Workplace Safety and Insurance Act, 1997  
Loi de 1997 sur la sécurité professionnelle et l’assurance contre les accidents du travail

Ontario REGULATION 455/97

formerly under Workers’ Compensation Act

PENSION PLAN FOR BOARD EMPLOYEES

**Consolidation Period:** From May 8, 2018 to the [e-Laws currency date](http://www.e-laws.gov.on.ca/navigation?file=currencyDates&lang=en).

Note: This Regulation is revoked on a day to be named by proclamation of the Lieutenant Governor. (See: 2018, c. 8, Sched. 37, s. 4)

Last amendment: [2018, c. 8, Sched. 37, s. 4](http://www.ontario.ca/laws/statute/S18008#sched37s4).

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This Regulation is made in English only.

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PART I  
INTERPRETATION

Definitions

**1.**In this Regulation,

“actuary” means a Fellow of the Canadian Institute of Actuaries appointed by the Board as actuary of the pension plan;

“commuted value” has the same meaning as in the Pension Benefits Act;

“deferred pension” has the same meaning as in the Pension Benefits Act;

“employee” means an employee of the Board;

“former member” means a former member as determined under section 10;

“long-term disability plan” means a benefit plan provided by the Board to its employees to provide income protection in case of a long-term disability;

“member” means member of the pension plan;

“normal retirement date” means the normal retirement date determined under section 23;

“normal retirement pension” means the amount of the annual pension calculated under section 27;

“pension” means a pension benefit that is being paid under the pension plan;

“pension fund” means the fund maintained to provide benefits under the pension plan;

“pension plan” means the Workplace Safety and Insurance Board Employees’ Pension Plan;

“pensionable service”, in relation to a person, means the period of years, or partial years, of membership in the pension plan that the person has accumulated;

“spouse” means either of two persons who,

(a) are married to each other, or

(b) are not married to each other and are living together in a conjugal relationship,

(i) continuously for a period of not less than three years, or

(ii) in a relationship of some permanence, if they are the natural or adoptive parents of a child, both as defined in the Family Law Act;

“temporary employee” means a person who is employed under a contract of service for a limited period of employment;

“Year’s Basic Exemption”, in relation to a year, means the Year’s Basic Exemption established under the Canada Pension Plan for the year;

“Year’s Maximum Pensionable Earnings”, in relation to a year, means the Year’s Maximum Pensionable Earnings established under the Canada Pension Plan for the year. O. Reg. 455/97, s. 1; O. Reg. 563/99, s. 1; O. Reg. 398/02, s. 1; O. Reg. 337/05, s. 1.

**2.**(1)  For the purposes of this Regulation, a person’s child by adoption or step-child or a child to whom the person is acting in the role of parent is considered to be the person’s child. O. Reg. 455/97, s. 2 (1).

(2)  A child is considered to be a dependent child of a former member who is deceased if the child was dependent on him or her for support immediately before the former member’s death and if the child,

(a) is less than 18 years of age;

(b) is eighteen or more years of age but less than 25 years of age and is attending a school or university full-time, having so attended substantially without interruption since reaching 18 years of age or since the death of the former member, whichever occurred most recently; or

(c) is 18 or more years of age and suffers from a physical or mental impairment that prevents the child from earning a living and has suffered from the impairment without interruption since reaching 18 years of age or since the death of the former member, whichever occurred most recently. O. Reg. 455/97, s. 2 (2).

**3.**(1)  For the purposes of this Regulation, a full-time member of the board of directors of the Board is deemed to be an employee of the Board. O. Reg. 455/97, s. 3 (1).

(2)  For the purposes of this Regulation, a person continues to be an employee while the Board is making contributions respecting the person under section 25 of the Act. O. Reg. 455/97, s. 3 (2).

(3)  Subject to subsection (4), any period during which a member is absent from work on a leave of absence or solely because of a lay-off, strike or lock-out shall not be included in the calculation of the length of the member’s period of continuous employment, membership or service. O. Reg. 398/02, s. 2.

(4)  Any period during which a member was absent from work on a pregnancy or parental leave of absence under the Employment Standards Act, 2000 shall be included in the calculation of the length of the member’s period of continuous employment, membership or service. O. Reg. 455/97, s. 3 (4); O. Reg. 371/04, s. 1.

**4.**(1)  For the purposes of this Regulation, the earnings of a member are the basic amount of remuneration that the member actually receives for his or her position, computed with reference to the period of time during which the member is employed. The earnings do not include overtime pay or a payment to the member in lieu of a benefit provided by the Board. O. Reg. 455/97, s. 4 (1).

(2)  A member’s earnings include the amount of any payments under the insurance plan for loss of earnings received by the member and the amount of any supplement by the Board up to the maximum amount of the member’s regular earnings. The earnings do not include retirement benefits provided to the member under section 45 of the Act or section 44 of the Workers’ Compensation Act, as it read before January 1, 1998. O. Reg. 455/97, s. 4 (2).

(3)  A member’s earnings include the amount of any pregnancy or parental benefits under the Employment Insurance Act (Canada) received by the member and the amount of any supplement by the Board up to the maximum amount of the member’s regular earnings. O. Reg. 455/97, s. 4 (3).

(3.1)  Despite subsection (1), a member’s earnings include the amount of any one-time lump sum merit award under the Board’s salary plan for non-bargaining unit employees. O. Reg. 398/02, s. 3.

(4)  The annual earnings of a member who is receiving long-term disability benefits in a year are the amount that the member was earning on the date that he or she qualified for the benefits, as increased in accordance with subsection 14 (3). O. Reg. 455/97, s. 4 (4).

**5.**The commuted value of a pension calculated under this Regulation is subject to the following:

1. The commuted value shall be based on assumptions that are reasonable and, where applicable, are acceptable under the Income Tax Act (Canada) and the regulations under that Act.

2. The commuted value shall be calculated in accordance with generally accepted actuarial principles.

3. The calculation of the commuted value is subject to subsection 52 (1) of the Pension Benefits Act.

4. In relation to employment before January 1, 1987, the sex of a member shall not be taken into account in the calculation of the commuted value that a former member may require the administrator to pay under subsection 42 (1) of the Pension Benefits Act. O. Reg. 455/97, s. 5.

Calculation of Interest

**6.**Interest calculated under this Regulation is accumulated with interest compounded annually at the minimum rate determined under the Pension Benefits Act or at such higher rate as is reasonable and as the Board may determine. O. Reg. 455/97, s. 6.

PART II  
MEMBERSHIP AND CONTRIBUTIONS

Membership in the Pension Plan

**7.**(1)  Every permanent or probationary employee is a member of the pension plan beginning on the later of,

(a) his or her date of employment; or

(b) the date, if any, on which the employee ceases to be ineligible to be a member under subsection (2). O. Reg. 455/97, s. 7 (1).

(2)  On an employee’s date of employment, the employee is not eligible to become a member of the plan if, over a period of one year at his or her normal working hours, the employee would earn less than 35 per cent of the Year’s Maximum Pensionable Earnings or would work fewer than 700 hours. O. Reg. 455/97, s. 7 (2); O. Reg. 371/04, s. 2.

(3)  A member of the board of directors is a member of the pension plan beginning on the date that he or she becomes a full-time member of the board of directors. O. Reg. 398/02, s. 4.

**8.**(1)  A temporary employee may elect to become a member of the pension plan after 24 months of continuous employment. O. Reg. 455/97, s. 8 (1).

(2)  A temporary employee is not eligible to make an election under subsection (1) if, at the date of the election, the earnings of the employee in the 12-month period preceding that date were less than 35 per cent of the Year’s Maximum Pensionable Earnings or employee worked fewer than 700 hours during that 12-month period. O. Reg. 398/02, s. 5; O. Reg. 371/04, s. 3.

(3)  A person who is hired under a contract for services is not eligible to be a member of the pension plan. O. Reg. 398/02, s. 5.

**9.**(1)  An employee does not cease to be a member of the pension plan by reason only of a change in his or her employment category. O. Reg. 455/97, s. 9 (1).

(2)  An employee does not cease to be a member of the pension plan by reason only that he or she earns less than 35 per cent of the Year’s Maximum Pensionable Earnings in a year or is employed for fewer than 700 hours in a year. O. Reg. 455/97, s. 9 (2).

**10.**(1)  A member of the pension plan becomes a former member upon terminating his or her employment with the Board. O. Reg. 455/97, s. 10 (1).

(2)  A member of the pension plan becomes a former member upon reaching the maximum age specified under the Income Tax Act (Canada) for contributors to a pension fund or plan. O. Reg. 455/97, s. 10 (2).

(3)  A former member of the pension plan who becomes re-employed by the Board as a permanent or probationary employee is reinstated as a member. O. Reg. 455/97, s. 10 (3).

(4)  A person’s employment is considered to be terminated by his or her resignation, dismissal with or without just cause, retirement or death. O. Reg. 455/97, s. 10 (4).

(5)  A person is not considered to be a member or a former member of the pension plan if he or she,

(a) is not entitled to a deferred pension under the plan;

(b) is not receiving a pension under the plan; and

(c) is not entitled to receive another payment under the plan. O. Reg. 455/97, s. 10 (5).

Contributions under the Pension Plan

**11.**(1)  Every member shall contribute to the pension fund from his or her earnings for a year,

(a) 7 per cent of the amount of his or her earnings that does not exceed the Year’s Basic Exemption;

(b) subject to subsection (4), 5.2 per cent of the amount of his or her earnings that exceeds the Year’s Basic Exemption but does not exceed the Year’s Maximum Pensionable Earnings; and

(c) subject to subsection (2), 7 per cent of the amount of his or her earnings that exceeds the Year’s Maximum Pensionable Earnings. O. Reg. 455/97, s. 11 (1).

(2)  The member shall not contribute an amount under subsection (1) or section 11.1 or 11.3 greater than the maximum permissible contribution determined under subsection 8503 (4) of the regulations made under the Income Tax Act (Canada). O. Reg. 455/97, s. 11 (2); O. Reg. 677/98, s. 1 (1); O. Reg. 563/99, s. 2 (1); O. Reg. 398/02, s. 6 (1).

(3)  For the purposes of subsection (1) and sections 11.1 and 11.3, the member’s earnings for a year shall be deemed to exclude the amount, if any, that exceeds the amount calculated using the formula,

50 × (A + B)

where,

“A” equals 0.5 per cent of the Year’s Maximum Pensionable Earnings, and

“B” equals the defined benefit limit established for the year under the Income Tax Regulations (Canada).

O. Reg. 563/99, s. 2 (2); O. Reg. 398/02, s. 6 (2); O. Reg. 371/04, s. 4.

(4)  If a member continues to be employed by the Board after his or her normal retirement date and is receiving a retirement pension under the Canada Pension Plan, the amount the member shall contribute under clause (1) (b) is 7 per cent of the amount of his or her earnings that exceeds the Year’s Basic Exemption but does not exceed the Year’s Maximum Pensionable Earnings. O. Reg. 455/97, s. 11 (4).

(5)  The member’s contributions are to be deducted from his or her earnings for each pay period and remitted to the pension fund by the Board. O. Reg. 455/97, s. 11 (5).

(6)-(10)  Revoked: O. Reg. 398/02, s. 6 (3).

Special Contribution Rules for Members for January 1, 2003 to December 31, 2005

**11.1**(1)  Despite subsection 11 (1), from January 1, 2003 until December 31, 2005, the amount of member contributions shall be determined in accordance with this section and with sections 11.2 and 11.3. O. Reg. 398/02, s. 7.

(2)  From January 1, 2003 until December 31, 2003, both inclusive, member contributions under subsection 11 (1) shall be suspended and no deductions shall be made from a member’s earnings under subsection 11 (5) during that period. O. Reg. 398/02, s. 7.

(3)  From January 1, 2004 until December 31, 2004, both inclusive, every member shall contribute to the pension fund from his or her earnings for the year,

(a) 3 per cent of the amount of his or her earnings that does not exceed the Year’s Basic Exemption;

(b) subject to subsection (5), 1.2 per cent of the amount of his or her earnings that exceeds the Year's Basic Exemption but does not exceed the Year’s Maximum Pensionable Earnings; and

(c) subject to subsection 11 (2), 3 per cent of the amount of his or her earnings that exceeds the Year’s Maximum Pensionable Earnings. O. Reg. 398/02, s. 7.

(4)  From January 1, 2005 until December 31, 2005, both inclusive, every member shall contribute to the pension fund from his or her earnings for the year,

(a) 5 per cent of the amount of his or her earnings that does not exceed the Year’s Basic Exemption;

(b) subject to subsection (6), 3.2 per cent of the amount of his or her earnings that exceeds the Year's Basic Exemption but does not exceed the Year’s Maximum Pensionable Earnings; and

(c) subject to subsection 11 (2), 5 per cent of the amount of his or her earnings that exceeds the Year’s Maximum Pensionable Earnings. O. Reg. 398/02, s. 7.

(5)  During the period that member contributions are reduced under subsection (3), if a member continues to be employed by the Board after his or her normal retirement date and is receiving a retirement pension under the Canada Pension Plan, the amount the member shall contribute under clause (3) (b) is 3 per cent of the amount of his or her earnings that exceeds the Year’s Basic Exemption but does not exceed the Year’s Maximum Pensionable Earnings, rather than the amount set out in clause (3) (b). O. Reg. 398/02, s. 7.

(6)  During the period that member contributions are reduced under subsection (4), if a member continues to be employed by the Board after his or her normal retirement date and is receiving a retirement pension under the Canada Pension Plan, the amount the member shall contribute under clause (4) (b) is 5 per cent of the amount of his or her earnings that exceeds the Year’s Basic Exemption but does not exceed the Year’s Maximum Pensionable Earnings, rather than the amount set out in clause (4) (b). O. Reg. 398/02, s. 7.

**11.2**(1)  In this section,

“apportionable excess surplus” means the amount of excess surplus identified in the actuarial valuation for 2003 or 2004, as the case may be, that the Board is required to apply to reduce its contributions under the pension plan under subsection 16 (2);

“excess surplus” means the amount of actuarial surplus in the pension fund that exceeds the limit established in paragraph 147.2 (2) (d) of the Income Tax Act (Canada). O. Reg. 398/02, s. 7.

(2)  Despite section 11.1, if the actuary determines in the annual actuarial valuation for the year 2003 or 2004 that there is excess surplus in the pension fund, member contributions under section 11.1 shall be adjusted in accordance with this section. O. Reg. 398/02, s. 7.

(3)  The amount of the apportionable excess surplus shall be apportioned between the Board and the members based on the ratio that the Board’s then current contribution rate bears to the then current members’ contributions based upon the then current members’ contribution rate as described in subsections 11.1 (3) and (4). O. Reg. 398/02, s. 7.

(4)  On July 1 of 2004 or 2005, as the case may be, the member contribution rate established for that year in subsection 11.1 (3) or (4), as applicable, will be adjusted if necessary to reflect the amount of any apportionable excess surplus attributed to the members under subsection (3). O. Reg. 398/02, s. 7.

(5)  Subject to the adjustment made to the member contribution rate under section 11 or 11.1, as the case may be, on January 1 of the following year, the adjusted member contribution rate that applies under subsection (4) shall continue in effect until June 30 of the next following year. O. Reg. 398/02, s. 7.

**11.3**(1)  Despite section 11.1, if the actuary determines in the annual actuarial valuation for any of the years 2002, 2003 or 2004 that the amount of actuarial surplus in the pension fund is less than $50,000,000, member contributions under section 11.1 shall be adjusted in accordance with this section. O. Reg. 398/02, s. 7.

(2)  On July 1 of 2003, 2004 or 2005, as the case may be, member contributions shall be adjusted so that every member shall contribute to the pension fund from his or her earnings for the year,

(a) 7 per cent of the amount of his or her earnings that does not exceed the Year’s Basic Exemption;

(b) subject to subsection 11 (4), 5.2 per cent of the amount of his or her earnings that exceeds the Year's Basic Exemption but does not exceed the Year’s Maximum Pensionable Earnings; and

(c) subject to subsection 11 (2), 7 per cent of the amount of his or her earnings that exceeds the Year’s Maximum Pensionable Earnings. O. Reg. 398/02, s. 7.

(3)  If member contributions are adjusted under this section, members shall continue to contribute at the rate set out in subsection (2) until December 31, 2005 and no adjustments to the amount of member contributions shall be made under section 11.1. O. Reg. 398/02, s. 7.

Employer Contributions

**12.**(1)  The Board shall contribute to the pension fund such amounts as are necessary to pay the cost of pension benefits and ancillary benefits under the pension plan. O. Reg. 455/97, s. 12 (1).

(2)  The amount of the Board’s contributions shall be determined on the basis of valuations made by the actuary and approved by the Board. O. Reg. 455/97, s. 12 (2).

(3)  Subject to subsection 16 (2), the Board’s contribution in a month shall not be less than the minimum amount, as determined by the actuary, that is required under the Pension Benefits Act to pay the normal cost of the pension plan and liquidate any going concern unfunded liabilities or solvency deficiencies. O. Reg. 455/97, s. 12 (3).

Pensionable Service

**13.**(1)  A member accrues pensionable service under the pension plan for any period of service that is eligible service under paragraph 8503 (3) (a) of the regulations made under the Income Tax Act (Canada) if contributions to the pension fund are made by or on behalf of the member in respect of that period of service. O. Reg. 677/98, s. 2 (1).

(2)  A member who continues to be employed by the Board after his or her normal retirement date continues to accumulate pensionable service for contributions under the plan for the period of employment after the normal retirement date. O. Reg. 455/97, s. 13 (2).

(3)  A former member who becomes re-employed by the Board as a permanent or probationary employee accumulates pensionable service for contributions under the plan for the period of re-employment. O. Reg. 677/98, s. 2 (2).

**14.**(1)  This section applies with respect to a member who,

(a) is suffering from a physical or mental impairment that prevents the member from performing the duties of the employment in which he or she was engaged before the commencement of the impairment; and

(b) is receiving benefits under the long-term disability plan as a result of an impairment incurred on or after October 1, 1974. O. Reg. 455/97, s. 14 (1).

(2)  During the period that the member is receiving benefits under the long-term disability plan and remains an employee of the Board, the Board shall make both the Board and the member contributions to the pension plan. O. Reg. 455/97, s. 14 (2).

(3)  For the purposes of this Regulation, the member’s earnings shall be deemed to be increased each year in accordance with the following rules:

1. The earnings are increased as of January 1 each year, beginning when the member begins to receive benefits under the long-term disability plan and ending when payment of the member’s pension under the plan begins. However, no increase shall be made in respect of a period before January 1, 1992.

2. The earnings are increased in accordance with the indexing factor described in paragraphs 4, 5 and 6 for the year.

3. Despite paragraph 2, the increased earnings for a year cannot exceed the maximum amount determined under paragraph 7.

4. The indexing factor for a year is 75 per cent of the percentage change in the Consumer Price Index for Canada for all items, for the 12-month period ending October 31 of the previous year, as published by Statistics Canada. If the change in the Consumer Price Index is negative the indexing factor is zero.

5. If the indexing factor for a year is greater than 8 per cent, it is deemed to be 8 per cent.

6. If the indexing factor for a year is greater than 8 per cent, the amount by which it exceeds 8 per cent is carried forward and added to the indexing factor for one or more subsequent years until the subsequent indexing factor is increased to 8 per cent.

7. The maximum amount of increased earnings for a year is calculated using the formula “A × B/C” in which,

“A” equals the person’s earnings when he or she qualified for benefits under the long-term disability plan,

“B” equals the average wage as defined in subsection 147.1 (1) of the Income Tax Act (Canada) for the year, and

“C” equals the average wage for the year in which the person qualified for benefits under the long-term disability plan.

O. Reg. 455/97, s. 14 (3).

Refund of Contributions

**15.**(1)  A former member who is entitled to a pension benefit is entitled to be paid from the pension fund a lump sum equal to the amount by which his or her contributions, with interest, exceed one-half of the commuted value of his or her pension or deferred pension in respect of contributory benefits. O. Reg. 563/99, s. 3 (1).

(2)  In determining the commuted value of the pension or deferred pension under subsection (1), money or credits transferred from the pension plan to another pension plan are excluded. O. Reg. 455/97, s. 15 (2).

(3)  Ancillary benefits are included in determining the contributory benefits under subsection (1). O. Reg. 563/99, s. 3 (2).

Use of Surplus

**16.**(1)  This section provides for the use of an amount in the pension fund that is surplus to the requirements of the pension plan while it continues in existence or upon its winding up. O. Reg. 455/97, s. 16 (1).

(2)  The surplus shall be applied to reduce the contributions of the Board under the pension plan in a month to an amount not greater than the maximum contribution that is an eligible contribution under subsection 147.2 (2) of the Income Tax Act (Canada) and may be applied to further reduce the contributions of the Board if such maximum is greater than zero. O. Reg. 455/97, s. 16 (2).

(3)  The surplus may be applied to enhance the benefits provided to members and former members to the extent permitted under the Income Tax Act (Canada). O. Reg. 455/97, s. 16 (3).

PART III  
TERMINATION OF EMPLOYMENT OTHER THAN BY RETIREMENT OR DEATH

**17.**A person who ceases to be a member of the pension plan before completing 24 months of continuous membership shall be given a refund of his or her contributions to the pension fund, with interest, in lieu of other benefits under the plan. O. Reg. 455/97, s. 17; O. Reg. 677/98, s. 3.

**18.**A person who ceases to be a member of the pension plan after completing 24 months of continuous membership is entitled to a deferred pension based on all of his or her pensionable service. O. Reg. 563/99, s. 4.

**19.**Revoked: O. Reg. 563/99, s. 4.

**20.**Revoked: O. Reg. 563/99, s. 4.

**21.**(1)  This section applies if the pension otherwise payable under the pension plan to a former member at the normal retirement date is 2 per cent or less of the Year’s Maximum Pensionable Earnings in the year in which the person becomes a former member. O. Reg. 455/97, s. 21 (1).

(2)  The former member is entitled to be paid the commuted value of his or her benefits under the pension plan in lieu of receiving those benefits. O. Reg. 455/97, s. 21 (2).

**22.**A person entitled to make an election under this Part who does not do so within 90 days after being notified by the Board of his or her option to make the election is deemed to have elected,

(a) to receive a deferred pension payable on his or her normal retirement date, if he or she is entitled to such a deferred pension; or

(b) to a refund of contributions, with interest, if he or she is not entitled to receive a deferred pension. O. Reg. 455/97, s. 22.

PART IV  
PENSIONS

Retirement

**23.**A person’s normal retirement date is the first day of the month following the month in which the person reaches 65 years of age. O. Reg. 455/97, s. 23.

Entitlement to a Normal Retirement Pension

**24.**(1)  A normal retirement pension begins on the person’s normal retirement date. O. Reg. 455/97, s. 24 (1).

(2)  A person who remains an employee of the Board after the normal retirement date shall begin to receive payment of a retirement pension under the pension plan on the date that is the earlier of,

(a) the first day of the month following the date on which the person terminates employment with the Board; or

(b) the last day of the year in which the person reaches 69 years of age. O. Reg. 455/97, s. 24 (2).

**25.**(1)  A person is not entitled to receive more than one retirement pension under the pension plan in respect of the same period of pensionable service. O. Reg. 455/97, s. 25 (1).

(2)  A person receiving a disability pension under the pension plan is not eligible to receive a retirement pension. O. Reg. 455/97, s. 25 (2).

**26.**(1)  A former member receiving a pension under the pension plan who becomes re-employed by the Board as a permanent or probationary employee is not entitled to receive a retirement pension during the period he or she is so employed. O. Reg. 455/97, s. 26 (1).

(2)  Revoked: O. Reg. 677/98, s. 4.

Amount of the Normal Retirement Pension

**27.**(1)  The amount of a person’s normal retirement pension is determined in accordance with this section. O. Reg. 455/97, s. 27 (1).

(2)  A normal retirement pension is payable in equal monthly instalments for the remainder of the life of the person entitled to receive it. O. Reg. 455/97, s. 27 (2).

(3)  The amount of a person’s annual pension is calculated using the formula,

(A + B) − C

in which,

“A” equals 2 per cent of the person’s average annual earnings during the average of the 36 consecutive highest paid months in his or her last 120 months of pensionable service under the pension plan, multiplied by the number of full years and any fraction of a year of pensionable service to December 31, 1965,

“B” equals 2 per cent of the person’s average annual earnings during the average of the 60 consecutive highest paid months in his or her last 120 months of pensionable service under the pension plan, multiplied by the number of full years and any fraction of a year of pensionable service as computed from January 1, 1966 or such later date on which the person became a member of the pension plan to the date the person terminated his or her membership, and

“C” equals 0.5 per cent of the average of the annual earnings during the 60 consecutive highest paid months in the person’s last 120 months of pensionable service, multiplied by the number of full years and any fraction of a year in pensionable service under the pension plan from January 1, 1966 to be calculated on the basis of the lesser of the person’s earnings and the Year’s Maximum Pensionable Earnings in each year in the averaging period.

O. Reg. 455/97, s. 27 (3); O. Reg. 563/99, s. 5 (1); O. Reg. 371/04, s. 5 (1).

(4)  When calculating the amount of an annual pension under subsection (3), “C” in the formula does not apply to any period during which the member’s contributions were increased under subsection 11 (4) or 11.1 (5) or (6). O. Reg. 455/97, s. 27 (4); O. Reg. 563/99, s. 5 (2); O. Reg. 398/02, s. 9.

(5)  Despite subsection (3), if the commuted value of the portion of the person’s pension with respect to his or her pensionable service before January 1, 1987 is less than the sum of his or her contributions made before that date, with interest up to the date of retirement, the person’s pension is increased to the extent necessary to render the commuted value of that portion of the pension equal to the sum of those contributions with interest. O. Reg. 455/97, s. 27 (5).

(6)  Despite subsection (3), the person’s initial pension at retirement is reduced, if necessary, so that it does not exceed the lesser of,

(a) 2 per cent of the person’s indexed final average salary as determined under subsection (7) multiplied by the person’s years of pensionable service; or

(b) the amount of the defined benefit limit established for the year under the Income Tax Regulations (Canada), multiplied by the person’s years of pensionable service. O. Reg. 371/04, s. 5 (2).

(6.1)  For the purposes of subsection (6), service before January 1, 1991 in excess of 35 years is not included in the person’s years of pensionable service. O. Reg. 371/04, s. 5 (2).

(7)  The person’s indexed final average salary is the average of the person’s salary, while he or she was a member of the pension plan, for the three highest non-overlapping periods of 12 consecutive months, multiplied, for each period, by the ratio “A/B” in which,

“A” equals the average industrial wage for the year in which the person retires, and

“B” equals,

(a) the average industrial wage for the calendar year in which most of the person’s earnings for the 12-month period were earned, if that year is 1987 or later, or

(b) the average industrial wage for 1986, otherwise. O. Reg. 455/97, s. 27 (7).

(8)  Revoked: O. Reg. 371/04, s. 5 (3).

(9)  The average industrial wage for a year is as published by Statistics Canada. O. Reg. 455/97, s. 27 (9).

(10)  If a person has accumulated less than 60 months of pensionable service under the plan, the total number of months are used to determine the person’s average annual earnings. O. Reg. 455/97, s. 27 (10).

Entitlement to an Early Retirement Pension

**28.**(1)  A member or former member who is at least 55 years of age and who is entitled to a deferred pension under the pension plan may elect to receive an early retirement pension. O. Reg. 455/97, s. 28 (1).

(2)  A member whose age, when added to the number of years of his or her continuous membership in the pension plan, totals at least 85 may elect to receive an early retirement pension. O. Reg. 563/99, s. 6 (1).

(3)  A member who is at least 60 years of age and who has been a member of the pension plan for at least 20 years may elect to receive an early retirement pension. O. Reg. 455/97, s. 28 (3).

(4)  If a member elects to receive an early retirement pension under subsection (2) or (3), the date on which the member begins to receive the pension is considered to be the member’s date of retirement. O. Reg. 455/97, s. 28 (4).

(5)  A member who elects to receive an early retirement pension under subsection (2) or (3) cannot revoke the election. O. Reg. 455/97, s. 28 (5).

(6)  A member whose age, when added to the number of years of his or her continuous membership in the pension plan, totals at least 80 may elect to receive an early retirement pension if the election is made before April 1, 2004. O. Reg. 448/03, s. 1.

(7)  A member may elect before April 1, 2004 to receive an early retirement pension,

(a) if the member begins a paid leave of absence before March 31, 2004; and

(b) if the member’s age, at the end of the paid leave, when added to the number of years of his or her continuous membership in the pension plan at the end of the paid leave, totals at least 80. O. Reg. 448/03, s. 1.

(8)  A member who elects to receive an early retirement pension under subsection (6) or (7) cannot revoke the election. O. Reg. 455/97, s. 28 (8).

**29.**(1)  A member or former member who qualifies to elect to receive an early retirement pension under section 28 may make the election at any time after the date of qualification but before the normal retirement date and the member or former member shall begin to receive payments under the pension plan on the first day of the month following the date of the election. O. Reg. 455/97, s. 29.

(2)  Despite subsection (1), a member who elects to receive an early retirement pension under subsection 28 (7) shall begin to receive payments under the pension plan on the first day of the month following the end of the paid leave of absence. O. Reg. 677/98, s. 5.

Amount of an Early Retirement Pension

**30.**(1)  The amount of an early retirement pension under subsection 28 (1) (age 55 with right to deferred pension) is determined in accordance with this section. O. Reg. 455/97, s. 30 (1).

(2)  The amount of the pension is actuarially reduced in accordance with the person’s age at the date the pension begins to be paid as follows:

1. The commuted value of the pension must be equal to the commuted value of the person’s normal retirement pension, based upon the person’s pensionable service up to the date of retirement.

2. However, the reduction in the pension must not be less than 0.25 per cent multiplied by the number of months, if any, by which the date of the first pension payment precedes the earliest of the following dates:

i. The date on which the person attains 60 years of age.

ii. The date on which the person’s continuous membership in the pension plan would reach 30 years had he or she continued to be an employee until that date.

iii. The date on which the person’s age, when added to the number of years of his or her continuous membership in the pension plan, would reach a total of 80 had he or she continued to be an employee until that date. O. Reg. 455/97, s. 30 (2); O. Reg. 563/99, s. 7 (1).

(3)  The following apply to the calculation of the early retirement pension:

1. The amount of the pension, before any actuarial reduction is made under this section, is calculated in the same manner as a normal retirement pension under section 27. “C” in the formula is then added back into the calculation of the amount of the early retirement pension until the person's normal retirement date.

2. The actuarial reduction in the pension must not be more than 3 per cent of the normal retirement pension multiplied by the number of whole years and any fraction of a year from the date of retirement to the first date on which the person would have been entitled to a normal retirement pension or to an early retirement pension under subsection 28 (2) or (3), had he or she continued to be an employee until that date. O. Reg. 563/99, s. 7 (2); O. Reg. 398/02, s. 11.

(4)  Revoked: O. Reg. 563/99, s. 7 (3).

**31.**(1)  The amount of an early retirement pension under the following subsections is determined in accordance with this section:

1. Subsection 28 (2) (age plus years of membership equals 85).

2. Subsection 28 (3) (60 years old with 20 years’ membership).

3. Subsection 28 (6) (age plus years of membership equals 80).

4. Subsection 28 (7) (age plus years of membership equals 80, paid leave situation). O. Reg. 455/97, s. 31 (1); O. Reg. 563/99, s. 8.

(2)  The amount of the pension is calculated in the same manner as a normal retirement pension under section 27. “C” in the formula is then added back into the calculation of the amount of the early retirement pension until the person’s normal retirement date. O. Reg. 398/02, s. 12.

Disability Pensions

**32.**(1)  A member with at least 10 continuous years of membership in the pension plan may apply to receive a disability pension. O. Reg. 455/97, s. 32 (1).

(2)  Subject to subsection (3), the member is entitled to receive a disability pension if,

(a) the member is suffering from a physical or mental disability which prevents him or her from engaging in employment for which the member is reasonably suited by reason of education, training or experience;

(b) the disability can reasonably be expected to last for the remainder of the member’s lifetime; and

(c) a legally qualified medical practitioner selected by the Board certifies that the requirements in clauses (a) and (b) are satisfied. O. Reg. 455/97, s. 32 (2).

(3)  The member is not entitled to receive a disability pension if the member is receiving benefits under the Board’s long-term disability plan. O. Reg. 455/97, s. 32 (3).

(4)  A member who is entitled to receive a disability pension is entitled to receive payments under the pension plan as of the first day of the month following the date the Board received the application for the disability pension. O. Reg. 455/97, s. 32 (4).

(5)  The amount of the disability pension is the amount of the member’s normal retirement pension, at the date on which the member became disabled, excluding any actuarial discounts otherwise applicable in calculating the amount of the normal retirement pension. O. Reg. 455/97, s. 32 (5).

(6)  If a former member who is receiving a disability pension becomes re-employed by the Board as a permanent or probationary employee, the former member ceases to be entitled to receive the disability pension. O. Reg. 455/97, s. 32 (6).

(7)  For the purposes of Part VII, a member receiving a disability pension is considered to be receiving a retirement pension under the pension plan. O. Reg. 455/97, s. 32 (7).

PART V  
PRE-RETIREMENT DEATH BENEFITS

**33.**If a member dies before completing 24 months of continuous membership in the pension plan, a lump sum equal to the member’s contributions to the pension fund, with interest, is payable to the beneficiary designated by the member or, in the absence of a designation, to the member’s estate. O. Reg. 455/97, s. 33.

**34.**(1)  This section applies if a person who has completed 24 months of continuous membership in the pension plan dies before beginning to receive a retirement pension and the person,

(a) leaves no surviving spouse, or leaves a surviving spouse from whom the person is living separate and apart on the date of death; and

(b) leaves no dependent children. O. Reg. 563/99, s. 9; O. Reg. 337/05, s. 2.

(2)  A death benefit is payable to the beneficiary designated by the person or, in the absence of a designation, to the person’s estate. O. Reg. 563/99, s. 9.

(3)  The death benefit under subsection (2) is payable as a lump sum. O. Reg. 563/99, s. 9.

(4)  The amount of the death benefit equals the sum of,

(a) the commuted value of the deferred pension, including the value of ancillary benefits, that would have been payable if the person had ceased to be a member of the pension plan on the date of death for reasons other than death or retirement; and

(b) the amount, if any, by which the person’s contributions under the pension plan, with interest, exceed 50 per cent of the amount described in clause (a). O. Reg. 563/99, s. 9.

**35.**(1)  This section applies if a person who has completed 24 months of continuous membership in the pension plan dies before beginning to receive a retirement pension and the person,

(a) leaves a surviving spouse; and

(b) was not living separate and apart from the surviving spouse on the date of death. O. Reg. 563/99, s. 9; O. Reg. 337/05, s. 3 (1).

(2)  The surviving spouse is entitled to receive a death benefit, the commuted value of which is the greater of the amounts described in subsections (3) and (4). O. Reg. 563/99, s. 9; O. Reg. 337/05, s. 3 (2).

(3)  For the purpose of subsection (2), the first amount is equal to A + B, where,

“A” = the commuted value of the deferred pension, including the value of ancillary benefits, that would have been payable if the person had ceased to be a member of the pension plan on the date of death for reasons other than death or retirement; and

“B” = the amount, if any, by which the person’s contributions under the pension plan, with interest, exceeds 50 per cent of “A”.

O. Reg. 563/99, s. 9.

(4)  For the purpose of subsection (2), the second amount is the commuted value of an immediate pension, payable for life to the person’s spouse, equal to 66 2/3 per cent of the pension calculated in accordance with section 27. O. Reg. 563/99, s. 9; O. Reg. 337/05, s. 3 (3).

(5)  The spouse may elect to receive the death benefit in the form of a lump sum or an immediate or deferred pension, the commuted value of which is equal to the commuted valueof the death benefit. O. Reg. 563/99, s. 9; O. Reg. 337/05, s. 3 (4).

(6)  Every immediate pension being paid under the pension plan on January 1, 2000 and every deferred pension shall be increased as if subsection (4) had been in force on the date that the former member died. O. Reg. 563/99, s. 9.

**35.1**(1)  This section applies if a person who has completed 24 months of continuous membership in the pension plan dies before beginning to receive a retirement pension and leaves both a spouse entitled to receive a death benefit under section 35 and one or more dependent children. O. Reg. 563/99, s. 9; O. Reg. 337/05, s. 4 (1).

(2)  Subject to subsections (3) and (4), if the commuted value of the death benefit payable to the surviving spouse is determined in accordance with subsection 35 (4), each dependent child is entitled to receive a children’s pension of 10 per cent of the amount of the pension calculated in accordance with section 27 for so long as the child remains a dependent child. O. Reg. 563/99, s. 9; O. Reg. 337/05, s. 4 (2).

(3)  If the number of dependent children entitled to receive a children’s pension is four or more, the amount of the children’s pension payable to each child shall be 33 1/3 per cent of the pension calculated in accordance with section 27 divided by the number of dependent children. O. Reg. 563/99, s. 9.

(4)  When a child ceases to be a dependent child and is no longer entitled to receive a children’s pension under this section, the amount of the pension of each remaining dependent child shall be recalculated under subsection (2) or (3), as the case may be. O. Reg. 563/99, s. 9.

(5)  On January 1, 2000, every dependent child who would have been entitled to a children’s pension under this section, if it had been in force on the date that the former member died, is entitled to begin to receive a children’s pension under this section for as long as he or she remains a dependent child. O. Reg. 563/99, s. 9.

**36.**(1)  This section applies if a person who has completed 24 months of continuous membership in the pension plan dies before beginning to receive a retirement pension leaving one or more dependent children and,

(a) the person leaves no surviving spouse, or leaves a surviving spouse from whom the person is living separate and apart on the date of death; or

(b) the person left a surviving spouse who,

(i) was entitled to a death benefit determined in accordance with subsection 35 (4),

(ii) elected to receive the death benefit in the form of an immediate or deferred pension under subsection 35 (5), and

(iii) subsequently dies. O. Reg. 563/99, s. 9; O. Reg. 337/05, s. 5 (1).

(2)  Each dependent child is entitled to receive a children’s pension calculated in accordance with subsection (3) for as long as he or she remains a dependent child. O. Reg. 563/99, s. 9.

(3)  The children’s pension to which each dependent child is entitled is calculated as follows:

1. The aggregate amount of the children’s pensions is 66 2/3 per cent of the pension calculated in accordance with section 27.

2. The amount under paragraph 1 shall be apportioned equally among the dependent children entitled to receive a children’s pension. O. Reg. 563/99, s. 9.

(4)  When a child ceases to be a dependent child and is no longer entitled to receive a children’s pension under this section, the amount of the pension of each remaining dependent child shall be recalculated under subsection (3). O. Reg. 563/99, s. 9.

(5)  If a dependent child who is receiving a children’s pension under section 35.1 becomes entitled to a children’s pension under this section, the dependent child ceases to be entitled to receive the children’s pension under section 35.1. O. Reg. 563/99, s. 9.

(6)  If a spouse elects to receive the death benefit in the form of a lump sum under subsection 35 (5) and subsequently dies leaving one or more dependent children who are receiving childrens’ pensions under section 35.1, the dependent children continue to be entitled to receive childrens’ pensions under section 35.1 and are not entitled to receive childrens’ pensions under this section. O. Reg. 563/99, s. 9; O. Reg. 337/05, s. 5 (2).

**37.**(1)  This section applies if a children’s pension is payable under section 36 and the commuted value of the death benefit calculated under section 34 is greater than the commuted value of the children’s pension. O. Reg. 455/97, s. 37 (1).

(2)  The excess of the commuted value of the death benefit calculated under section 34 over the commuted value of the children’s pension is payable,

(a) to the beneficiary, if any, designated by the person; or

(b) in the absence of such a designation, to the person’s estate. O. Reg. 455/97, s. 37 (2).

PART VI  
JOINT AND SURVIVOR BENEFITS

Joint and Survivor Pensions

**38.**(1)  Every pension payable under the pension plan beginning after December 31, 1986 to a former member who has a spouse on the date of retirement is a joint and survivor pension. O. Reg. 455/97, s. 38 (1); O. Reg. 563/99, s. 19 (1); O. Reg. 337/05, s. 6 (1).

(2)  The surviving spouse, if any, of the former member is entitled to receive a survivor pension of 66 2/3 per cent of the former member’s pension for the remaining lifetime of the spouse. O. Reg. 563/99, s. 10 (1); O. Reg. 337/05, s. 6 (2).

(3)  Despite subsection (2), the former member and his or her spouse may elect to have the joint and survivor pension payable in another proportion, with a pension being paid to the former member for his or her lifetime. O. Reg. 455/97, s. 38 (3); O. Reg. 563/99, s. 19 (1); O. Reg. 337/05, s. 6 (3).

(4)  The former member and his or her spouse may not elect under subsection (3) to have the survivor pension be less than 66 2/3 per cent or more than 100 per cent of the pension paid to the former member during his or her lifetime. O. Reg. 563/99, s. 10 (2); O. Reg. 337/05, s. 6 (4).

(5)  An election made under subsection (3) must be made in writing before the former member’s pension begins. O. Reg. 563/99, s. 10 (2).

(6)  The commuted value of the former member’s pension and the survivor pension under this section must equal the commuted value of the former member’s normal retirement pension otherwise payable for the lifetime of the former member with a 66 2/3 per cent survivor pension payable to the former member’s spouse. O. Reg. 563/99, s. 10 (2); O. Reg. 337/05, s. 6 (5).

(7)  Every joint and survivor pension being paid under the pension plan on January 1, 2000 shall be increased, if necessary, as if subsections (2) and (6) had been in force on the date the former member began to receive a retirement pension under the pension plan. O. Reg. 563/99, s. 10 (2).

Death after Retirement

**39.**(1)  A survivor pension is payable only to the person who is the spouse of the former member on the date of his or her retirement. O. Reg. 455/97, s. 39 (1); O. Reg. 563/99, s. 19 (1); O. Reg. 337/05, s. 7 (1).

(2)  Despite subsection (1), a former member who acquires a spouse after beginning to receive a pension may elect to have his or her retirement pension paid as a joint and survivor pension if,

(a) the former member did not have a spouse on his or her retirement date; or

(b) the former member had a spouse on his or her retirement date and that spouse has died and there are no dependent children entitled to benefits under section 40. O. Reg. 455/97, s. 39 (2); O. Reg. 563/99, s. 19 (1); O. Reg. 337/05, s. 7 (2).

(3)  An election made under subsection (2) must be made in writing within the six-month period beginning one year after the former member acquires the spouse. O. Reg. 563/99, s. 11; O. Reg. 337/05, s. 7 (3).

(4)  The pension of a former member who makes an election under subsection (2) shall be reduced so that the commuted value of the former member’s pension (as reduced) and the survivor pension under this section equals the commuted value of the former member’s pension before the reduction. O. Reg. 563/99, s. 11.

(5)  The actuarial reduction of the former member’s pension under subsection (4) is based upon the ages of the former member and the former member’s spouse on the last day of the month in which the former member’s election is received by the Board. O. Reg. 455/97, s. 39 (5); O. Reg. 563/99, s. 19 (1); O. Reg. 337/05, s. 7 (4).

**39.1**(1)  This section applies if a former member dies after beginning to receive a pension and leaves both a spouse entitled to receive a survivor pension and one or more dependent children. O. Reg. 563/99, s. 12; O. Reg. 337/05, s. 8 (1).

(2)  Subject to subsection (3), each dependent child is entitled to receive a children’s pension of 10 per cent of the former member’s pension for as long as the child remains a dependent child. O. Reg. 563/99, s. 12.

(3)  The children’s pensions shall be adjusted if the aggregate amount of the survivor pension and the children’s pensions otherwise payable exceeds 100 per cent of the pension paid to the former member during his or her lifetime. O. Reg. 563/99, s. 12.

(4)  The aggregate amount of the adjusted children’s pensions payable under subsection (3) shall be equal to the amount by which A exceeds B where,

“A” equals 100 per cent of the pension paid to the former member during his or her lifetime; and

“B” equals the survivor pension payable to the surviving spouse under subsection 38 (2) or (3) or subsection 39 (2), as the case may be.

O. Reg. 563/99, s. 12; O. Reg. 337/05, s. 8 (2).

(5)  When a child ceases to be a dependent child and is no longer entitled to receive a children’s pension, the amount of the pension of each remaining dependent child shall be recalculated under subsection (2), subject to the adjustment under subsection (3), if applicable. O. Reg. 563/99, s. 12.

(6)  On January 1, 2000, every dependent child who would have been entitled to a children’s pension under this section if it had been in force on the date that the former member died, is entitled to begin to receive a children’s pension under this section for as long as he or she remains a dependent child. O. Reg. 563/99, s. 12.

**40.**(1)  This section applies if,

(a) a former member who is receiving a retirement pension dies leaving no spouse who is entitled to receive a survivor pension but leaves one or more dependent children; or

(b) a spouse dies after beginning to receive a survivor pension under section 38 and leaves one or more dependent children. O. Reg. 563/99, s. 13; O. Reg. 337/05, s. 9.

(2)  Each dependent child is entitled to receive a children’s pension calculated in accordance with subsection (3) for as long as he or she remains a dependent child. O. Reg. 563/99, s. 13.

(3)  The children’s pension to which each dependent child is entitled is calculated as follows:

1. The aggregate amount of the children’s pensions is the amount of the survivor pension that would have been payable to the person described in section 39 if that person were still alive, or, if there was no such person, 66 2/3 per cent of the pension paid to the former member during his or her lifetime.

2. The amount under paragraph 1 is apportioned equally among the dependent children entitled to receive a children’s pension. O. Reg. 563/99, s. 13.

(4)  When a child ceases to be a dependent child and is no longer entitled to receive a children’s pension, the amount of the pension of each remaining dependent child shall be recalculated under subsection (3). O. Reg. 563/99, s. 13.

(5)  If a dependent child who is receiving a children’s pension under section 39.1 becomes entitled to a children’s pension under this section, the dependent child ceases to be entitled to receive the children’s pension under section 39.1. O. Reg. 563/99, s. 13.

(6)  Despite subsection (3), the amount of the children’s pension payable to a particular dependent child may not exceed 66 2/3 per cent of the pension paid to the former member during his or her lifetime. O. Reg. 563/99, s. 13.

**41.**(1)  This section applies when a former member who is receiving a pension dies leaving no surviving spouse or dependent children. O. Reg. 455/97, s. 41 (1); O. Reg. 563/99, s. 19 (2); O. Reg. 337/05, s. 10.

(2)  The beneficiary, if any, designated by the former member or, if no beneficiary is designated, the former member’s estate is entitled to receive the amount described in subsection (3). O. Reg. 455/97, s. 41 (2).

(3)  The amount is the excess, if any, of the former member’s contributions under the pension plan, with interest calculated to his or her date of retirement, over any pension payments received by the former member. O. Reg. 455/97, s. 41 (3).

**42.**(1)  This section applies when a former member who is receiving a pension dies, and his or her surviving spouse who is receiving a survivor pension dies and all dependent children who were receiving a children’s pension either die or cease to be dependent children. O. Reg. 563/99, s. 14; O. Reg. 337/05, s. 11 (1).

(2)  The former member’s estate is entitled to receive the excess, if any, of the former member’s contributions under the pension plan, with interest calculated to his or her date of retirement, over any pension payments received by the former member, the surviving spouse or the dependent child. O. Reg. 455/97, s. 42 (2); O. Reg. 563/99, s. 19 (3); O. Reg. 337/05, s. 11 (2).

**43.**Revoked: O. Reg. 563/99, s. 15.

PART VII  
ANNUAL INCREASES IN PENSION BENEFITS

**44.**(1)  A pension being calculated under subsection 27 (3) is increased as of January 1 each year in accordance with section 45 or 45.0.1. O. Reg. 563/99, s. 16 (1).

(1.1)  All survivor pensions, children’s pensions and disability pensions calculated under this Regulation are increased as of January 1 each year in accordance with section 45 or 45.0.1. O. Reg. 563/99, s. 16 (1).

(2)  A deferred pension payable under the pension plan is increased as of January 1 each year in accordance with section 45 or 45.0.1beginning when the person entitled to the pension ceases to be a member of the plan and ending when payment of the pension begins. O. Reg. 455/97, s. 44 (2); O. Reg. 563/99, s. 16 (2).

(3)  A deferred pension shall not be increased under subsection (2) to an amount that exceeds the amount determined under subsection 27 (6). O. Reg. 455/97, s. 44 (3).

(4)  No increase shall be made to a pension or a deferred pension under this section in respect of a period before January 1, 1992. O. Reg. 677/98, s. 7.

**45.**(1)  All pensions referred to in subsections 44 (1) and (1.1) and all deferred pensions are increased each year as of January 1 in accordance with the indexing factor for the year determined under this section. O. Reg. 563/99, s. 17.

(2)  The indexing factor for a year is 75 per cent of the percentage change in the Consumer Price Index for Canada for all items, for the 12-month period ending October 31 of the previous year, as published by Statistics Canada. If the change in the Consumer Price Index is negative the indexing factor is zero. O. Reg. 455/97, s. 45 (2).

(3)  If the indexing factor for a year is greater than 8 per cent, it is deemed to be 8 per cent for the purposes of subsection (1). O. Reg. 455/97, s. 45 (3).

(4)  If the indexing factor for a year is greater than 8 per cent, the amount by which it exceeds 8 per cent is carried forward and added to the indexing factor for one or more subsequent years until the subsequent indexing factor is increased to 8 per cent. O. Reg. 455/97, s. 45 (4).

**45.0.1**(1)  In this section,

“adjusted indexing factor” means the indexing factor determined in accordance with this section. O. Reg. 563/99, s. 18.

(2)  The adjusted indexing factor for a year is 100 per cent of the percentage change in the Consumer Price Index for Canada for all items, for the 12-month period ending October 31 of the previous year, as published by Statistics Canada. O. Reg. 563/99, s. 18.

(3)  If the adjusted indexing factor for a year is greater than 8 per cent, it is deemed to be 8 per cent and the amount by which it exceeds 8 per cent is carried forward and added to the adjusted indexing factor or the indexing factor determined under section 45, whichever is applicable, for one or more subsequent years until the subsequent adjusted indexing factor or indexing factor, as the case may be, is increased to 8 per cent. O. Reg. 563/99, s. 18.

(4)  Despite section 45, on January 1, 2003, all pensions referred to in subsections 44 (1) and (1.1) and all deferred pensions shall be increased by the adjusted indexing factor rather than by the indexing factor determined under section 45. O. Reg. 398/02, s. 13.

PART VII.1  
ONE-TIME ADJUSTMENT

**45.1**(1)  In this section,

“adjusted indexing factor” means the indexing factor determined in accordance with this section. O. Reg. 677/98, s. 8.

(2)  Every pension being paid and every deferred pension payable under the pension plan on January 1, 1999 is increased to provide a one-time adjustment in accordance with this section. O. Reg. 677/98, s. 8.

(3)  The adjusted indexing factor for a year is 100 per cent of the percentage change in the Consumer Price Index for Canada for all items, for the 12-month period ending October 31 of the previous year, as published by Statistics Canada. O. Reg. 677/98, s. 8.

(4)  If the adjusted indexing factor for a year is greater than 8 per cent, it is deemed to be 8 per cent and the amount by which it exceeds 8 per cent is carried forward and added to the adjusted indexing factor for one or more subsequent years until the subsequent adjusted indexing factor is increased to 8 per cent. O. Reg. 677/98, s. 8.

(5)  As of January 1, 1999, the amount of every pension being paid and every deferred pension payable under the pension plan on that date shall be increased as if the adjusted indexing factor, as modified by subsection (4), had been in effect every year since,

(a) the date of retirement, for a retirement pension;

(b) the date of first payment of a survivor pension, for a survivor pension;

(c) the date of first payment of a disability pension, for a disability pension; or

(d) the date employment terminated, for a deferred pension. O. Reg. 677/98, s. 8.

(6)  In calculating the amount of the increase of a pension or deferred pension under subsection (5), the Board shall have regard to all prior indexing adjustments that have been made to the pension or deferred pension in each year. O. Reg. 677/98, s. 8.

(7)  The sum of a prior indexing adjustment that has been made to the pension or deferred pension in a year and the one-time adjustment made for that year in accordance with this section shall not exceed the adjusted indexing factor. O. Reg. 677/98, s. 8.

**45.2**(1)  In this section,

“adjusted indexing factor” means the indexing factor determined in accordance with this section. O. Reg. 398/02, s. 14.

(2)  Every early retirement pension being paid under section 28 on January 1, 2003 shall be adjusted in accordance with this section. O. Reg. 398/02, s. 14.

(3)  The adjusted indexing factor for the year is 100 per cent of the percentage change in the Consumer Price Index for Canada for all items, for the 12-month period ending October 31 of the previous year, as published by Statistics Canada. O. Reg. 398/02, s. 14.

(4)  If the adjusted indexing factor for the year is greater than 8 per cent, it is deemed to be 8 per cent. O. Reg. 398/02, s. 14.

(5)  On January 1, 2003, the amount “C” that was added back into the calculation of the amount of every early retirement pension in payment calculated under subsection 30 (3) or 31 (2), as the case may be, shall be increased by the adjusted indexing factor. O. Reg. 398/02, s. 14.

PART VIII  
PURCHASING PENSIONABLE SERVICE

Purchase of Service with the Board

**46.**(1)  A member may elect to purchase pensionable service under the pension plan for a period of employment with the Board for which the member does not already have credit under the pension plan. O. Reg. 398/02, s. 15.

(2)  The member shall make contributions in the amount determined by the actuary in accordance with generally accepted actuarial principles. O. Reg. 398/02, s. 15.

(3)  Subject to subsection (4), a member may not purchase pensionable service under the pension plan for a period of employment for which the member has transferred money from the pension fund,

(a) to a registered pension plan**;**

(b) to a locked-in registered retirement savings plan; or

(c) for the purchase of a life annuity payable not earlier than the date on which the member would have been entitled to receive a pension under this pension plan. O. Reg. 398/02, s. 15.

(4)  A member may purchase pensionable service under the pension plan for a period of employment with the Board for which the member previously transferred money from the pension fund to a plan described in clause (3) (a) or (b) if the funds previously transferred from the pension fund under subsection (3), along with the accumulated investment income, if any, are transferred directly from that plan to the pension fund. O. Reg. 398/02, s. 15.

(5)  If a member purchases pensionable service referred to in subsection (4), and the actuary determines, in accordance with generally accepted actuarial principles, that there is a shortfall between the amount that is transferred into the pension fund under subsection (4) and the amount required to purchase the full pensionable service, the member may contribute the amount of the shortfall. O. Reg. 398/02, s. 15.

**47.**(1)  A temporary employee who becomes a member of the pension plan may elect to be deemed to have become a member of the pension plan on the date on which he or she began employment as a temporary employee and may purchase pensionable service under the pension plan for any period during which he or she was a temporary employee. O. Reg. 398/02, s. 15.

(2)  A member who purchases pensionable service under subsection (1) for a period of continuous employment as a temporary employee leading to membership in the pension plan shall make both employer contributions and member contributions, based on the member’s current salary and the contribution rate for members. O. Reg. 371/04, s. 6.

(3)  A member who purchases pensionable service under subsection (1) for a period of prior employment as a temporary employee that is not continuous with the period of employment leading to membership in the pension plan shall make contributions in the amount determined by the actuary in accordance with generally accepted actuarial principles. O. Reg. 398/02, s. 15.

**48.**(1)  A member who was employed by the Board as a probationary employee before January 1, 1987 may elect to purchase pensionable service under the pension plan for the period of probationary employment. O. Reg. 455/97, s. 48 (1).

(2)  The member shall make contributions in the amount determined by the actuary based upon his or her current salary and the contribution rate for members. O. Reg. 455/97, s. 48 (2); O. Reg. 371/04, s. 7.

Purchase for a Leave of Absence

**49.**(1)  A member who takes a leave of absence without earnings because of illness or disability may elect to purchase pensionable service under the pension plan for the period of the leave if,

(a) during the leave, the member suffers from a physical or mental illness or disability that prevents the member from performing the duties of the employment in which the member was engaged before the commencement of the illness or disability; and

(b) a legally qualified medical practitioner certifies to the administrator of the pension plan that the member has such an illness or disability. O. Reg. 455/97, s. 49 (1).

(2)  A member is not eligible to purchase under this section a period of pensionable service greater than five years less the sum of all periods of pensionable service previously purchased by him or her under this section or section 50 or under section 51 or 52 of Ontario Regulation 753/91 as it read before January 1, 1998. O. Reg. 455/97, s. 49 (2).

(3)  An election under subsection (1) must be made within the six-month period beginning on the date that the member returns to work. O. Reg. 455/97, s. 49 (3).

(4)  The member shall make contributions equal to the amount he or she would have contributed to the pension plan had the leave not been taken. O. Reg. 455/97, s. 49 (4).

(5)  The member shall make the contributions under subsection (4) within the six-month period beginning on the date that the member returns to work. O. Reg. 455/97, s. 49 (5).

(6)  If the member makes an election under subsection (1) and makes the contributions under subsection (4), the Board shall make the Board’s contributions with respect to the member for the period of the leave. O. Reg. 455/97, s. 49 (6).

(7)  Despite subsections (3), (4) and (5), the member may elect to purchase the pensionable credit after the end of the six-month period and shall make contributions in the amount determined by the actuary in accordance with generally accepted actuarial principles. O. Reg. 455/97, s. 49 (7).

**50.**(1)  A member who takes a leave of absence without earnings for special or educational purposes may elect to purchase pensionable service under the pension plan for the period of the leave. O. Reg. 455/97, s. 50 (1).

(2)  A member is not eligible to purchase under this section a period of pensionable service greater than five years less the sum of all periods of pensionable service previously purchased by him or her under this section or section 49 or under section 51 or 52 of Ontario Regulation 753/91 as it read before January 1, 1998. O. Reg. 455/97, s. 50 (2).

(3)  An election under subsection (1) must be made within a period of the same duration as the leave of absence, beginning on the date that the member returns to work. O. Reg. 455/97, s. 50 (3).

(4)  The member shall make contributions equal to the amount he or she would have contributed to the pension plan had the leave not been taken plus the amount that the Board would have been credited as having contributed on his or her behalf for the same period. O. Reg. 455/97, s. 50 (4).

(5)  The member shall make the contributions under subsection (4) within a period of the same duration as the leave of absence, beginning on the date that the member returns to work. O. Reg. 455/97, s. 50 (5).

(6)  Despite subsections (3), (4) and (5), the member may elect to purchase the pensionable credit after the end of the period described in subsection (5) and shall make contributions in the amount determined by the actuary in accordance with generally accepted actuarial principles. O. Reg. 455/97, s. 50 (6).

**51.**(1)  A member who takes a leave of absence for pregnancy or parental purposes may elect to purchase pensionable service under the pension plan for any period of the leave during which the member has no earnings. O. Reg. 455/97, s. 51 (1).

(2)  A member is not eligible to purchase under this section a period of pensionable service greater than the lesser of,

(a) 12 months; and

(b) 36 months less the sum of all periods of pensionable service previously purchased by him or her under this section or under section 53 of Ontario Regulation 753/91 as it read before January 1, 1998. O. Reg. 455/97, s. 51 (2).

(3)  An election under subsection (1) may be made,

(a) before commencing the leave of absence;

(b) during the period, beginning on the date that the member returns to work, of the same duration as the leave of absence or of six months if the leave of absence was less than six months; or

(c) after the end of the period described in clause (b). O. Reg. 455/97, s. 51 (3).

(4)  If the election is made in accordance with clause (3) (a), the member shall continue to make contributions during any period of the leave for which the member has no earnings and the Board shall continue to make the Board’s contributions with respect to the member during the same period. O. Reg. 455/97, s. 51 (4).

(5)  If the election is made in accordance with clause (3) (b), the member shall make contributions equal to the amount he or she would have contributed to the pension plan had the leave not been taken plus the amount that the Board would have been credited as having contributed on his or her behalf for the same period and the member shall pay the contributions within the period described in clause (3) (b). O. Reg. 455/97, s. 51 (5).

(6)  If the election is made in accordance with clause (3) (c), the member shall make contributions in the amount determined by the actuary in accordance with generally accepted actuarial principles. O. Reg. 455/97, s. 51 (6).

**51.1**(1)  A member who is absent from work without earnings solely because of a lay-off, strike or lock-out may elect to purchase pensionable service under the pension plan for the period of the absence. O. Reg. 398/02, s. 16.

(2)  An election under subsection (1) must be made within the six-month period beginning on the date that the member returns to work. O. Reg. 398/02, s. 16.

(3)  The member shall make contributions equal to the amount he or she would have contributed to the pension plan had the absence not occurred. O. Reg. 398/02, s. 16.

(4)  The member shall make the contributions under subsection (3) within the six-month period beginning on the date that the member returns to work. O. Reg. 398/02, s. 16.

(5)  If the member makes an election under subsection (1) and makes the contributions under subsection (3), the Board shall make the Board’s contributions with respect to the member for the period of the absence. O. Reg. 398/02, s. 16.

(6)  Despite subsections (2), (3) and (4), the member may elect to purchase the pensionable service after the end of the six-month period and shall make contributions in the amount determined by the actuary in accordance with generally accepted actuarial principles. O. Reg. 398/02, s. 16.

**52.**A member is not eligible to purchase pensionable service under section 49, 50 or 51 in respect of a period for which,

(a) defined benefits are provided to him or her under another registered pension plan; or

(b) contributions are made by or on behalf of him or her under a money purchase provision of a registered pension plan or to a deferred profit sharing plan. O. Reg. 455/97, s. 52.

**53.**For the purpose of subsection 50 (4) or 51 (5), the amount that the Board would have been credited as having contributed shall be determined by the Board on the basis of the most recent actuarial valuation. O. Reg. 455/97, s. 53.

Purchase for Active Military Service

**54.**(1)  A member may elect to purchase pensionable service under the pension plan respecting his or her active service during World War II or the Korean War,

(a) in His or Her Majesty’s navy, army or air force or in the Canadian or British Merchant Marine; or

(b) in a navy, army or air force that was allied with His or Her Majesty’s forces. O. Reg. 455/97, s. 54 (1).

(2)  The member shall make contributions based upon the person’s current salary and a contribution rate equal to twice the contribution rate for members, plus interest. O. Reg. 455/97, s. 54 (2).

(3)  In this section,

“active service” has the same meaning as in the National Defence Act (Canada). O. Reg. 455/97, s. 54 (3).

Transferring Pensionable Service from another Pension Plan

**55.**(1)  A person who becomes a member of the pension plan may elect to transfer pensionable service from another registered pension plan. O. Reg. 398/02, s. 17.

(2)  An election under subsection (1) must be made within 18 months of the person ceasing to be a member of the other registered pension plan and within 6 months of the person becoming a member of the pension plan. O. Reg. 398/02, s. 17.

(3)  The amount of pensionable service that is credited to the member under subsection (1) shall be determined by the actuary in accordance with generally accepted actuarial principles. O. Reg. 398/02, s. 17.

(4)  If an amount of money is transferred to the pension fund from a fund maintained to provide benefits under the registered pension plan of which the person was previously a member in connection with a transfer of pensionable service under subsection (1), that portion of the money that may reasonably be considered to derive from the person’s contributions to the other fund, with interest, is deemed to be the person’s contributions under the pension plan. O. Reg. 398/02, s. 17.

(5)  A person is not eligible to be credited with pensionable service under the pension plan if the person remains entitled to credit for the same pensionable service under the other registered pension plan. O. Reg. 398/02, s. 17.

(6)  Despite subsections (2) to (4), if a person transfers pensionable service from a registered pension plan of an organization with which the Board has concluded a reciprocal agreement under subsection 171 (7) of the Act, the transfer shall be made in accordance with the terms of the reciprocal agreement. O. Reg. 398/02, s. 17.

General

**55.1**If a member purchases pensionable service under this Part and its cost is calculated using the applicable contribution rate for members, the Board may charge interest on the total amount that the member is required to pay, calculated from the date on which the Board receives the member’s application to purchase service. O. Reg. 371/04, s. 8.

PART IX  
MISCELLANEOUS

**56.**(1)  No right of a person under the pension plan is capable of being assigned, charged, anticipated, given as security or surrendered except by an order under the Family Law Act or by a domestic contract as defined in Part IV of that Act. O. Reg. 455/97, s. 56 (1).

(2)  Despite subsection (1), a right of a person under the pension plan may be surrendered for the purpose of reducing benefits in order to avoid the revocation of the registration of the pension plan under the Income Tax Act (Canada). O. Reg. 455/97, s. 56 (2).

PART X  
transition

**57.**Ontario Regulation 753/91, as it reads immediately before this Regulation comes into force, continues to apply with respect to rights and benefits accrued or vested under the pension plan before January 1, 1998. O. Reg. 455/97, s. 57.

**58.**  Omitted (revokes other Regulations). O. Reg. 455/97, s. 58.

**59.**  Omitted (provides for coming into force of provisions of this Regulation). O. Reg. 455/97, s. 59.

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