptions recommended by the Finance Minister, and forthwith thereafter provide to the Finance Minister the actuarial extrapolation report on that extrapolation, and
- (f) on being so requested in writing by the Finance Minister, provide to the Finance Minister any analysis or report relating to the pre-1992 benefits, forthwith after its completion or the making of the request, whichever is the later.

(2) The Education Minister or the Finance Minister may require an audit, at the Crown's expense, of the administration of either or both of the Plans, including the management of the Pension Funds.

(3) The Board shall co-operate in the conduct of any audit referred to in subsection (2) and shall provide any information required by the auditor.

AR 204/95 s14;345/2009

15 Repealed AR 21/2009 s3.

Beneficiaries

16(1) Any person on whose death a benefit is payable is a participant for the purposes of section 71 of the *Wills and Succession Act*.

(2) When a benefit is paid to a surviving pension partner or to the personal representative of an estate by virtue of the operation of section 54(3) of the plan rules, the payment is validly made as against the Plan and the Board notwithstanding that a designation is filed under the Plan after the payment is made, and the person who would have been entitled under the designation has no right to any benefit as a result of the designation.

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

estate of the deceased and is not subject to the claims of the deceased's creditors.

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

AR 204/95 s16;101/2002;31/2012;188/2018

17 Repealed AR 204/95 s17.

Employers' liability for contribution amounts

18 Where an employer fails to comply with section 14 of the plan rules, then, without affecting any rights of the employer under the law to recover from the member, the employer is liable to the Board for an amount equal to the contributions that should have been withheld and remitted, with interest.

Liability of benefits to legal process

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

Allocation of surpluses

20(1) to (3) Repealed AR 21/2009 s4.

(4) Where a surplus arises in the Principal Plan with respect to post-August 1992 pensionable service under any actuarial valuation report, that surplus is to be used, in the manner determined by the Board based on the recommendation of the Plan's actuary, to reduce the contributions payable by members and employer-contributors for current service over a 5-year period.

(5) Subsection (4) will not apply if the Crown and the Association have in writing agreed alternative arrangements to those in subsection (4) that will apply to surpluses with respect to post-August 1992 pensionable service, in which case those written arrangements are to apply.

(6) Where a surplus arises in the Private School Plan, that surplus is to be used in the manner determined by the Board.

AR 204/95 s20;21/2009;345/2009

Extra-statutory benefits or remedies

21(1) The Board, including the review committee, shall not provide, and a person is not entitled to, any benefits or any other remedy at law or in equity relating to a benefit or to acquire any

service unless that benefit, remedy or right is expressly provided for in and permitted by the applicable Plan or this Regulation.

(2) An employer, an employer-contributor, the Association or any local or member of the Association (as such) is not an agent of the Board for any purpose connected with either Plan or this Regulation.

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

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

Winding up of Private School Plan

22(1) The Board may, after consulting with the Education Minister and the Finance Minister, decide that the Private School Plan is to be wound up as of the date decided by the Board.

(2) If a decision is made by the Board to wind up the Private School Plan and the Plan's assets are not sufficient to pay all the benefits, the Board shall, in consultation with the Education Minister and the Finance Minister, formulate a plan for the winding up that complies with section 146 of the *Employment Pension Plans Regulation*.

(3) After subsections (1) and (2) have been implemented, the Lieutenant Governor in Council may make an order, generally following the winding-up plan formulated by the Board,

- (a) winding up the Private School Plan as of the date specified in the order, and
- (b) dividing up any remaining assets and liabilities.

AR 204/95 s22;99/2001;345/2009;154/2014

Dis-application of Trustee Act

23 The *Trustee Act*, other than sections 1, 41 and 43 of it, does not apply with respect to the Board or its members.

AR 204/95 s23;31/2012;170/2012

24 to 26 Repealed AR 84/2004 s4.

27(1) Repealed AR 84/2004 s4.

(2) Repealed AR 345/2009 s9.

(3) Repealed AR 84/2004 s4.

Part 2

Division and Distribution of Benefits on Relationship Breakdown

28 Repealed AR 154/2014 s168.

Interpretation

29(1) In this Part,

- (a) “Court” mean the Court of Queen’s Bench;
- (b) “delayed division” means a division where the distribution is to be delayed under section 38(1)(c)(ii);
- (c) “division date” means
 - (i) where the member pension partner’s pension commencement occurred before the making of the matrimonial property order, the date when that order is filed with the Board,
 - (ii) where there is a delayed division, the event date, or
 - (iii) in any other case, the end date;
- (d) “division factor” means the fraction constituting the proportion of the total pre-division benefit that is awarded or given to the non-member pension partner in the matrimonial property order;
- (e) “end date” means the time marking the end of the period of joint accrual;
- (f) “event date” means the time
 - (i) as of when the member pension partner, having terminated, is paid a lump sum or has a lump sum transferred,
 - (ii) when the member pension partner commences a pension,
 - (iii) when the member pension partner dies, or

- (iv) as of when the member pension partner transfers the pension entitlement to another registered pension plan under a reciprocal agreement,

whichever event occurs first;

- (g) “file” means file under section 45;
- (h) “matrimonial property order” or “order” means a matrimonial property order within the meaning of the *Matrimonial Property Act*, or a similar order enforceable in Alberta of a court outside Alberta, that affects the payment or distribution of a pension partner’s benefits and, to avoid doubt, includes a consent order of the Court adopting an agreement entered into between pension partners in proceedings under the *Matrimonial Property Act* providing for the division and distribution of a benefit;
- (i) “member pension partner” means, in relation to the Plan, the pension partner who is or was the member in question, and “non-member pension partner” means the other pension partner;
- (j) “non-member pension partner’s share” means the share referred to in section 37;
- (k) “pensionable age” means, in relation to the member pension partner, the age of 65 years;
- (l) “pension partner” means a pension partner or former pension partner to whom this Part applies by virtue of section 30;
- (m) “period of joint accrual” means the period whose beginning and end are specified in the matrimonial property order in accordance with section 33(a);
- (n) “total entitlement” means the total benefit, or the value of that benefit, accrued to the member pension partner, calculated in accordance with section 35;
- (o) “total pre-division benefit” means the proportion of the total entitlement, or the value of that proportion, that is accrued during the period of joint accrual, calculated in accordance with section 36.

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

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

but does not include any other prior service.

AR 84/2004 s5

Application of this Part

30(1) Subject to section 41, this Part applies with respect to the division and distribution of benefits where, as between pension partners, a matrimonial property order is filed with the Board, and this Part applies notwithstanding any other provision of the Act, the regulations and the plan rules, and notwithstanding any other rule of law or equity to the contrary, except that section 17 prevails over this Part to the extent of inconsistencies between them.

(2) This Part applies only with respect to a matrimonial property order made on or after May 1, 2004.

AR 84/2004 s5

Prevalence of this Part in relation to benefits

31(1) Notwithstanding the *Matrimonial Property Act* or any other rule of law or equity to the contrary, the Court shall not make a matrimonial property order dividing or distributing a benefit or any portion of a benefit except in a manner that complies with this Part.

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

AR 84/2004 s5

Effect of matrimonial property orders

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

AR 84/2004 s5

Requirements for matrimonial property orders

33 A matrimonial property order must specify

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

AR 84/2004 s5

Division and distribution of benefits generally

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

AR 84/2004 s5

Total entitlement

35 The total entitlement, to be calculated as of the division date,

- (a) if the member pension partner is not then vested, is equal to the value of the member pension partner's employee contributions,
- (b) if the member pension partner has already commenced to receive a pension, is the pension itself,
- (c) if the non-member pension partner is entitled to choose and chooses a delayed division, is,
 - (i) if the event date is not when the member pension partner dies, the greater of the commuted value of the member pension partner's pension and the value of the member pension partner's employee contributions, or
 - (ii) if the event date is when the member pension partner dies, the benefit payable under Division 2 of Part 5 of the Plan's plan rules,

or

- (d) if the member pension partner is then vested and has not yet commenced to receive a pension and the non-member pension partner is not entitled to choose or does not choose a delayed division, is equal to the greater of the value of the member pension partner's employee contributions and the commuted value of the pension, calculated as if the member pension partner had terminated at the end date and on the assumption that the

member pension partner will commence to receive the pension

- (i) if pensionable age has not yet been reached, on the first day of the month following pensionable age, or
- (ii) if pensionable age has already been reached,
 - (A) on the first day of the month following the date mentioned in the matrimonial property order, if such a date is so mentioned, or
 - (B) if not so mentioned, on the first day of the month following the day on which the order is made.

AR 84/2004 s5

Total pre-division benefit

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

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

where

A = the total pre-division benefit

B = the total entitlement

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

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

AR 84/2004 s5

Non-member pension partner's share

37(1) The non-member pension partner's share is to be calculated as the total pre-division benefit multiplied by the division factor.

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

AR 84/2004 s5

Distribution of non-member pension partner's share

38(1) The non-member pension partner's share shall,

- (a) if the member pension partner was not vested at the end date, and at the non-member pension partner's option, either be paid as a lump sum or transferred to a registered retirement savings plan belonging to the non-member pension partner,
- (b) if at the end date the member pension partner was vested but was not yet within 10 years of pensionable age and has not yet commenced to receive a pension, be transferred to a locked-in retirement account belonging to the non-member pension partner, or
- (c) if at the end date the member pension partner was vested and was within 10 years of or had already attained pensionable age and has not yet commenced to receive a pension, at the non-member pension partner's option, either
 - (i) be transferred to a locked-in retirement account belonging to the non-member pension partner,
 - (ii) if the event date is not when the member pension partner dies, be so transferred at the member pension partner's event date, or
 - (iii) if the event date is when the member pension partner dies,
 - (A) be paid, if the benefit at the death is not a pension, or
 - (B) be so transferred at that event date, if the benefit then is a pension.

(2) Notwithstanding subsection (1), where the non-member pension partner is entitled to choose and chooses a delayed division and the member pension partner dies before the distribution is made, the benefit payable under Division 2 of Part 5 of the Plan's plan rules applies.

(3) Notwithstanding subsection (1), where a pension has already commenced to be paid at the time the matrimonial property order is made, the non-member pension partner's share is to be paid directly to the non-member pension partner in the form of a pension which, for the purposes of the Plan, is a portion of the member pension partner's pension.

AR 84/2004 s5

Adjustment of member pension partner's benefit

39(1) References in this section to the member pension partner's benefit, if the event date is that individual's death, are to the benefit payable on the death.

(2) After the division date, the Board shall adjust the member pension partner's benefit using the relevant calculations set out in this section.

(3) If the member pension partner's pension commencement occurred before the making of the matrimonial property order, the member pension partner's pension as at the division date shall be decreased by the amount of the total pre-division benefit multiplied by the division factor.

(4) If subsection (3) does not apply, the member pension partner's benefit shall be reduced at the member pension partner's event date to take into account the non-member pension partner's share in accordance with subsections (5) and (6).

(5) If the benefit consists of employee contributions, the benefit shall be reduced by the sum of the non-member pension partner's share at the end date and interest thereon from the end date to the event date.

(6) If the benefit consists of a pension, the pension shall be reduced by A where

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

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

C = the division factor

D = the factor, equal to or greater than 1, representing the compound effect of the annual cost of living increases, if any, between the end date and the event date, actually applied for the purposes of the Plan under the plan rules

E = the factor representing the reduction to be applied when pension commencement occurs before pensionable age that is applied for the purposes of this provision by the Board in respect of the Plan.

AR 84/2004 s5

Bar against further claims

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

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

AR 84/2004 s5

Disclosure of information

41(1) For the purposes of this section,

- (a) references to pension partners, member pension partners or non-member pension partners include pension partners or former pension partners, within the meaning of the plan rules, who are or were married to each other, where a matrimonial property order is being contemplated, and
- (b) references to the end date, where the end date has not yet occurred, are to be taken to refer to the date chosen by the requesting pension partner and notified to the Board as the deemed end date.

(2) The Board shall provide to both pension partners, as soon as reasonably practicable after receiving both a written request for it from either and proof that is satisfactory to the Board of their matrimonial relationship, including the date marking the beginning of the period of joint accrual and the end date, a written statement specifying

- (a) an estimate of the total entitlement, calculated however as of the month in which the statement is prepared rather than the division date, where the member pension partner's pension commencement has already occurred, or the end date in all other cases,
- (b) the first date of accumulation of pensionable service by the member pension partner under the Plan,
- (c) the amount of pensionable service accumulated by the member pension partner up to the date referred to in clause (a) and the amount of pensionable service accumulated during the period of joint accrual,
- (d) the last or latest date of pensionable service accumulated by the member pension partner, and

(e) other information whose disclosure is contemplated by subsection (5), on request for it.

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

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

(a) the date the division became effective, and

(b) a summary and description of the remaining benefits to which the member pension partner will be entitled after the distribution of the non-member pension partner's share.

(5) A non-member pension partner is a prescribed person for the purposes of section 25(2)(c) of the Act to the extent that the Board considers that the employment information (within the meaning of section 25(1)(c) of the Act) is required

(a) to determine the entitlement under this Part of a married or formerly married individual referred to in subsection (1), or

(b) to complete the division and distribution pursuant to a filed matrimonial property order.

AR 84/2004 s5

Application to Court for clarification

42(1) If, on the filing of a matrimonial property order, the Board is unable to comply with it because it is incomplete, it does not comply with this Part or there is doubt as to what exactly the Board must do to comply with it, the Board may apply to the Court to redress the situation arising from that inability so to comply.

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

(3) The costs of an application under subsection (1) are to be borne by both or either of the pension partners, as decided by the Court and, to the extent that any such costs are paid by the Board, the Board has a right to set off the amount of those costs against any benefit payable under the plan to the pension partners, according to the Court's decision on the costs.

AR 84/2004 s5;164/2010

Assignment and protection from execution, etc.

43(1) The division or distribution of a benefit under a matrimonial property order does not constitute an assignment, charge, anticipation, giving as security or surrender of an interest of or in the benefit or any rights for the purposes of the plan rules.

(2) Section 19 applies with respect to both pension partners' shares.

AR 84/2004 s5

Fees

44 The Board shall charge a fee of \$500, which is to be paid in equal proportions by the pension partners by reducing the benefits payable to them.

AR 84/2004 s5

Filing of documents with Board

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

- (a) leaving it at the office of the Board with any of the Board's employees, or
- (b) by sending it by registered or certified mail to the Board's office.

AR 84/2004 s5

**Schedule
Section 1(1)**

**Non-Crown Employer-Contributors
Under the Principal Plan**

1. Repealed AR 21/2009 s5.

Colleges

2. Grande Prairie Regional College
3. Grant MacEwan Community College
4. Repealed AR 99/2001 s6
5. Red Deer College

Locals

6. Edmonton Public Teachers Local #37
7. Edmonton Separate School Local #54
8. Calgary Separate School Local #55
9. Calgary Public Teachers Local #38

AR 204/95 Sched.;99/2001;21/2009



Printed on Recycled Paper 