Supplement No. 4 published with Gazette No. 19 of 14th September, 1998.

THE NATIONAL PENSIONS LAW (10 of 1996)

(1998 Revision)

THE NATIONAL PENSIONS (ACTUARIAL AND FUND MANAGEMENT) REGULATIONS

(1998 Revision)

Revised under the authority of the Law Revision Law (19 of 1975).

The National Pensions (Actuarial and Fund Management) Regulations, 1998 originally made under the principal Law, as amended, as Part of the Schedule thereto, and which came into force on the 1st June, 1998.

Revised this 21st day of July, 1998.

NATIONAL PENSIONS (ACTUARIAL AND FUND MANAGEMENT) REGULATIONS

(1998 Revision)

ARRANGEMENT OF REGULATIONS

NATIONAL PENSIONS (ACTUARIAL AND FUND MANAGEMENT) REGULATIONS

(1998 Revision)

1. These regulations may be cited as the National Pensions (Actuarial and Fund Management) Regulations (1998 Revision). Citation

2. (1) In these regulations - Definitions and interpretation

"actuarial gain" means the sum, if positive, at the valuation date of a going concern valuation, of-

(a) the gain or loss to a pension plan during the period since the last review date of the increase or decrease in the value of the assets of a pension plan, less the liabilities of the plan during the period since the last valuation date, determined in a going concern valuation of the plan resulting from the difference between actual experience and the experience expected by the actuarial assumptions on which that valuation was based;
(b) the amount by which the going concern liabilities increase or decrease as a result of an amendment to the plan; and
(c) the amount by which the going concern liabilities increase or decrease or the going concern assets increase or decrease as a result of a change in actuarial methods or assumptions upon which the current going concern valuation is based;

"actuarial loss" means the sum, if negative, at the valuation date of a going concern valuation, of-

(a) the gain or loss to a pension plan, during the period since the last review date, of the increase or decrease in the value of the assets of a pension plan less the liabilities of the plan, during the period since the last valuation date determined in a going concern valuation of the plan resulting from the difference between actual experience and the experience expected by the actuarial assumptions on which that valuation was based;
(b) the amount by which the going concern liabilities increase or decrease as a result of an amendment to the plan; and
(c) the amount by which the going concern liabilities increase or decrease or the going concern assets increase or decrease as a result of a change in actuarial methods or assumptions upon which the current going concern valuation is based;

"book value", in relation to an asset, means the cost of acquisition to the person acquiring the asset, including all direct ancillary costs associated with the acquisition;

"going concern assets" means the value of the assets of a pension plan, including income due and accrued, determined on the basis of a going concern valuation;

"going concern liabilities" means the liabilities of a pension plan, including amounts due and unpaid, determined on the basis of a going concern valuation;

"going concern unfunded liability" means the excess of going concern liabilities over going concern assets;

"going concern valuation" means a valuation of the going concern assets and going concern liabilities of a pension plan prepared on the basis of a continuing pension plan as required by the Law and these regulations;

"initial surplus" means the surplus in a pension plan, determined on an ongoing basis, that is in existence on the 1st June, 1998;

"initial unfunded past service liability" means the excess of going concern liabilities over going concern assets on the date of the establishment of a pension plan or, in the case of a plan in existence at the 1st June, 1998, the 1st June, 1998;

"market value" in respect of an asset means the price that would be obtained in the purchase or sale of the asset in an open market under conditions requisite to a fair transaction between parties;

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"section" means a section of the National Pension Law (1998 Revision);

"solvency assets" means the market value of investments held by a pension plan plus any cash balances of the plan and accrued or receivable income items of the plan, except for employer and member contributions, less any amounts payable by the plan;

"solvency deficiency" means the deficiency determined by a solvency valuation performed in accordance with regulation 4(1)(b) or (7);

"solvency liabilities" means the liabilities of the plan calculated on a plan termination basis;

"special payment" means a payment or one of a series of payments determined for the purpose of liquidating a going concern unfunded liability or solvency deficiency in accordance with regulation 3;

"surplus" in respect of an ongoing pension plan means the excess of the assets of the plan over the liabilities of the pension plan where-

(a) the assets of the plan are calculated on the basis of the market value of the investments held by the fund plus any cash balances and accrued or receivable items; and

(b) the liabilities of the plan are calculated to be the greater of the going concern liabilities and the solvency liabilities;

"surplus" in respect of a pension plan that is or is being wound up means the excess of the assets of the plan over the solvency liabilities where the assets of the plan are calculated on the basis of the market value of the investments held by the fund plus any cash balances and accrued or receivable items;

"transfer ratio" means the fraction obtained by dividing the solvency assets of a pension plan by the liabilities of the plan calculated on a plan termination basis at the latest valuation date; and

"valuation date" means the date at which an actuarial report that is filed with the Superintendent is prepared.

(2) In calculating solvency assets or a transfer ratio, where there is no market value for an investment of a pension plan and the investment is issued or guaranteed by a government, the book value shall be used instead of market value.

(3) For the purposes of this regulation, a going concern unfunded liability, a past service unfunded liability, a solvency deficiency, and a transfer ratio each arises on the valuation date of the report in which it is determined, and a report is a report of an actuary that is filed with the Superintendent.

Defined benefit plan - funding

3. (1) The total annual contribution to be made to a defined benefit plan each year by the combination of employer and member contributions is equal to the greater of-

(a) the amount required to fund the plan on a going concern basis as defined in subregulation (2); or

(b) the annual amount required, as defined in regulation 4(7)(b), to amortise any solvency deficiency as at the valuation date over an amortisation period not exceeding five years.

(2) The amount required to fund a defined benefit plan on a going concern basis is equal to the sum of the following elements of the going concern valuation for the year-

(a) the normal cost;
(b) the special payment, if any, required to amortise the initial unfunded past service liability on a going concern basis as defined in regulation 4(1)(a)(v); and
(c) special payments required to amortise the actuarial losses as determined in accordance with regulation 4(6)(e)(i),

less any special payments required to amortise the actuarial gains as determined in accordance with regulation 4(6)(e)(ii).

(3) The employer's required annual contribution shall be equal to the total annual contribution determined in subregulation (1), less the expected member contributions based on the member contribution rate determined in subregulation (4) and expected annual member earnings, but shall not be less than zero.

(4) The member contribution rate shall be determined at each valuation and shall be equal to the lesser of-

(a) the maximum required member contribution rate permitted by the Law; or
(b) the percentage rate determined in accordance with the following formula-

percentage rate = (½C)÷E, where-

C = (a) the amount determined in subregulation (1)(a), less the amount determined in subregulation (2)(b), if the amount determined in subregulation (1)(a) is greater than, or equal to, the amount determined in subregulation (1)(b); or
(b) the amount determined in subregulation (1)(b), less the amount required to amortise any initial solvency deficiency as determined in regulation 4(1)(b)(ii), if the amount determined in subregulation (1)(a) is less than the amount determined in subregulation (1)(b); but
(c) shall in no case be less than zero; and

E = aggregate annual member earnings as at the date of the valuation, provided that in calculating the aggregate annual member earnings, no earnings of any individual member in excess of his year's maximum pensionable earnings shall be taken into account.

(5) An initial surplus in a defined benefit plan in existence on the 1st June, 1998, established under the going concern valuation at the 1st June, 1998, may be used to offset employer contributions until the earlier of-

(a) the date at which the sum of the offsets is equal to the initial surplus at the 1st June, 1998;
(b) the plan is no longer in surplus on a going concern basis; or
(c) the plan has a solvency deficiency,

all of which shall be established by an actuarial report prepared in compliance with regulation 4.

Defined benefit plan-reports

4. (1) The information which shall accompany an application for registration of a defined benefit plan shall include a report certified by an actuary that sets out-

(a) on the basis of a going concern valuation with respect to the defined benefits-
  (i) the normal cost, in the first year during which the plan is registered and the rule for computing the normal cost in subsequent years up to the date of the next report;
  (ii) an estimate of the normal cost, in the subsequent years up to the date of the next report;
  (iii) the estimated aggregate employee contributions to the pension plan during each year up to the date of the succeeding report;
  (iv) the initial unfunded past service liability or initial surplus under the pension plan as at the date of the establishment of the plan; and
  (v) where there is an initial unfunded past service liability, the special payments required to amortise the initial past service unfunded actuarial liability over a term not exceeding five years;
(b) on the basis of a solvency valuation-
  (i) whether there is a solvency deficiency;
  (ii) if there is a solvency deficiency, the amount of the solvency deficiency and the special payment required to amortise it over a term not exceeding five years;
  (iii) whether the transfer ratio is less than one; and
  (iv) if the transfer ratio is less than one, the transfer ratio; and

(c) a calculation of the employer's required annual contribution as specified in regulation 3(3).

(2) For the purposes of the report specified in subregulation (1), the initial valuation date-

(a) for a plan established after the 1st June, 1998, shall be the date of the establishment of the plan; and
(b) for a plan in existence at the 1st June, 1998, shall be the 1st June, 1998.

(3) A report specified in paragraph (c) of section 16(2) shall contain the information specified in subregulation (1)(a) and (b) and shall be prepared with a valuation date not more than three years after the valuation date of the preceding report or, in the case of the first report, not more than three years after the date of the first registration of the plan.

(4) Where a report prepared in accordance with paragraph (c) of section 16(2) indicates solvency concerns, the next report in respect of the plan shall be prepared and certified with a valuation date within one year from the date of the first-mentioned report or by such earlier date as the Superintendent may specify.

(5) A report relating to a defined benefit plan prepared under paragraph (c) of section 16(2) shall indicate solvency concerns where-

(a) the ratio of the solvency assets to the solvency liabilities is less than 0.8; or
(b) the solvency liabilities exceed the solvency assets by more than five hundred thousand dollars and the ratio of the solvency assets to the solvency liabilities is less than 0.9.

(6) Each report under this section shall set out, on the basis of a going concern valuation-

(a) the normal cost in the year following the valuation date of the report and the rule for computing the cost in subsequent years up to the valuation date of the next report;
(b) an estimate of the normal cost in the subsequent years up to the valuation date of the next report;
(c) the estimated aggregate employee contributions to the pension plan during the year following the valuation date of the report and the subsequent years up to the valuation date of the next report;
(d) the present value of future special payments remaining to be paid after the valuation date;
(e) the actuarial gain or actuarial loss in the plan, and-

(i) where there is an actuarial loss, the special payments that will amortise any increase in a going concern unfunded liability resulting from the loss over a term not exceeding five years; or

(ii) where there is an actuarial gain, the special payments that will amortise any decrease in a going concern unfunded liability resulting from the gain over a term not exceeding five years;

(f) the going concern liability as at the valuation date; and

(g) the book value and market value of plan assets as at the valuation date.

(7) A report prepared in accordance with paragraph (c) of section 16(2) shall also set out, on the basis of a solvency valuation-

(a) whether there is a solvency deficiency;

(b) if there is a solvency deficiency, the amount of the solvency deficiency and the special payments required to amortise over a term not exceeding five years;

(c) the solvency liabilities;

(d) the solvency assets;

(e) whether the transfer ratio is less than one; and

(f) if the transfer ratio is less than one, the transfer ratio.

(8) A report prepared in accordance with paragraph (c) of section 16(2) shall also include-

(a) a summary of the plan provisions;

(b) a description of the actuarial methods and assumptions used for the going concern and solvency valuations;

(c) a summary of the member census data; and

(d) a calculation of the employer’s required annual contribution as specified in regulation 3(3).

(9) The administrator shall file a report prepared in accordance with paragraph (c) of section 16(2) within six months of the valuation date.

Amendment

5. (1) Where an amendment to a defined benefit plan reduces or increases contributions or creates or increases a going concern unfunded liability or solvency deficiency, the administrator shall file a report containing amendments to any of the information contained in the immediately preceding report prepared in accordance with paragraph (c) of section 16(2) or this regulation that is affected by the amendment.

(2) The administrator shall file the report required under subregulation (1) within six months following the date the amendment is required to be registered under section 12(3).

Assumptions and methods

6. (1) An actuary preparing a report under these regulations shall use assumptions appropriate for the plan and methods consistent with sound principles established by precedent or by common usage within the actuarial profession and with the requirements and these regulations.

(2) The Superintendent may issue guidelines setting out acceptable actuarial methods and assumptions for reports required under the Law and these regulations and they shall be adopted so far as possible by administrators, their agents and actuaries, who shall in their reports, identify any departure from such assumptions.

Information to accompany application for registration

7. (1) The information which shall accompany an application for registration of a defined contribution plan shall include a report certified by an actuary setting out-

(a) a summary of the plan provisions;
(b) market value broken down between members’ required and members’ voluntary contribution accounts;
(c) market value of assets by categories as set out in regulation 3(1) of the National Pensions (Pension Fund Investments) Regulations (1998 Revision), broken down between each of members’ required and members’ voluntary contribution accounts;
(d) demographics of plan members broken down on the basis of age, sex and length of service of plan members, sufficient to assess the appropriateness of the investment of the assets; and
(e) the opinion of the actuary as to the appropriateness of asset mix to plan membership on a plan basis, on the assumption that pension income is, or will be, the principal income of the members and former members on retirement.

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(2) A report specified in paragraph (c) of section 16(2) shall contain the information specified in subregulation (1) and shall be prepared with a valuation date not more than five years after the valuation date of the preceding report or, in the case of the first report, not more than five years after the date of the first registration of the plan.

Inflation protection

8. Notwithstanding any other provisions of a defined benefit or defined contribution plan or a retirement savings arrangement or life annuity purchased pursuant to paragraph (b) or (c) of section 34(1), lifetime benefits payable shall be increased by a minimum of two per cent annually, and the payments shall be

actuarially adjusted so that the commuted value of the lifetime benefits with the annual increases is equal to the commuted value of the lifetime benefits otherwise payable under the plan, account or annuity.

Transfers -commuted value

9. (1) The commuted value of a pension benefit determined under a defined benefit provision shall-

(a) be determined in a manner that complies with the Canadian Institute of Actuaries Recommendations for the Computation of Transfer Values from Registered Pension Plans, or a corresponding British or American equivalent that may be approved for the purpose by the Governor in Council after consultation with the Superintendent; and

(b) be determined as at the date of termination of membership, death, retirement, or termination of a pension plan.

(2) The commuted value of a pension benefit determined under a defined contribution provision shall be the value of the accumulated contributions, with interest, made to the pension fund by or in respect of the member or former member.

(3) If, at the date of determination of the commuted value, the former member has an unconditional entitlement to optional forms of a pension benefit or to optional commencement dates, the option that has the greatest value shall be used to determine the commuted value.

Publication in revised form authorised by the Governor in Council this 21st day of July, 1998.

Carmena H. Parsons
Clerk of Executive Council