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Ontario Public Service Employees’ Union Pension Act, 1994

S.O. 1994, CHAPTER 17  
section 143, Schedule

**Consolidation Period:** From June 8, 2019 to the [e-Laws currency date](http://www.e-laws.gov.on.ca/navigation?file=currencyDates&lang=en).

Last amendment: [2018, c. 8, Sched. 22](http://www.ontario.ca/laws/statute/S18008" \l "sched22s1).

Legislative History: 1996, c. 1, Sched. L, s. 2; [2009, c. 33, Sched. 17, s. 8](http://www.ontario.ca/laws/statute/S09033" \l "sched17s8s1); [CTS 17 FE 10 - 1](https://www.ontario.ca/laws/consolidated-statutes-change-notices); [2018, c. 8, Sched. 22](http://www.ontario.ca/laws/statute/S18008" \l "sched22s1).

General

Purpose

**1** The purpose of this Act is to authorize the establishment of the Ontario Public Service Employees’ Union Pension Plan. 2009, c. 33, Sched. 17, s. 8 (1).

**Section Amendments with date in force (d/m/y)**

[2009, c. 33, Sched. 17, s. 8 (1)](http://www.ontario.ca/laws/statute/S09033" \l "sched17s8s1) - 15/12/2009

Definitions

**2** In this Act,

“actuarial gain” and “actuarial loss” have the same meaning as in subsection 1 (2) of Regulation 909 of the Revised Regulations of Ontario, 1990 (General) made under the Pension Benefits Act; (“gain actuariel”, “perte actuarielle”)

“employer” means an employer as defined in the PSP Plan as it read immediately before the coming into force of this Act; (“employeur”)

“OPSEU” means the Ontario Public Service Employees’ Union; (“SEFPO”)

“OPSEU Fund” means the pension fund of the OPSEU Plan and includes the pension fund of any successor pension plan; (“Caisse du SEFPO”)

“OPSEU Plan” means the pension plan established under section 4 and includes any successor pension plan; (“Régime du SEFPO”)

“pension plan” means a pension plan as defined in the Pension Benefits Act; (“régime de retraite”)

“PSP Plan” means the Public Service Pension Plan under the Public Service Pension Act and includes any successor pension plan; (“Régime de retraite des fonctionnaires”)

“Sponsorship Agreement” means the Sponsorship Agreement referred to in subsection 4 (3), and includes any amendments to the Sponsorship Agreement. (“entente de promotion”) 1994, c. 17, s. 143, Sched.; 2009, c. 33, Sched. 17, s. 8 (2, 3).

**Section Amendments with date in force (d/m/y)**

[2009, c. 33, Sched. 17, s. 8 (2, 3)](http://www.ontario.ca/laws/statute/S09033" \l "sched17s8s2) - 15/12/2009

Application of Act

**3** (1) This Act applies despite any other Act, regulation, pension plan or agreement, including any sectoral framework, local agreement or non-bargaining unit plan under the *Social Contract Act, 1993*.

*Pension Benefits Act*

(2) For greater certainty, in the event of a conflict between this Act and the *Pension Benefits Act*, this Act prevails. 1994, c. 17, s. 143, Sched.

Establishment and Administration of OPSEU Plan

Establishment of OPSEU Plan

**4** (1)  A pension plan separate from the PSP Plan shall be established for members of the PSP Plan who are employees in a bargaining unit represented by OPSEU and such other persons who are named in the Sponsorship Agreement as being members of the OPSEU Plan. 1994, c. 17, s. 143, Sched.

Name of plan

(2)  The pension plan shall be known in English as the Ontario Public Service Employees’ Union Pension Plan and in French as Régime de retraite du Syndicat des employés de la fonction publique de l’Ontario. 1994, c. 17, s. 143, Sched.

Sponsorship Agreement

(3)  The OPSEU Plan shall be established in accordance with this Act and the Sponsorship Agreement between the Crown and OPSEU dated April 18, 1994 and tabled in the Legislative Assembly as a sessional document. 1994, c. 17, s. 143, Sched.

Same

(3.1)  The Sponsorship Agreement prevails over the Pension Benefits Act and the regulations made under that Act and, except for this Act, every other Act and regulation governing the use of an actuarial gain or the liquidation of an actuarial loss. 2009, c. 33, Sched. 17, s. 8 (4).

Amendment

(4)  Any amendment to the Sponsorship Agreement shall comply with the Pension Benefits Act and the regulations made under that Act. 1994, c. 17, s. 143, Sched.

Board of Trustees

(5)  The Board of Trustees of the OPSEU Plan is not a Crown agency. 1994, c. 17, s. 143, Sched.

Type of plan

(6)  The OPSEU Plan is not a multi-employer pension plan as defined in the Pension Benefits Act. 1994, c. 17, s. 143, Sched.

**Section Amendments with date in force (d/m/y)**

[2009, c. 33, Sched. 17, s. 8 (4)](http://www.ontario.ca/laws/statute/S09033" \l "sched17s8s4) - 15/12/2009

Board of Trustees employees

**5** Employees of the Board of Trustees of the OPSEU Plan may become members of the OPSEU Plan. 1994, c. 17, s. 143, Sched.

Transfer of assets

**6** (1)-(4)  Repealed: 2009, c. 33, Sched. 17, s. 8 (5).

Investments authorized

(5)  The receipt and holding by the Board of Trustees of the OPSEU Plan of debentures issued under section 7 of the Public Service Pension Act, 1989, being chapter 73, shall not be considered imprudent or unreasonable or contrary to the Pension Benefits Act and the regulations made under that Act, and the nature, amount and terms of the debentures may be taken into account by the administrator and trustees of the OPSEU Plan and OPSEU Fund and any committee of either of them in determining future investments of the assets of the OPSEU Plan. 1994, c. 17, s. 143, Sched.

(6)  Repealed: 2009, c. 33, Sched. 17, s. 8 (5).

**Section Amendments with date in force (d/m/y)**

[2009, c. 33, Sched. 17, s. 8 (5)](http://www.ontario.ca/laws/statute/S09033" \l "sched17s8s5) - 15/12/2009

Ontario Public Service Pension Board

**7** (1) The Ontario Public Service Pension Board has by this Act the authority to comply and shall comply with the terms of the Sponsorship Agreement and shall perform the duties and may exercise the powers imposed or conferred on it by the Agreement.

Proceedings against Board

(2) The Ontario Public Service Pension Board does not contravene the *Public Service Pension Act*, the *Pension Benefits Act* or the regulations made under that Act by acting in accordance with subsection (1) and, except as permitted by the Sponsorship Agreement, no judicial or administrative proceeding shall be brought against the Ontario Public Service Pension Board by reason of the Board complying with the terms of the Sponsorship Agreement or performing the duties or exercising the powers imposed or conferred on it by the Agreement. 1994, c. 17, s. 143, Sched.

Payment of costs incurred by Crown and OPSEU

**8** (1)  Repealed: 2009, c. 33, Sched. 17, s. 8 (6).

Payment of costs incurred by Trustees

(2)  All reasonable costs incurred by the Board of Trustees of the OPSEU Plan shall be paid from the OPSEU Fund. 1994, c. 17, s. 143, Sched.

**Section Amendments with date in force (d/m/y)**

[2009, c. 33, Sched. 17, s. 8 (6)](http://www.ontario.ca/laws/statute/S09033" \l "sched17s8s6) - 15/12/2009

Participating employers

**9** Every employer who employs a member of the OPSEU Plan shall participate in, and be bound by, the OPSEU Plan. 1994, c. 17, s. 143, Sched.

**10** Repealed: 2009, c. 33, Sched. 17, s. 8 (7).

**Section Amendments with date in force (d/m/y)**

[2009, c. 33, Sched. 17, s. 8 (7)](http://www.ontario.ca/laws/statute/S09033" \l "sched17s8s7) - 15/12/2009

Registration of the OPSEU Plan

**11** (1)  Repealed: 2009, c. 33, Sched. 17, s. 8 (8).

Compliance with *Pension Benefits Act*

(2)  The OPSEU Plan shall be deemed to comply with the Pension Benefits Act and the regulations made under that Act so long as it complies with this Act and the Sponsorship Agreement. 1994, c. 17, s. 143, Sched.

Wind up of the plan

(3)  Nothing in this Act or the Sponsorship Agreement shall cause the OPSEU Plan to be wound up in whole or in part under the Pension Benefits Act. 1994, c. 17, s. 143, Sched.

(4)  Repealed: 2009, c. 33, Sched. 17, s. 8 (8).

**Section Amendments with date in force (d/m/y)**

[2009, c. 33, Sched. 17, s. 8 (8)](http://www.ontario.ca/laws/statute/S09033" \l "sched17s8s8) - 15/12/2009

**12, 13** Repealed: 2009, c. 33, Sched. 17, s. 8 (9).

**Section Amendments with date in force (d/m/y)**

[2009, c. 33, Sched. 17, s. 8 (9)](http://www.ontario.ca/laws/statute/S09033" \l "sched17s8s9) - 15/12/2009

Transfer of members between plans

**14** Subsection 19 (7) of Regulation 909 of the Revised Regulations of Ontario, 1990 (General) made under the Pension Benefits Act does not apply where 50 or more persons at any one time,

(a) become members of the OPSEU Plan immediately after ceasing to be members of the PSP Plan; or

(b) become members of the PSP Plan immediately after ceasing to be members of the OPSEU Plan. 1994, c. 17, s. 143, Sched.; 2009, c. 33, Sched. 17, s. 8 (10).

**Section Amendments with date in force (d/m/y)**

[2009, c. 33, Sched. 17, s. 8 (10)](http://www.ontario.ca/laws/statute/S09033" \l "sched17s8s10) - 15/12/2009

Winding up the Plan

Winding up

**14.1**  (1) No person or group of persons shall wind up the OPSEU Plan in whole or in part under subsection 68 (1) of the *Pension Benefits Act* or otherwise unless the person or group of persons obtains the consent of the Lieutenant Governor in Council to do so. 1996, c. 1, Sched. L, s. 2.

Same

(2) The Chief Executive Officer appointed under subsection 10 (2) of the Financial Services Regulatory Authority of Ontario Act, 2016 shall not require the wind up of the OPSEU Plan in whole or in part under subsection 69 (1) of the *Pension Benefits Act*. He or she shall not wind up or directly or indirectly cause the wind up of the Plan in whole or in part under any other authority. 1996, c. 1, Sched. L, s. 2; 2018, c. 8, Sched. 22, s. 1

Effective date

(3) The Chief Executive Officer appointed under subsection 10 (2) of the Financial Services Regulatory Authority of Ontario Act, 2016 shall not change the effective date of a wind up in whole or in part of the OPSEU Plan under subsection 68 (6) of the *Pension Benefits Act* unless he or she obtains the consent of the Lieutenant Governor in Council to do so. 1996, c. 1, Sched. L, s. 2; 2018, c. 8, Sched. 22, s. 1

Prohibition

(4) No proceeding shall be commenced against a person for any of the following:

1. For an action taken, or not taken, as required or authorized by subsection (1), (2) or (3).

2. For the breach of a fiduciary or other duty in connection with a wind up or a failure to wind up the OPSEU Plan in whole or in part.

3. For damages for the breach of an agreement in connection with a wind up or a failure to wind up the OPSEU Plan in whole or in part.

4. For damages for the breach of an agreement by virtue of the enactment of this section. 1996, c. 1, Sched. L, s. 2.

Transition

(5) A person who makes payments into the OPSEU Fund because of a wind up of the OPSEU Plan in whole or in part with an effective date before the day on which the *Savings and Restructuring Act, 1996* receives Royal Assent is entitled to be reimbursed. 1996, c. 1, Sched. L, s. 2.

**Section Amendments with date in force (d/m/y)**

1996, c. 1, Sched. L, s. 2 - 01/01/1993

[2018, c. 8, Sched. 22, s. 1](http://www.ontario.ca/laws/statute/S18008" \l "sched22s1) - 08/06/2019

**15-20** Repealed: 2009, c. 33, Sched. 17, s. 8 (11).

**Section Amendments with date in force (d/m/y)**

[2009, c. 33, Sched. 17, s. 8 (11)](http://www.ontario.ca/laws/statute/S09033" \l "sched17s8s11) - 15/12/2009

Miscellaneous

Regulations

**21** (1)  Subject to subsection (2), the Lieutenant Governor in Council may make regulations changing the name of the pension plan established under section 4 and may make such other regulations as the Lieutenant Governor in Council considers necessary or advisable for carrying out the intent and purposes of this Act and to give effect to this Act.

Recommendation

(2)  A regulation in respect of the OPSEU Plan may be made only with the concurrence of the Crown and OPSEU. 1994, c. 17, s. 143, Sched.

Supplemental pension plans

**21.1**(1)  The Lieutenant Governor in Council by order may establish or continue separate supplemental pension plans for any classes of members of the OPSEU Plan. 2009, c. 33, Sched. 17, s. 8 (12).

*Legislation Act, 2006*, Part III

(2)  Part III (Regulations) of the Legislation Act, 2006 does not apply with respect to an order under subsection (1). 2009, c. 33, Sched. 17, s. 8 (12).

**Section Amendments with date in force (d/m/y)**

[2009, c. 33, Sched. 17, s. 8 (12)](http://www.ontario.ca/laws/statute/S09033" \l "sched17s8s12) - 15/12/2009

[CTS 17 FE 10 - 1](https://www.ontario.ca/laws/consolidated-statutes-change-notices)

Board continued

**22** The Ontario Public Service Pension Board is continued under that name in English and in French shall be known as Commission du Régime de retraite des fonctionnaires de l’Ontario. 1994, c. 17, s. 143, Sched.

**23** Omitted (enacts short title of this Act). 1994, c. 17, s. 143, Sched.

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