

Authority: Government Management Committee Item GM24.1, as adopted by City of Toronto Council on January 31 and February 1, 2018

## CITY OF TORONTO

### BY-LAW 100-2018

#### **To consolidate By-law 380-74 of the former City of Toronto and all amendments respecting pensions and other benefits.**

Whereas By-law 380-74 of the former City of Toronto, a by-law "To establish a pension plan to be known as the '1974 Improved Plan'", as amended, governs the Toronto Civic Employees' Pension Plan; and

Whereas the City has entered into an agreement with the OMERS Sponsors Corporation and the OMERS Administration Corporation for the transfer of the Plan's assets and liabilities to the OMERS Primary Pension Plan pursuant to section 80.4 of the *Pension Benefits Act* (Ontario), and the agreement requires that the City enact a revised version of the Plan's text consolidating all amendments; and

Whereas it is desirable that such revised version include certain administrative harmonizations;

The Council of the City of Toronto enacts:

1. In this by-law,
  - (a) "Schedule" means Schedule A attached to this by-law;
  - (b) "Plan" means the Toronto Civic Employees' Pension Plan.
2. The revised version of the text of Plan set forth in Schedule A is adopted as the text of the Plan in substitution for the text of the Plan as expressed in the content of By-law 380-74 of the former City of Toronto, as amended.
3. The text of Schedule A shall be interpreted having regard to:
  - (a) the assumption by the City of all obligations of the former City of Toronto as of January 1, 1998; and
  - (b) the retirement in 2013 of the last active member of the Plan.
4. By-law 380-74 of the former City of Toronto and all its amending by-laws are repealed.

Enacted and passed on February 1, 2018.

Frances Nunziata,  
Speaker

Ulli S. Watkiss,  
City Clerk

(Seal of the City)

**SCHEDULE A**

TORONTO CIVIC EMPLOYEES' PENSION PLAN

EFFECTIVE SEPTEMBER 18, 1974

JANUARY, 2018

TORONTO CIVIC EMPLOYEES' PENSION PLAN

EFFECTIVE SEPTEMBER 18, 1974

As amended to January, 2018

To provide for improved pensions and other benefits and privileges for certain employees of the City and certain former employees of the City;

**DEFINITIONS**

1. (1) In the revised restatement of the text of the 1974 Improved Plan as set forth in this Schedule, the masculine pronoun shall include the feminine, the singular shall include the plural and *vice versa*, unless the context otherwise requires, and in addition, unless a contrary intention appears:

"Act" means the *Pension Benefits Act*, R.S.O. 1990 and Regulations made thereunder;

"actuary" means a fellow of the Canadian Institute of Actuaries or firm of actuaries retained by, but independent of, the City, or retained by The Toronto Civic Employees' Pension Committee, as the actuary to the 1974 Improved Plan;

"annualized earnings" means earnings by a part-time permanent employee for the period worked during the year converted to annual earnings by dividing the earnings by the number of months worked and multiplying by 12;

"casual employee" means an employee as defined in the 1974 Collective Agreement with Toronto Civic Employees Local No. 43 Canadian Union of Public Employees;

"City" means;

- (a) with respect to the period prior to January 1, 1998, The Corporation of the City of Toronto; and
- (b) with respect to the period following December 31, 1997, the City of Toronto incorporated by the City of Toronto Act, 1997;

"Committee" means the Toronto Civic Employees' Pension Committee continued under subsection 15(1);

"completed month" means any calendar month in which a member is a member of the Fund and in the employ of the City for a period of 15 days or more;

"compulsory or normal retirement age" means up to and including December 31, 1975 - upon attaining age 70, commencing January 1, 1976 - upon attaining age

69, commencing January 1, 1977 - upon attaining age 68, commencing January 1, 1978 - upon attaining age 67, commencing January 1, 1979 - upon attaining age 66, commencing January 1, 1980 - upon attaining age 65;

"Deputy City Treasurer" means such senior subordinate of the City Treasurer as such Treasurer may from time to time appoint for the purpose;

"disabled" means

- (a) that the member has filed a written certificate by a duly qualified medical doctor licensed to practice under the laws of a province of Canada or the place where the member resides, in the form provided by the Committee that he or she is unable to continue further at his or her employment and that either the Commissioner of Corporate Services or his or her designate for the City concurs in such certificate or, in the case of non-concurrence, that a third duly qualified medical doctor, approved by the member and the Commissioner of Corporate Services or his or her designate, concurs in such certificate; or
- (b) that the member has been certified in writing, as being unable to continue further at his or her employment due to a physical or mental impairment that prevents the member from performing the duties of the employment in which the member was engaged before the commencement of the impairment, by a majority of a medical board composed of the Commissioner of Corporate Services or his or her designate, a duly qualified medical doctor licensed to practice under the laws of a province of Canada or the place where the member resides, appointed and paid by the member and a third duly qualified medical doctor licensed to practice under the laws of a province of Canada or the place where the member resides, appointed by the Commissioner of Corporate Services or his or her designate, and the member's appointee, whose fee shall be paid one-half by the City and the other one-half by the member provided that where the member neglects or refuses to appoint his or her appointee within ten days after being notified to do so by the Committee, the Commissioner of Corporate Services or the Commissioner's designate, shall appoint such appointee who shall be paid by the City and who, with the Commissioner of Corporate Services or his or her designate, shall constitute the medical board and whose certificate as to the ability of the member to continue further at his or her employment shall be final and binding on the member; or
- (c) that the member is entitled to a disability pension under the Canada Pension Plan;

and "disabled" shall have a corresponding meaning;

"early disability" means a medically determinable impairment in which physical or mental disability is sufficiently severe and prolonged so that the member is

"totally and permanently disabled" and incapable of regular substantially gainful employment, provided such early disability has been determined in the same manner prescribed under the definition "totally and permanently disabled";

"earnings during the 60 consecutive months" means when used in the expression "average annual earnings during the 60 consecutive months during which the earnings were highest" means earnings for 60 months worked even though such 60 months may have been broken by periods of layoff or leaves of absence without pay and upon which the required contributions are made to the Fund provided that in the case of a part-time permanent employee such average annual earnings mean annualized earnings as described under definitions in the text of the 1974 Improved Plan;

"employee" means

- (a) an employee on September 18, 1974 who was a member of the plan established by By-law 375-70, as amended, and became a member of such plan as an employee defined in paragraph (c) of the definition of employee in By-law 375-70, as amended;
- (b) an employee on September 18, 1974 who was a member of the plan established by By-law 375-70, as amended, or By-law 284-71, as amended, and became a member of such plan as an employee defined in paragraphs (a) and (b) of the definition of employee in By-law 375-70, as amended, or as an employee defined in By-law 284-71, as amended;
- (c)
  - (i) an employee of the City or of the Local Board of Health of the City appointed to the permanent service after September 18, 1974, whose service prior to permanent appointment in accordance with paragraph 3(2)(b), produces an effective date of hiring for pension purposes prior to the date on which he or she would have been required to join the Ontario Municipal Employees Retirement System in accordance with the terms and conditions of By-law 22536 of the former City, 3488, as amended, of the former Village of Forest Hill and 1917 of the former Village of Swansea, including an employee who is granted leave of absence without pay by the City in order to work for or on behalf of Local 43 or Local 79 of the Canadian Union of Public Employees or;
  - (ii) a person in the C.U.P.E. Local Union No. 43 Bargaining Unit who is not a casual employee, who became an employee on or after September 18, 1974, whose service prior to, that date produced an effective date of hiring for pension purposes prior to the date on which such person would have been required to join the Ontario Municipal Employees Retirement System in accordance with the

terms and conditions of By-law 22536 of the former City, By-law 3488, as amended, of the former Village of Forest Hill and By-law 1917 of the former Village of Swansea;

"Fund" means the fund established pursuant to By-law 18777, as amended to which contributions are to be made and from which pensions and other benefits under this by-law are to be paid and shall consist of the corpus thereof together with earnings, appreciation and depreciation, additions or reductions thereto;

"Improved Plan" means the plan for pensions and other benefits and privileges established by By-law 375-70, as amended, and By-law 284-71, as amended;

"1974 Improved Plan" means the plan for pensions and other benefits and privileges established by By-law 380-74 as amended, as restated in this Schedule;

"interest" means 3 per cent per annum up to the 31st day of December, 1977 and 5 per cent per annum thereafter, compounded yearly in respect of the completed months from the end of the year in which the contribution was paid into the Fund until the first day of the month in which:

- (a) the contribution is refunded; or
- (b) a pension has become payable;

whichever is the earlier month provided, however that notwithstanding the foregoing, after December 31, 1987, "interest" means interest calculated on the basis of the average of the yields of five-year personal fixed term chartered bank deposit rates as determined from the Canadian Socio-Economic Information Management (CANSIM) series B 14045 published monthly in the Bank of Canada Review, over a reasonably recent period, such that the averaging period does not exceed 12 months, credited in accordance with the Act;

"marriage", "remarriage", "married" and "remarried", unless the context otherwise requires, includes the "common law" status of husband and wife described in the definitions of Spouse and Post Retirement Spouse;

"member", unless the context otherwise requires, means an employee who is a member of the "1974 Improved Plan";

"Original Plan" means the plan for pensions and other benefits and privileges established by By-law 18777, as amended;

"plan year" means the calendar year;

"Post Retirement Spouse" means a person of the opposite sex, or if the member's death occurs on or after June 5, 1998, of either sex, who:

- (a) married the member after commencement of pension and is not living separate and apart from the member at the time of the member's death; or
- (b) establishes before the Committee that, although he or she did not meet the requirements under the definition of "Spouse" at the time the member's pension commenced, he or she had, for a period of not less than three years immediately prior to the date of the member's death, been residing with the member and with whom by law he or she was prohibited from marrying by reason of a previous marriage either of the member or of himself to another person, and has been maintained and publicly represented by the member as his or her spouse; or
- (c) establishes before the Committee that, although he or she did not meet the requirements under the definition of "Spouse" at the time the member's pension commenced, he or she had, for a period of two years immediately prior to the date of the member's death, been residing with the member, has been maintained and publicly represented by the member as his or her spouse, and that at the date of the member's death neither he or she nor the member was married to any other person; or
- (d) is not married to the member, but who on the date of the member's death was living with the member in a conjugal relationship and if they are the parents of a child, as set out in the *Children's Law Reform Act*;

"prescribed amount" means for the purposes of calculating a member's pension adjustment and reporting his or her pension adjustment as defined under the *Income Tax Act (Canada)* and Regulations made thereunder:

- (a) for a period of disability pursuant to subsections 3(3)(a), 3(7), 3(8), 3(9) and 3(11) which is treated as credited service, the salary the member could reasonably be expected to have received for the period if the member had not been disabled; and
- (b) for a period of a leave of absence pursuant to subsections 3(3)(c) and 3(3)(d) which is treated as credited service, the salary the member could reasonably be expected to have received for the year had he or she remained in the employment of the City;

"salary" unless the context otherwise requires, means:

- (a) earnings paid as salary or wages by or on behalf of the City, the Local Board of Health of the City, the Toronto Public Library Board, the Metropolitan Toronto Library Board, or the Metropolitan Corporation to a member of the 1974 Improved Plan:
  - (i) including the following:

- A. such earnings in respect of service after completion of 35 years of service;
  - B. the payments to a member from the Workmen's Compensation Board to compensate such member in part for loss of salary or wages that would otherwise have been paid provided that on and after February 13, 1978 a member may elect not to include as salary payments to the member from the Workmen's Compensation Board to compensate such member in part for loss of salary or wages that would otherwise have been paid where entitlement to such payments first arose on or after such date; and
  - C. the value of any perquisite received from the City or the Metropolitan Corporation;
- (ii) but excluding the following:
- A. the City's or the Metropolitan Corporation's share of the cost of any contributions to medical or health plans; and
  - B. salary or wages received as a final payment for preretirement vacation in lieu of taking preretirement vacation, provided that members retiring on "disability or "early disability" shall be entitled to include the final payment for preretirement vacation as salary or wages;
- (b) for periods on and after September 18, 1974, for which leave of absence without pay is granted to an employee to work for or act on behalf of Local 43 or Local 79 of the Canadian Union of Public Employees, salary or wages calculated in accordance with paragraph (a) which would have been paid to such employee had he or she been paid during such period of leave of absence, the basic salary or wage for the position he or she held at the time immediately prior to the granting of such leave of absence including any increments earned to such time provided that the contributions required to be made by the terms of the 1974 Improved Plan by both the employee and the City in respect of such salary or wages are made by the respective union;
- (c) for periods for which leave of absence without pay is granted an employee pursuant to Plan C of the Educational Assistance Policy, adopted in Council November 7, 1977, salary or wages calculated in accordance with paragraph (a) which would have been paid to the employee had the employee been paid, during such period of leave of absence, the basic salary or wage for the position held by the employee at the time immediately prior to the granting of such leave of absence including any increments earned to such time provided that the contributions required to be made by the terms of the 1974 Improved Plan by both the employee



and the City in respect of such salary or wages are made by the City;

- (d) for purposes of calculating a member's pension adjustment and reporting his or her pension adjustment as defined under the *Income Tax Act* (Canada) and Regulations made thereunder, in respect of a member on a period of disability or a period of leave of absence which is treated as service credits, shall mean prescribed amount;

"service credits" means service credits as determined under section 3;

"service of the City" and "service with the City" include service of and with the Local Board of Health of the City of Toronto, the Metropolitan Corporation or a local board thereof, the Parking Authority of Toronto, The Housing Authority of Toronto, the Toronto Public Library Board, the Metropolitan Toronto Library Board, the City of Toronto Planning Board, the Toronto Historical Board after December 31, 1960, The City of Toronto Limited Dividend Housing Corporation Limited, the former Juvenile or Family Court of the City of Toronto if the salary for the service was paid by the City, and the former Toronto Police Department or while on authorized leave of absence to work for or act on behalf of Local 43 or Local 79 of the Canadian Union of Public Employees;

"Spouse" shall mean a person of the opposite sex, or if the member's death occurs on or after June 5, 1998, of either sex, who:

- (a) is married to the member and is not living separate and apart from the member; or
- (b) establishes before the Committee that he or she and the member had, for a period of not less than three years immediately prior to the date a determination is required, been living together continuously in a conjugal relationship when they were prohibited from marrying each other by reason of a previous marriage either of the member or of the person to another individual; or
- (c) establishes before the Committee that he or she had, for a period of two years immediately prior to the date a determination is required, been residing with the member, has been maintained and publicly represented by the member as his or her spouse, and that at the date a determination was required neither he or she nor the member was married to any other person; or
- (d) is not married to the member, but who on the date a determination is required is living with the member in a conjugal relationship if they are the parents of a child, as set out in the *Children's Law Reform Act*;

In and for the purposes of the 1974 Improved Plan, the member's Spouse will be determined, for purposes of a benefit payable upon the death of a member while he or she is in service or after retiring prior to January 1, 1988, on the date of his

or her death; and for purposes of a benefit payable upon the death of a member after retiring subsequent to December 31, 1987, on the date he or she commences to receive his or her pension.

"Toronto Civic Employees' Pension Plan" means, collectively, the Original Plan, the Improved Plan and the 1974 Improved Plan".

"totally and permanently disabled" means in relation to a member, suffering from a physical or mental impairment that prevents the member from engaging in any employment for which the member is reasonably suited by virtue of the member's education, training or experience and that can be reasonably be expected to last for the remainder of the member's lifetime.

- (2) Any direct or indirect reference in this Schedule to a labelled "section" or any constituent or subdivision thereof shall mean, unless the contrary is expressed, the correspondingly-labelled section, constituent or subdivision, as applicable, of this Schedule.

#### **POST-1997 TERMINOLOGY**

- 1A.** With respect to the period following December 31, 1997, every reference in the text of the 1974 Improved Plan to
- (a) a "City" official or department by title shall be read as if it were a reference to the official or department of the City having that title or responsible for the functions previously performed by the official or department known by that title when The Corporation of the City of Toronto was in existence;
- (b) Local 43 of the Canadian Union of Public Employees shall be read as if it were a reference to Local 416 of that Union.

#### **ELIGIBILITY**

- 2.** (1) Every employee as defined under paragraphs (a) and (b) of the definition of employee who is an employee on September 18, 1974 s a member of the 1974 Improved Plan.
- (2) Every person who becomes an employee as defined under paragraph (c) of the definition of employee who elects to pay arrears in respect of service prior to becoming eligible to join the 1974 Improved Plan or any predecessor pension plan shall be a member.

#### **SERVICE CREDITS**

- 3.** In determining the years of service of a member for the purpose of calculating pensions, benefits and privileges hereunder the following service and periods (hereinafter called "service credits") only shall be counted, namely:

- (1) (a) Subject to paragraph (b) in the case of a member under subsection 2(1) all service up to September 18, 1974, recognized under By-law 375-70, as amended, and By-law 284-71, as amended, and all full-time permanent service thereafter and all part-time permanent service after May 31, 1985 for which the required contributions are made.
- (b) In respect to employees coming within the Local 43 Bargaining Unit, full-time or part-time permanent service shall mean all service that is other than that performed as a "casual employee".
- (2) Subject to paragraph (1)(b) in the case of a member under subsection 2(2) 2:
  - (a) (i) all full-time permanent service with the City after the member's latest date of appointment as an employee, except service recognized for benefits under any other plan respecting pensions established for municipal employees;
  - (ii) all part-time permanent service with the City after May 31, 1985, after the member's latest date of appointment as an employee, except service recognized for benefits under any other plan respecting pensions established for municipal employees.
  - (b) all service prior to the member's latest date of appointment as an employee except:
    - (i) service prior to any period exceeding one continuous year during which he was not employed by the City for any reason;
    - (ii) service prior to any voluntary termination by him of his employment;
    - (iii) service prior to his dismissal at any time for cause provided that suspension shall not be deemed a termination of service or to reduce service credits unless followed by dismissal for cause;
    - (iv) service recognized for benefits under any other plan respecting pensions established for municipal employees;
    - (v) service of an employee of the Toronto Historical Board prior to January 1, 1961;

provided such employee has elected to pay arrears of contributions in accordance with the terms of the 1974 Improved Plan in respect of the service defined in this subsection.

- (3) In the case of all members subject to paragraph (b) of subsection (1):
  - (a) all time lost on account of illness while in the full-time or part-time

permanent service of the City provided the member was paid for such time or although not paid, was deemed to have been on sick leave;

- (b) any period of leave of absence, for active service during any war, in the armed forces of Canada, the British Empire or British Commonwealth or any part or ally thereof;
  - (c) any period of vacation or leave of absence, other than provided for in paragraph (b), with or without pay;
  - (d) effective December 20, 1990, pregnancy or parental leave for up to 35 weeks as required under the Employment Standards Act of Ontario;
  - (e) notwithstanding any of the foregoing provisions of this subsection (3), pursuant to the *Income Tax Act* (Canada) and Regulations made thereunder, periods of unpaid leave of absence which are counted as service credits shall be limited to a maximum of 5 years and periods of parenting shall be limited to a maximum of one year per child, to an overall maximum of 3 years.
- (4) Credit shall be given for fractions of years based on completed months.
- (5) Notwithstanding any of the foregoing provisions of this section, any service or period of vacation or leave of absence after reaching the compulsory retirement age, shall not be counted.
- (6) (a) For purposes of this section, a member shall be considered to be disabled as of the date that a certificate of legally qualified medical doctor licensed to practice under the laws of a province of Canada or of a place where the member resides, appointed by the Committee declares to be the date upon which the member is wholly prevented due to mental or physical incapacity from performing the regular duties of the occupation in which such member was engaged immediately prior to such date, and such disability shall be considered to continue if the member is so prevented during the first twenty-four month period immediately after such date, and, thereafter, such disability shall be considered to continue if the member is wholly prevented from engaging in any occupation or performing any work for compensation or profit for which the Committee, on the written advice of a legally qualified medical doctor licensed to practice under the laws of a province of Canada or of a place where the member resides, appointed by the Committee, considers the member is or may become reasonably qualified by education, training or experience;
- (b) Notwithstanding paragraph (a) of this subsection, disability shall be considered not to exist:
- (i) during any period in which the member engages in any occupation for compensation or profit other than an occupation associated with a rehabilitation program approved by the Committee;

- (ii) on and after the day following the first twenty-four month period immediately after the date the member is considered disabled under subsection (1) as the result of mental illness, unless at that time a medical doctor licensed to practice under the laws of a province of Canada or of a place where the member resides, specializing in psychiatry or neurology certifies that the member continues to be disabled;
  - (iii) where such disability in respect of a member results from wilfully self-inflicted injury or the commission or attempted commission by the member of an indictable offence under the Criminal Code (Canada) or the engagement by the member in an unlawful occupation.
- (7) Notwithstanding any other provision of the 1974 Improved Plan, a member who after September 8, 1986, is considered to be disabled within the meaning of this section and who:
- (a) has not or does not elect to retire on account of disability under section 7; or
  - (b) has not or does not elect to take an early disability pension under section 8; or
  - (c) has not taken or does not take a return of cash of the paid contributions to the member's credit in the Fund; or
  - (d) has not ceased to be an employee within the meaning of the 1974 Improved Plan;
- shall accrue service credits from the latest of:
- (e) the first day following the last day upon which such member receives income from the City of Toronto through his or her sick bank; or
  - (f) the first day following the last day upon which such member receives tax-free Workers' Compensation benefits utilizing his or her sick leave bank to top up income; or
  - (g) the date such member ceases to make contributions under section 4;
- until the earlier of:
- (h) such member's normal retirement date; or
  - (i) the date upon which such member elects to retire on account of disability under section 7; or

- (j) the date upon which such member elects to take early disability pension under section 8; or
- (k) the date upon which such member ceases to be an employee within the meaning of the 1974 Improved Plan; or
- (l) the date upon which such member ceases to be considered to be disabled within the meaning of this section;

and, during the period of the accrual of such service credits, the contributory earnings of the member shall be deemed to be the annual rate of contributory earnings for which contributions were last made by the member under section 4 hereof and, notwithstanding section 4, the member shall not make contributions to the Fund in respect of such contributory earnings during the period of accrual of such service credits so long as such member continues to have the status of an employee within the meaning of the 1974 Improved Plan provided, however:

- (m) no service credits shall accrue under this section until the first day of the fifth calendar month following the month in which the member is considered disabled;
  - (n) that nothing in this section shall affect the right of a member who under the 1974 Improved Plan is considered to be disabled within the meaning of this section and who is entitled to accrued service credits under this section to elect, in lieu of the accrual of service credits under this section, to receive a pension calculated in the manner prescribed in either section 7 or section 8.
- (8) Notwithstanding any other provision of the 1974 Improved Plan, a member who on the September 8, 1986, was on that date making contributions under section 4 but who at any time prior to that date, while being an employee within the meaning of the 1974 Improved Plan was in receipt of payments under a long-term disability plan of the City and who:
- (a) did not elect to retire on account of disability under section 7; or
  - (b) did not elect to take an early disability pension under section 8; or
  - (c) did not take a return of the paid personal contributions to his or her credit in the Fund; or
  - (d) did not cease to be an employee within the meaning of the 1974 Improved Plan;

shall receive service credits for that portion of the period during which such member was considered to be disabled within the meaning of the 1974 Improved Plan calculated from the latest of:

- (e) the first day following the last day upon which such member received

income from the City of Toronto through his or her sick bank; or

- (f) the first day following the last day upon which such member received tax-free Workers' Compensation benefits utilizing his or her sick pay leave to top up income; or
- (g) the date such member ceased to make contributions under section 4

until the date upon which such member ceased to be considered to receive payments under a long-term disability plan of the City and during the period of accrual of such service credits under this subsection, the contributory earnings of the member shall be deemed to be the annual rate of contributory earnings for which contributions were made by the member under section 4 immediately prior to the date upon which the service credits began to be calculated under this subsection and the member shall not make contributions to the Fund in respect of such service credits provided however:

- (h) no service credits shall accrue under this section until the first day of the fifth calendar month following the month in which the member was considered disabled; and
- (i) no service credits shall accrue under this section for any period of disability prior to the 1st day of January, 1978;

(9) Notwithstanding any other provision of the 1974 Improved Plan, a member who on September 8, 1986, was in receipt of payments under a long-term disability plan of the City and who is considered to be disabled within the meaning of this section on and after the date and who:

- (a) has not or does not elect to retire on account of disability under section 7; or
- (b) has not or does not elect to take an early disability pension under section 8; or
- (c) has not taken or does not take a return of cash of the paid contributions to the member's credit in the Fund; or
- (d) has not ceased and does not cease to be an employee within the meaning of the 1974 Improved Plan;

shall accrue service credits from the first day following the last day upon which such member received income from the City of Toronto through up to the earliest of:

- (e) the date upon which such member elects to retire on account of disability under section 6; or

- (f) the date upon which such member elects to take an early disability pension under section 8; or
- (g) the date upon which such member ceases to be an employee within the meaning of the 1974 Improved Plan; or
- (h) the date upon which such member ceases to be considered to be disabled within the meaning of this section;

and, during the period of the accrual of such service credits, both before and after September 8, 1986, the contributory earnings of the member shall be deemed to be the annual rate of contributory earnings for which contributions were last made by the member under section 4 and, notwithstanding said section, the member shall not make contributions to the Fund in respect of such contributory earnings during the period of accrual of such service credits so long as such member continues to have the status of an employee within the meaning of the 1974 Improved Plan provided, however, that nothing in this section shall affect the right of a member who under that Plan is considered to be disabled within the meaning of this section and who is entitled to accrued service credits under this section to elect, in lieu of the accrual of service credits under this section, to receive a pension calculated in the manner prescribed in either section 7 or section 8, provided however:

- (i) no service credits shall accrue under this section until the first day of the fifth calendar month following the month in which the member was considered disabled; and
  - (j) no service credits shall accrue under this section for any period of disability prior to January 1, 1978.
- (10) Notwithstanding anything contained in subsections (6), (7), (8) or (9), where any person receives or prior to the coming into force of this subsection, has received, payments under a disability plan of the City and such person is or would have been eligible to accrue service credits under said subsections (6), (7), (8) or (9) except for the requirement in those subsections that no service credits can accrue thereunder after a member ceases to be an employee within the meaning of the 1974 Improved Plan, such person shall be eligible to accrue service credits under those subsections for the whole or any part of the period during which such payments were received notwithstanding that the employment of the person with the City has or was terminated for the whole or any part of the period, provided, however, that no service credits may accrue under subsections (6), (7), (8) or (9) by reason of this subsection in respect of any period:
- (a) during which the person elects, has elected or did elect to retire on account of disability under section 7; or
  - (b) during which the person elects, has elected or did elect to take an early disability pension under section 8; or



- (c) during which the person has taken or takes a return of cash of paid contribution to the member's credit in the Fund;
  - (d) occurring before the 1st of January, 1978.
- (11) Notwithstanding anything herein contained, where a member is in receipt of a Workers' Compensation Board payment and a disability waiver of premium benefit at any time during the member's employment with the City, and if the effect thereof is that the member's pension entitlement under the 1974 Improved Plan would be less than it would have been had the employee continued to work throughout the period in which such disability waiver of premium applied in the same position as the member held immediately prior to such award, the City will pay the difference between the pension which the member is entitled to hereunder and the pension to which such member would have been entitled had the member not been on the said disability waiver of premium but had continued to be employed for the whole of that period at that position.

## CONTRIBUTIONS

4. (1) By members of the 1974 Improved Plan who are employees as defined in paragraphs (a) and (b) of the definition of employee and subject to subsection (2B):
- (a) In respect of service prior to September 18, 1974, each member is required to contribute the amount prescribed under By-law 375-70, as amended, or By-law 284-71, as amended, in respect of service after that date and prior to November 8, 1974, five (5) per centum of salary up to the year's maximum pensionable earnings under the Canada Pension Plan, six decimal six (6.6) per centum of salary in excess thereof and in respect of service on and after November 8, 1974, notwithstanding the aforesaid by-laws, seven (7.0) per centum of his or her salary less the amount required to be contributed to the Canada Pension Plan or the amount which would be required to be contributed to the Canada Pension Plan if the member were required to contribute to such plan except that should either the Municipality of Metropolitan Toronto, the Toronto Public Library Board or the Metropolitan Toronto Library Board decide, the rates of contributions required on and after November 8, 1974 may be commenced at an earlier date but no earlier than November 1, 1974.
  - (b) Where the employee as of September 18, 1974 has unmet employee liability as defined in By-law 375-70, as amended, such employee shall pay into the Fund by lump sum or periodical instalments by payroll deduction or by a combination of them an amount in addition to that required by paragraph (a) which shall be no less than the greater of the following:
    - (i) interest on the amount of employee liability which is to be calculated at the rate of four and one-half (4 %) per centum per

annum; or

- (ii) an additional two (2) per centum of his salary;

until such employee has paid to the Fund an amount equal to the contributions such employee would have paid into the Fund if he had been a member of the 1974 Improved Plan during his period of previous service with the City plus interest at the rate of four and one-half (4%) per centum per annum compounded annually on each such contribution from the year in which it would have been paid into the Fund until the first day of the month in which it is paid into the Fund.

- (c) Where an employee as of September 18, 1974 has unmet arrears as defined in By-law 375-70, as amended, or By-law 284-71, as amended, such member shall be required to contribute by direct payment to the Fund or by payroll deduction an amount in addition to that required by paragraph (a) which shall be no less than the greater of the following:

- (i) interest on the arrears of contributions which are to be calculated at the rate of three (3.0) per centum per annum; or

- (ii) an additional one (1.0) per centum of his salary;

provided that the additional amounts to be contributed by this paragraph shall not be required to be made until all the additional contributions required by paragraph (b) have been made.

- (d) Notwithstanding paragraph (a), the aggregate of member contributions for current service in any year shall not exceed \$1,000.00 plus 70 per cent of the pension credit earned in the year as determined under Part LXXXIII of the Regulations under the *Income Tax Act* (Canada) unadjusted for the transitional amounts set out in paragraphs 8302(2)(b) and (3)(g) of those Regulations.

- (2) By members of the 1974 Improved Plan who are employees as defined in paragraph (c) of the definition of employee and subject to subsection (2B):

- (a) In respect of service prior to September 18, 1974, each member is required to contribute the amount prescribed under By-law 375-70, as amended, in respect of service after that date and prior to November 8, 1974, five (5) per centum of salary up to the year's maximum pensionable earnings under the Canada Pension Plan, and six decimal six (6.6) per centum of salary in excess thereof and in respect of service on and after November 8, 1974, notwithstanding the aforesaid by-laws, seven (7.0) per centum of his or her salary less the amount required to be contributed to the Canada Pension Plan.

- (b) Where the aggregate amount of the contributions by or on behalf of an

employee is less than the contributions required by paragraph (a) of this subsection, the employee shall elect within 60 days of becoming eligible to join the 1974 Improved Plan whether or not to pay the deficiency (herein referred to as "arrears"); and if the employee elects to pay the arrears such employee becomes a member of the 1974 Improved Plan and such member may pay such arrears in whole or in part, without interest, within three months from his date of becoming eligible and after the expiration of the three month period the arrears, and such balances thereof as remain from time to time unpaid, shall accumulate at an interest rate of three (3.0) per centum per annum, such interest becoming part of the arrears; and such member shall pay, in addition to that required each pay period by paragraph (a) in this subsection, an amount which shall be no less than the greater of the following:

- (i) interest on arrears of contributions; or
  - (ii) an additional one (1.0) per centum of his salary;
- (c) Notwithstanding paragraph (a), the aggregate of member contributions for current service in any year shall not exceed \$1,000.00 plus 70 per cent of the pension credit earned in the year as determined under Part LXXXIII of the Regulations under the *Income Tax Act* (Canada) unadjusted for the transitional amounts set out in paragraphs 8302(2)(b) and (3)(g) of those Regulations.
- (2A) Whenever hereafter a member is, without pay, on vacation, sick leave or otherwise absent from the service of the City so as to render it impossible to make the payroll deduction of salary prescribed by this section, such member shall, upon return to the service, pay by payroll deduction at least an additional one (1) per cent of his salary, excluding overtime, on account of the aggregate of the payroll deductions which would have otherwise been made but for his absence (herein referred to as "arrears") and such arrears and such balances thereof as remain from time to time unpaid, shall accumulate at interest at the rate of three (3) per cent. per annum, such interest becoming part of the arrears.
- (2B) Effective January 1, 1995, active members who have completed 35 years of credited service shall cease making required contributions.
- (2C) Where, prior to January 1, 1995, an active member made required contributions to the Fund after completing 35 years of contributory service, the member shall be entitled to receive a payment equivalent to such contributions, plus interest, at the later of the date this subsection comes into force or the date of the member's retirement, provided that the retired member or his or her surviving spouse in receipt of a spouse's pension from the 1974 Improved Plan is alive on November 8, 2001, and that such contributions have not been previously refunded under any other provision of that Plan.

- (3) By the City:
- (a) In respect of the years prior to September 18, 1974, the amounts required to be contributed by By-law 18777, as amended, and By-law 21470, 21515, 21550, 21598, 22044 and 22315, and By-law 375-70, as amended, and By-law 275-72, 285-72 and 244-73.
  - (b) On September 18, 1974 an amount equivalent to that required to be contributed by each member in respect of service on and after that date and commencing January 1, 1978, ten point six (10.6) per centum of the aggregate payroll for members of the Improved Plan, and commencing January 1, 1984, seven (7) per centum of the aggregate payroll for members of the Improved Plan provided that subject to the amounts required to be contributed by the City under paragraph (d) of this subsection, the provisions of paragraphs (b) and (c) of subsection (1), paragraph (b) of subsection (2) of this section shall not apply.
  - (c) Subject to the *Pension Benefits Act*, the *Income Tax Act* (Canada) and Regulations made thereunder, and subject to the right of the City to contributions from The Municipality of Metropolitan Toronto under subsections 24(5) and (6) of *The Municipality of Metropolitan Toronto Act*, the sum of \$8,642,741.00 in the year 1978 and the sum of \$4,956,327.00 in each of the years 1979 to 1989 inclusive, in 1990 \$890,590.00, in 1991 \$871,690.00 and in 1992 \$646,100.00 provided that such sum may be reduced in any year if a reduction is justified by an actuarial valuation made on the basis of the benefits then provided for in the 1974 Improved Plan and By-law 18777, as amended, and By-laws 21470, 21515, 21516, 21550, 21598, 22044 and 22315 and By-law 375-70, as amended, and By-laws 275-72, 285-72, 93-73, 244-73, 268-74, and 327-76, and such sum shall be increased in any year if an increase is required by such an actuarial valuation. This contribution replaces that required to be contributed by the City in paragraph 4(4)(c) of By-law 375-70, as amended, section 7 of By-law 275-72, section 7 of By-law 285-72, section 6 of By-law 93-73, section 5 of By-law 244-73, section 6 of By-law 268-74 and section 4 of By-law 327-76.
  - (d) An amount equivalent to the arrears only, (excluding any interest) under paragraph (2)(b) in respect of employees as defined in paragraph (c) of the definition of employee, such amount being payable at the time each such employee becomes a member.
  - (e) Such contributions shall be made on the recommendation of an actuary which shall be based on an actuarial valuation report of the 1974 Improved Plan, which complies with the provisions of subsection 147.2(2) of the *Income Tax Act* (Canada) and Regulations made thereunder, provided that if the actuary determines that that Plan is in an excess surplus position under subparagraphs 147.2(2)(d)(i) to (iii) of the *Income Tax Act* (Canada), no such contributions shall be made.

- (4) By the Toronto Public Library Board and the Metropolitan Toronto Library Board (hereinafter called the Boards):
- (a) In respect of the years prior to September 18, 1974, the amounts required to be contributed by By-law 18777, as amended, By-law 21588, as amended, and By-law 284-71, as amended.
  - (b) On September 18, 1974 an amount equivalent to that required to be contributed by each member in respect of service on and after September 18, 1974 and commencing January 1, 1978, sixteen point nine (16.9) per centum of the aggregate payroll for members of the Improved Plan and commencing January 1, 1984, seven (7) per centum of the aggregate payroll for members of the Improved Plan provided that the provisions of paragraphs (1)(b) and (c) (2)(b) shall not apply.
  - (c) Subject to the *Pension Benefits Act*, the *Income Tax Act (Canada)* and Regulations made thereunder, and subject to the right of the Toronto Public Library Board to contributions from the Metropolitan Toronto Library Board under subsections 24(5) and (6) of *The Municipality of Metropolitan Toronto Act*, the sum of \$251,818.00 in the year 1976, and \$252,618.00 in each of the years 1977 to 1989 inclusive, together with an additional contribution in the year 1977 of \$151,000.00 being the actuarial equivalent of nine point nine (9.9) per centum of each members' salary for the year 1977, in 1990 \$49,870.00, in 1991 \$45,700.00 and in 1992 \$44,970.00 provided that such sums may be reduced in any year if a reduction is justified by an actuarial valuation made on the basis of the benefits then provided for in the 1974 Improved Plan and By-law 18777, as amended, By-law 21588, as amended, and By-law 284-71, as amended, and such sums shall be increased in any year if an increase is required by such an actuarial valuation. This contribution replaces that required to be contributed by the Boards in paragraph 4(2)(c) of By-law 284-72, as amended.
  - (d) Such contributions shall be made on the recommendation of an actuary which shall be based on an actuarial valuation report of the 1974 Improved Plan, which complies with the provisions of subsection 147.2(2) of the *Income Tax Act (Canada)* and Regulations made thereunder, provided that if the actuary determines that that Plan is in an excess surplus position under subparagraphs 147.2(2)(d)(i) to (iii) of the *Income Tax Act (Canada)*, no such contributions shall be made.
- (5) The contributions required to be made in accordance with this section shall be paid over to the Fund from time to time pursuant to the *Income Tax Act (Canada)* and Regulations made thereunder.
- (6) A member, or any other person entitled to a benefit to be paid from the Fund after December 31, 1987, and whose paid personal contributions made after December 31, 1986, with interest, exceed 50% of the commuted value of the benefit earned

after December 31, 1986, as determined by the actuary, shall have such excess contributions returned upon becoming entitled to the payment of such benefit on the death of the member, his termination of employment or his retirement. Such return shall be in the form of a single lump sum refund to the member or such other person entitled to a benefit, or in the form of one of the transfers described in subsection (2) under heading A of section 5, selected by the member or such other person entitled to a benefit under the 1974 Improved Plan, and may be made on a non-locked-in basis pursuant to that Act.

- (7) Notwithstanding anything herein contained, no provision shall operate to provide in any year, a pension adjustment, as defined under the *Income Tax Act* (Canada) and Regulations made thereunder, for any member, from the City in excess of the lesser of:
- (a) the money purchase limit for the year (as defined under the *Income Tax Act* (Canada)); and
  - (b) 18% of the member's compensation for the year (as defined under the *Income Tax Act* (Canada));

or cause the determination of amounts under Part LXXXIII of the Regulations under the *Income Tax Act* (Canada) to be inappropriate in relation to the pensions provided under the 1974 Improved Plan.

- (8) The City may amend the 1974 Improved Plan at any time to reduce the retirement benefits provided to members under any of its provisions to the extent necessary to avoid the revocation of the registration of that Plan.

Notwithstanding anything to the contrary herein the Committee shall cause a return of contributions to the City or members, as applicable, to avoid revocation of the 1974 Improved Plan's registration where benefits or contributions fail to comply with the *Income Tax Act* (Canada) or Regulations made thereunder.

- (9) If in any year, the actuary determines that the 1974 Improved Plan is in an excess surplus position as defined in the *Income Tax Act* such that the *Income Tax Act* does not permit employer contributions to that Plan while the excess surplus continues to exist, the employer and member contribution rates as set out in subsections 4(1)(a), 4(2)(a), 4(3)(b) and 4(4)(b) will be deemed to be 0.00% until the next actuarial valuation is completed.

**PENSIONS, BENEFITS AND PRIVILEGES UPON TERMINATION OF SERVICE  
(OTHER THAN BY DEATH OR ON ACCOUNT OF DISABILITY OR EARLY  
DISABILITY)**

5. Upon termination of service with the City, after December 31, 1987, (other than by death or on account of disability or early disability), members who are employees as defined under paragraphs (b) and (c) of the definition of employee shall be entitled to and receive pensions, benefits and privileges in accordance with the following schedule, *viz*:

**A. BEFORE COMPLETION OF 10 YEARS OF SERVICE WITH THE CITY  
BUT AFTER COMPLETION OF 2 YEARS AS A MEMBER**

- (1) A return in cash, with interest as defined in the 1974 Improved Plan, of the member's paid personal contributions made prior to January 1, 1987, to the member's credit in the Fund plus an annual service pension payable monthly for life commencing at age 65, calculated in the same manner as prescribed in subsection (1) under heading C of this section less the pension credit earned by such member up to and including December 31, 1986 calculated in accordance with the provisions of that Plan applying to such member on December 31, 1986, except that the minimum pension provision shall not apply. The member may elect to commence his pension at any time after he has attained age 55 by filing the prescribed election form with the Committee, in which case his pension will be actuarially reduced in accordance with the table set forth in subsection 5.C(4a) to reflect the earlier commencement date.
  
- (2) Notwithstanding any other provisions of the 1974 Improved Plan, a member who is entitled to a benefit in accordance with subsection (1) of this heading A after December 31, 1987 and who has not attained age 55, in lieu of any other benefits under that Plan, and subject to the provisions of the Act and any other appropriate legislation, shall be entitled to require that the Committee authorize the transfer of the commuted value of his benefit to:
  - (a) subject to the maximum transfer limitations under section 8517 of the Regulations under the *Income Tax Act* (Canada), a locked-in individual registered retirement savings plan in the name of the member; or
  - (b) subject to the maximum transfer limitations under section 8517 of the Regulations under the *Income Tax Act* (Canada), another registered pension plan if the administrator of that plan agrees to accept the payment; or
  - (c) an insurance company licensed to carry on an annuities business in Canada for the purchase of a life annuity that will not commence prior to the member's age 55;

provided that any such transfer is administered in accordance with the requirements of the Act, the *Income Tax Act* (Canada) and Regulations made thereunder, and any other applicable legislation, including the locking-in provisions of the Act, and provided that the member notifies the Committee of his election of one of the above transfer options on the prescribed form within the time period required under the Act.

**B. AFTER COMPLETION OF 10 YEARS OF SERVICE BUT BEFORE COMPLETION OF 20 YEARS OF SERVICE WITH THE CITY**

- (1) Subject to the provisions of subsection (2), if the member has been a member for more than two years, but has not attained the age of 45 years at the date of termination of service with the City after December 31, 1987, such member shall, without limiting the right in respect to service prior to January 1, 1987 to a return of his personal contributions, together with interest as defined in the 1974 Improved Plan, be entitled to and receive an annual service pension payable monthly for life commencing at age 65, calculated in the same manner as prescribed in subsection (1) under heading C of this section less the pension credit earned by such member up to and including December 31, 1986, except that the minimum pension provision shall not apply.
- (2) If the member has attained the age of 45 years or more at the date of termination of service with the City such member shall, without limiting the right in respect to service prior to January 1, 1965, to a return of his personal contributions, together with interest as defined in the 1974 Improved Plan, be entitled to and receive an annual service pension payable monthly for life commencing at age 65, calculated in the same manner as prescribed in subsection (1) under heading C of this section less the pension credit earned by such member up to and including December 31, 1964, calculated in accordance with the provisions of that Plan applying to such member on December 31, 1964, except that the minimum pension provision of the Improved Plan shall not apply in calculating the pension credit earned under the 1974 Improved Plan unless the member's entire service is in respect to periods on and after January 1, 1965.
- (3) Notwithstanding subsections (1) and (2):
  - (a) where a member retires on account of early disability or is compelled to retire at compulsory retirement age prior to completing 20 years of service, such member shall be paid a pension monthly for life, computed as provided in subsection (1) under heading C of this section;
  - (b) a member entitled to a benefit under this heading B may elect to commence his pension at any time after he has attained age 55 by filing the prescribed election form with the Committee, which case his pension will be actuarially reduced in accordance with the table set forth in subsection 5.C(4a) to reflect the earlier commencement date.
- (4) Notwithstanding any other provisions of the 1974 Improved Plan, a member who is entitled to a benefit in accordance with this heading B after December 31, 1987 and who has not attained age 55, in lieu of any other benefits under that Plan and subject to the provisions of the Act and any other applicable legislation, shall be entitled to require that the



Committee authorize the transfer of the commuted value of his benefit in accordance with any one of the transfer options and subject to the same restrictions as provided in subsection (2) under heading A of this section.

**C. AFTER COMPLETION OF 20 YEARS OF SERVICE WITH THE CITY  
(BUT SUBJECT TO REDUCTION FOR ARREARS AS HEREINAFTER  
PROVIDED)**

- (1) (a) Upon attaining age 65, but no later than compulsory retirement age, an annual service pension, payable monthly for life, equal to the product of:
- (i) Two Per Cent (2%) of the member's average annual earnings during the 60 consecutive months during which the member's earnings were highest; and
  - (ii) the number of years and completed months of the member's credited service to a maximum of 35 years;

reduced at age 65, or upon receipt of Canada Pension, by Six Hundred Seventy-Five One-Hundredths of One Per Cent; or (0.675%) of:

- (iii) the product of:
  - (I) the average earnings specified in clause (i) hereof; and
  - (II) the number of years and months specified in clause (ii) hereof; or
- (iv) the product of:
  - (I) the average of the year's maximum pensionable earnings as defined in the Canada Pension Plan at the member's retirement and the number of preceding years specified in paragraph (1)(a.1) under heading C of this section; and
  - (II) the number of years and completed months of the member's credited service after January 1, 1966,

whichever is the lesser.

- (a.1) The number of preceding years referred to in subclause (1)(a)(iv)(I) under heading C of this section shall be:

- (i) Two (2) if the member began to receive Canada Pension payments prior to January 1, 2000;
    - (ii) Four (4) if the member begins to receive Canada Pension payments subsequent to December 31, 1999.
  - (b) Upon attaining age 55 or over and having 30 or more years service, an annual service pension payable monthly for life calculated in the same manner as prescribed in paragraph (1)(a) under heading C of this section.
  - (c) Upon attaining age 60 or over and having 25 or more years service, an annual service pension payable monthly for life calculated in the same manner as prescribed in paragraph (1)(a) under heading C of this section.
  - (d) No annual pension calculated in accordance with the provisions of paragraph (1)(a) under heading C of this section shall be less than \$9,400.00, except that for all members retiring on or after January 1, 1992, such dollar amount shall instead be an amount equal to \$275.00 per year of service credits.
- (2) If an employee retires after attaining age 60 but prior to age 65 and is not otherwise eligible for a pension but would have been entitled to a pension under By-law 375-70, as amended or By-law 284-71 as amended, such member may elect in lieu of receiving a deferred pension commencing at age 65, to have a pension calculated according to the provisions of By-law 375-70, as amended or By-law 284-71 as amended.
- (3) Upon termination of service in cases not provided for by subsections (1) and (2) under heading C of this section an annual service pension commencing at age 65, where service is less than 25 years or at age 60 if service is 25 years or more, payable monthly for life, computed as provided in subsection (1) under heading C of this section; provided that in lieu thereof the member may elect to accept either:
- (a) a pension commencing at an earlier age, actually reduced in accordance with the table in subsection 5.C(4a) below; or
  - (b)
    - (i) if the member is a registered employee under By-law 15939, as amended, a paid-up Government of Canada Annuity of such amount as can be purchased with the member's paid personal contributions to his credit with the Government Annuities Branch, Ottawa, and a return in cash, with interest as defined in the 1974 Improved Plan, of any paid personal contributions made prior to January 1, 1987 to the member's credit in the Fund subject to the provisions of clause (iii) plus an annual service pension

payable monthly for life commencing at age 65, calculated in the same manner as prescribed in subsection (1) under this heading C less the pension credit earned by such member up to and including December 31, 1986 calculated in accordance with the provisions of that Plan applying to such member on December 31, 1986, except the minimum pension provision shall not apply;

- (ii) if the member is not a registered employee under By-law 15939, as amended, a return in cash, with interest as defined in the 1974 Improved Plan, of the paid personal contributions to the member's credit in the Fund subject to the provisions of clause (iii) plus an annual service pension payable monthly for life commencing at age 65, calculated in the same manner as prescribed in subsection (1) under this heading C less the pension credit earned by such member up to and including December 31, 1986 calculated in accordance with the provisions of this by-law applying to such member on December 31, 1986, except that the minimum pension provision shall not apply;
  - (iii) if the member has attained the age of 45 years or more at the date of termination of service with the City such member shall, without limiting the right in respect to service prior to January 1, 1965, to a return of contributions, together with interest, under clauses (i) or (ii), be entitled to and receive an annual service pension payable monthly for life commencing at age 65, calculated in the same manner as prescribed in subsection (1) under heading C of this section less the pension credit earned by such member up to and including December 31, 1964, calculated in accordance with the provisions of the pension plan applying to such member on December 31, 1964, except that the minimum pension provision of the 1974 Improved Plan shall not apply in calculating the pension credit earned under that Plan unless the member's entire service is in respect to periods on and after January 1, 1965.
- (3a) A member entitled to a benefit under subsections (1), (2), or (3) of this heading C may elect to commence his pension at any time after he has attained age 55 by filing the prescribed election form with the Committee, in which case his pension will be actuarially reduced in accordance with the table set forth in subsection 5.C(4a) to reflect the earlier commencement date.
- (3b) Notwithstanding any other provisions of the 1974 Improved Plan, a member who is entitled to a benefit in accordance with subsections (1), (2), or (3) of this heading C after December 31, 1987 and who has not

attained age 55, in lieu of any other benefits under that Plan, and subject to the provisions of the Act and any other applicable legislation, shall be entitled to require that the Committee authorize the transfer of the commuted value of his benefit in accordance with any one of the transfer options and subject to the same restrictions as provided in subsection (2) of heading A of this section.

- (4) Where, at the date of termination of service a member owes arrears within the meaning of either paragraph 4(1)(c), or paragraph 4(2)(b), the amount of pension to which the member would otherwise be entitled under subsections (1) or (3) under heading C of this section, as the case may be, shall be reduced on account of the arrears in accordance with the following table:

<b>Age last birthday prior to Retirement</b>	<b>Reduction of Annual Pension per each \$100 of arrears (incl. interest)</b>	<b>Age last birthday prior to Retirement</b>	<b>Reduction of Annual Pension per each \$100 of arrears (incl. interest)</b>
35 years	\$6.42	53 years	\$7.50
36 years	6.45	54 years	7.59
37 years	6.49	55 years	7.69
38 years	6.53	56 years	7.79
39 years	6.58	57 years	7.91
40 years	6.61	58 years	8.01
41 years	6.66	59 years	8.14
42 years	6.72	60 years	8.27
43 years	6.77	61 years	8.39
44 years	6.83	62 years	8.54
45 years	6.88	63 years	8.69
46 years	6.95	64 years	8.83
47 years	7.02	65 years	9.00
48 years	7.09	66 years	9.17
49 years	7.17	67 years	9.36
50 years	7.24	68 years	9.54
51 years	7.33	69 years	9.73
52 years	7.41	70 years	9.94

and where the amount of arrears is less than \$100.00, the pension reduction shall be proportionately less.

- (4a) Where a pension is actuarially reduced as contemplated by subsection (1) under heading A of this section, subsection (4) under heading B of this section, clause (3)(a) under this heading C, or subsection (3a) under this heading C, the reduction shall be in accordance with the following table:

Age at which pension commences

<b>With 20 Years of Service Credits</b>	<b>With 25 years of Service Credits</b>	<b>Percent of Accrued Pension Payable on Early Retirement</b>	<b>Percent Reduction</b>
65	60	100	0
64	59	91.5	8.5
63	58	83.8	16.2
62	57	76.9	23.1
61	56	70.7	29.3
60	55	65.0	35.0
59	54	59.9	40.1
58	53	55.2	44.8
57	52	50.9	49.1
56	51	47.0	53.0
55	50	43.5	46.5
54	49	40.3	59.7
53	48	37.3	62.7
52	47	34.6	65.4
51	46	32.1	67.9
50	45	29.8	70.2
49	44	27.7	72.3
48	43	25.8	74.2
47	42	23.9	76.1
46	41	22.3	77.7
45	40	20.7	79.3

<b>With 20 Years of Service Credits</b>	<b>With 25 years of Service Credits</b>	<b>Percent of Accrued Pension Payable on Early Retirement</b>	<b>Percent Reduction</b>
65	60	100	0
64	59	91.5	8.5
63	58	83.8	16.2
62	57	76.9	23.1
61	56	70.7	29.3
60	55	65.0	35.0
59	54	59.9	40.1
58	53	55.2	44.8
57	52	50.9	49.1
56	51	47.0	53.0
55	50	43.5	46.5
54	49	40.3	59.7
53	48	37.3	62.7
52	47	34.6	65.4

51	46	32.1	67.9
50	45	29.8	70.2
49	44	27.7	72.3
48	43	25.8	74.2
47	42	23.9	76.1
46	41	22.3	77.7
45	40	20.7	79.3

(5) Where service is terminated as a result of legislative action and such member, without intervening employment, becomes a member of the Civil Service of Ontario or the staff of any board, commission or public institution established under any Act of the Provincial Legislature so that service is continuous and where such member requests in writing to have a transfer of a sum of money in accordance with section 250 of *The Municipal Act* (1970), such member is entitled as an option to all pension, benefits and privileges provided under heading C of this section to have a refund of employee contributions together with interest as defined in the 1974 Improved Plan made with respect to the foregoing pension, benefits and privileges, subject to the provisions of the *Pension Benefits Act*, such refund to form all or part of such sum of money.

(6) (a) Where, due to a change in jurisdiction or other circumstances over which he has no control, a member transfers or is transferred to employment with the Government of Canada or Ontario or any board, commission or agency thereof or any board, commission or agency of the City, there may be paid out of the Fund, subject to the conditions and limitations set forth in paragraph (b), in addition to the paid personal contributions standing to his credit with the Government Annuities Branch, Ottawa, and/or in the Fund a percentage of the City's contribution, or the Library Board's contribution, based on his service with the City, in accordance with the following table:

<b>Service Requirement</b>	<b>Percentage Addition</b>
at least 5 years and less than 10 years	25%
at least 10 years and less than 15 years	50%
at least 15 years and less than 20 years	75%
20 years or more	100%

provided that:

(i) in no case shall the amount transferred be less than the benefit accrued by the member to the date of transfer in accordance with the provisions of the 1974 Improved Plan;

- (ii) in no case shall the percentage addition exceed an amount which, when added to the member's paid personal contributions to his credit with the Government Annuities Branch, Ottawa, and/or in the Fund would be in excess of the death benefit payable under subsection 9(2), including any repayment from the said Annuities Branch, and calculated as of the date of transfer of employment;
  - (iii) for the purposes of this section "City's contribution" means the amount required to be paid by the City under paragraphs 4(3)(a), (b) and (d) but does not include with respect to paragraph 4(3)(a) any part of the amounts referred to in paragraph 4(4)(c) of Bylaw 375-70, as amended and for the Library Board's contribution means the amount required by the Library Boards under paragraphs 4(4)(a) and (b) but does not include with respect to the paragraph 4(4)(a) any part of the amounts referred to in paragraph 4(2)(c) of By-law 284-71 as amended.
- (b) The aforesaid percentage addition shall be made only:
  - (i) subject to any conditions and restrictions imposed by the 1974 Improved Plan;
  - (ii) where the new employer maintains an employee's pension fund together with interest as defined in the 1974 Improved Plan or in the plan to which the member is admissible and such fund or plan provides for the transfer thereto of the member's paid personal contributions to his credit in the Fund and the percentage addition;
  - (iii) where the member authorizes in writing the direct transfer by the City to the new employer's pension fund together with interest as defined in the 1974 Improved Plan or the other plan of both the member's paid personal contributions to his credit in the Fund and the percentage addition;
  - (iv) when authorized by City Council; and
  - (v) provided the member has not requested a transfer in accordance with subsection (5).
- (7) Except where a Spouse's, Post Retirement Spouse's or dependent children's pension is payable as hereinafter provided, the pensions provided by this section are payable for life but with 120 months' payments payable in any event.
- (8) Notwithstanding the provisions of any other subsections of this section, no pension shall be granted in an amount which is in excess of the maximum

pension referred to in section 250 of *The Municipal Act* (1970).

- (9) Subject to subsection (16), where a member becomes entitled on or after September 18, 1974, to a pension and dies thereafter, there shall be paid to the surviving Spouse, provided that if the member began to receive his pension after December 31, 1987, the member and his surviving Spouse did not sign waivers in the form prescribed by the Act, if she or he is then living, a pension equivalent to Sixty-Six and Two-Thirds per centum ( $66\frac{2}{3}\%$ ) of the pension being received by the member or which the member was entitled to receive prior to death, such pension to be paid to the Spouse for life provided that:
- (a) subject to clause (b), if the age of the Spouse is more than 5 years less than that of the deceased member, the aforementioned pension to the Spouse shall be actuarially reduced to reflect a maximum age difference of 5 years but notwithstanding the foregoing, where a member becomes entitled to a pension on or after the 13th day of February, 1978 or, being on pension, dies thereafter, no actuarial reduction shall be applied unless the Spouse so surviving and so designated is more than 10 years younger than the deceased pensioner, in which case such reduction shall reflect a maximum age difference of 10 years;
  - (b) notwithstanding paragraph (a), where a member becomes entitled to a pension after April 22, 1982, or where such person being on pension dies thereafter no actuarial reduction shall be applied for any age difference between such pensioner and the Spouse of such pensioner;
- (10) [Deleted by (111-76)].
- (11) Subject to subsection (16), on the death of the Spouse or Post Retirement Spouse eligible to receive a pension under section 9A, a pension equivalent to the pension payable under subsection (9) to the Spouse or eligible Post Retirement Spouse shall be paid to the dependent children living and under the age of 18 as long as there is at least one dependent child living under the age of 18.
- (12) Subject to subsection (16), where a member becomes entitled on or after September 18, 1974, to a pension and dies thereafter and where his or her Spouse or Post Retirement Spouse eligible to receive a pension under section 9A, predeceased the pensioner, or after December 31, 1987 if the member and his or her Spouse have signed waivers in the form prescribed by the Act, there shall be paid to the deceased pensioner's dependent children living and under the age of 18, a pension equivalent to Sixty-Six and Two-Thirds per centum ( $66\frac{2}{3}\%$ ) of the pension being received by the pensioner or which the pensioner was entitled to receive and shall be paid to the dependent children living and under the age of 18 as long as there is



at least one dependent child living under the age of 18.

- (13) Subject to subsection (16), where a member becomes entitled on or after September 18, 1974, to a pension and dies thereafter, provided the member does not have a surviving Spouse or Post Retirement Spouse eligible to receive a pension under section 9A, or after December 31, 1987 the member and his Spouse have signed waivers in the prescribed form, a pension equivalent to Sixty-Six and Two-Thirds per centum ( $66\frac{2}{3}\%$ ) of the pension being received by the pensioner or which the pensioner was entitled to receive, shall be paid to the dependent children living and under the age of 18 as long as there is at least one dependent child living under the age of 18.
- (14) (a) For the purposes of this by-law "dependent children" includes a dependent child and shall mean:
- (i) children of the member living and under the age of 18 at the time of becoming entitled to a pension under the 1974 Improved Plan and who on the member's death were dependent upon such member for support or maintenance; and
  - (ii) children of the surviving Spouse of the member living and under the age of 18 at the time of becoming entitled to a pension under the 1974 Improved Plan and who on the member's death were dependent upon such member for support and maintenance; and
  - (iii) children of a member born after the member's death living and under the age of 18 at the time of becoming entitled to a pension under the 1974 Improved Plan; and
  - (iv) adopted children of a member living and under the age of 18 at the time of becoming entitled to a pension under the 1974 Improved Plan and who on the member's death were dependent upon such member for support and maintenance; and
  - (v) adopted children of the surviving Spouse of the member living and under the age of 18 at the time of becoming entitled to a pension under the 1974 Improved Plan and who on the member's death were dependent upon such member for support and maintenance.
  - (vi) Children and adopted children of the member or the surviving Spouse of the member living and over the age of 18 at the time of their becoming entitled to a pension who are dependent through mental or physical infirmity and

who on the member's death were dependent upon such member for support and maintenance.

Notwithstanding any provision of the 1974 Improved Plan, children as referred to in this sub-paragraph shall be deemed to be dependent children under the age of 18 years for the purpose of entitlement to a pension under the 1974 Improved Plan and shall be deemed to continue to be children under the age of 18 years until death or so long as such children remain dependent through mental or physical infirmity.

- (b) For the purpose of this subsection, "member" shall include a former member entitled to a pension or death entitlement under this by-law.
- (15) Where the aggregate of the pension payments under subsections (9), (11), (12) and (13) or any one or more of such subsections together with any amounts received by the former member, his estate or by a person named as beneficiary for payments from the City's Government Annuity Contracts G104, G129 and G1129 are less than the aggregate payments that would have been paid under subsection (7) had the former member died leaving no surviving Spouse, eligible Post Retirement Spouse or dependent children, the difference between the amounts that would have been payable under subsection (7) and the aggregate of such payments (in this 1974 Improved Plan referred to as a "residual benefit") shall be paid in accordance with the provisions of subsection 10(2).
  - (16) If on the death of a former member who was in receipt of a pension from the City's Government Annuity Contracts G104, G129 and G1129 an amount of money is paid to or will be paid under such contracts to a surviving Spouse, dependent children or other beneficiaries in excess of that expressed to be paid under the provisions of subsections (9), (11), (12) and (13), the pensions payable under the aforesaid subsections shall be actuarially reduced to the extent of such excess unless such surviving Spouse, dependent children or other beneficiary pay to the Fund the amount of such excess in which case such actuarial reduction shall not be made.
  - (17) If a member terminates service on or after September 18, 1974, with a deferred pension entitlement under the 1974 Improved Plan, has not transferred such pension entitlement out of the Fund, and dies after December 31, 1987 but prior to the commencement of such deferred pension, his surviving Spouse shall be entitled to a benefit equal to the greater of:
    - (a) a pension equivalent to Sixty-Six and Two-Thirds per centum (66 $\frac{2}{3}$ %) of the deferred pension to which the former member would have been entitled to receive at age 65, or at such earlier age

as has been elected by such member or former member, subject to the provisions, limitations and reductions as are imposed by subsections (4), (8), (9), (11), (15) and (16) under heading C of this section;

and

- (b) the commuted value of the member's or former member's benefit accrued after December 31, 1986, paid as the surviving Spouse shall elect, as an immediate or deferred annuity or as a lump sum cash payment, plus a refund of the member's or former member's contributions made prior to January 1, 1987 with interest as defined in this by-law. If the surviving Spouse does not elect within the time period prescribed by the Act, the benefit shall be paid as an immediate annuity.

Provided, however, if the member or former member does not have a surviving Spouse or Post Retirement Spouse, eligible to receive a pension under section 9A, on his date of death, or if the member and his Spouse have signed waivers in the prescribed form, the benefit as provided in paragraph (b) above, less any benefit paid to the dependent children of the member as provided below, will be paid to the designated beneficiary of the member. If the beneficiary is not alive on the member's date of death, or if the member or former member has not designated a beneficiary, such benefit will be paid to the estate of the member.

Notwithstanding the foregoing, if the member or former member has dependent children on his date of death and if the member or former member does not have a surviving Spouse or Post Retirement Spouse eligible to receive a pension under section 9A, on his date of death, or if the member or former member and his Spouse have signed waivers in the prescribed form, the dependent children of the member or former member will be paid the benefit as provided in paragraph (a) above subject to the provisions, limitations and reductions as are imposed by subsections (12), (13) and (14) under heading C of this section.

- (18) Notwithstanding subsection (17) and subject to the Act, and Regulations, a former member entitled to a deferred pension may elect prior to the commencement of such pension in lieu of the portion of the deferred pension and other benefits related thereto that would otherwise be provided from the Fund, to have a refund of paid personal contributions in the Fund together with interest thereon at the rate as defined in the 1974 Improved Plan.
- (19) Notwithstanding anything contained herein to the contrary with respect to the member, the lifetime pension benefit paid under the 1974 Improved Plan as a result of retirement, death, termination of service or termination of that Plan (including any pension benefit payable as a result of a

distribution of surplus or to the Spouse on marriage breakdown pursuant to a written agreement) shall not exceed an annual amount calculated as set out below and determined in the year in which such pension benefit commences to be paid, that is the lesser of:

- (a) (i) \$1,722.22 for each year of the member's service credits on and after January 1, 1992 with the City, if the year in which such pension benefit commences is prior to 1996; or
- (ii) 1/9th of the money purchase limit (as defined by subsection 147.1(1) of the *Income Tax Act* (Canada)) for each year of the member's service credits on and after January 1, 1992 with the City, if the year in which such pension benefit commences is after 1995; and
- (b) 2% of the average of the member's final average indexed earnings times the number of years of service credits on and after January 1, 1992 with the City.

The amount of lifetime pension benefit payable to the member under the 1974 Improved Plan commencing prior to his normal retirement date shall not exceed in the year in which such pension benefit commences to be paid, the maximum retirement pension as set out under paragraph (a) or (b) above, reduced by 3% for each year by which the commencement of the early pension benefit precedes the earliest of the member's 60th birthday, completion of 30 years of continuous service, combination of age plus continuous service equals 80 or commencement of total and permanent disability.

The amount of lifetime pension benefit payable to a member for a particular calendar year after the year in which the lifetime pension benefit commences to be paid cannot exceed the maximum allowable amount of lifetime pension benefit in the year in which the lifetime pension benefit commences to be paid multiplied by the percentage increase in the Consumer Price Index from the calendar year in which the lifetime pension benefit commences to be paid until such particular calendar year. Such percentage increase may be determined in any other alternative manner provided for by the Regulations under the *Income Tax Act* (Canada).

- 5A.** (1) Under this section "member" shall mean a person who on January 1, 1991 was:
- (a) an employee of The Corporation of the City of Toronto; and
  - (b) a member of "the 1974 Improved Plan";
- but shall not include a person who on January 1, 1991 was:
- (c) an employee of The Municipality of Metropolitan Toronto; or

- (d) an employee of the Toronto Public Library Board; or
  - (e) an employee of any local board or agency; or
  - (f) any other member defined in paragraphs (b) and (c) of the definition of employee; or
  - (g) a former member of "the 1974 Improved Plan".
- (2) Notwithstanding any other provision of the 1974 Improved Plan or of the 1974 Improved Plan where upon termination of service with the City (other than by death or on account of disability or early disability), the age of the member as defined in this section counted in completed years and months plus the credited service in years and months equals a sum of at least eighty-five completed years, such member is entitled immediately thereafter to an annual service pension, payable monthly for life, equal to two (2.0) per centum of the average annual earnings during the 60 consecutive months during which the earnings were highest multiplied by years and completed months of credited service to a maximum of 35 years reduced at age 65, or upon receipt of Canada Pension, by 0.7 per centum of the lesser of such average earnings or the average of the year's maximum pensionable earnings as defined in the Canada Pension Plan at retirement and the two preceding years multiplied by the number of years and completed months of credited service after January 1, 1966.
- (3) All of the other provisions of the 1974 Improved Plan shall apply, *mutatis mutandis*, to a pension payable under this section, provided, however, that no other provision of that Plan shall reduce the amount of the immediate unreduced pension payable under this section.
- (4) Notwithstanding any other provision of the 1974 Improved Plan and subject to the Act and the *Income Tax Act* (Canada) and Regulations made thereunder, the cost of the pensions payable under this section shall be charged against the Fund and the City shall contribute to the Fund the \$900,000 unfunded liability arising as a result of the difference in the cost of providing the pensions payable under this section and what it would have cost to provide such pensions under other provisions of that Plan had this section not been passed, such payment by the City to be amortized over a period of 15 years, the first of such amortized payments in the amount of \$100,000 to be paid by the City to the Fund in the year 1991 from the Reserve for Pension Improvements, and the remaining of such amortized payments shall be paid annually by the City to the Fund in the years 1992 to 2005, inclusive, provided that any such amortized payment may be reduced in any year if a reduction is justified by an actuarial valuation made on the basis of the increased cost to the Fund of the pensions payable in that year under this section and such amortized payments shall be increased in any year if an increase is required by such actuarial valuation.

Such contributions shall be made on the recommendation of an actuary which shall be based on an actuarial valuation report of the 1974 Improved Plan, which

complies with the provisions of subsection 147.2(2) of the *Income Tax Act* (Canada) and Regulations made thereunder.

- (5) Notwithstanding anything contained herein, no provision shall operate to provide in any year, a pension adjustment, as defined under the *Income Tax Act* (Canada) and Regulations made thereunder, for any member, from the City in excess of the lesser of:
- (a) the money purchase limit for the year (as defined under the *Income Tax Act* (Canada)); and
  - (b) 18% of the member's compensation for the year (as defined under the *Income Tax Act* (Canada));

or cause the determination of amounts under Part LXXXIII of the Regulations made under the *Income Tax Act* (Canada) to be inappropriate in relation to the pensions provided under the 1974 Improved Plan.

- (6) The City may amend the 1974 Improved Plan at any time to reduce the retirement benefits provided to members under any of its provisions to the extent necessary to avoid the revocation of the registration of that Plan.

Notwithstanding anything to the contrary herein the Committee shall cause a return of contributions to the City of members, as applicable, to avoid revocation of the registration of the 1974 Improved Plan where benefits or contributions fail to comply with the *Income Tax Act* (Canada) or Regulations made thereunder.

- 5B.** (1) Notwithstanding any other provision of the 1974 Improved Plan where upon termination of service between January 1, 1994 and December 31, 1995, the age of the member counted in completed years and months plus the credited service in years and months equals a sum of at least 75 completed years, and the member elects to retire by the later of:
- (a) May 31, 1994, and
  - (b) three months after first attaining a combination of age plus service totalling 75 points;

such member is entitled immediately thereafter to an annual service pension, payable monthly for life, equal to two (2.0) per centum of the average annual earnings during the 60 consecutive months during which the earnings were highest multiplied by years and completed months of credited service to a maximum of 35 years reduced at age 65, or upon receipt of Canada Pension, by 0.7 per centum of the lesser of such average earnings or the average of the year's maximum pensionable earnings as defined in the Canada Pension Plan at retirement and the two preceding years multiplied by the number of years and completed months of credited service after January 1, 1966.

- (2) All of the other provisions of the 1974 Improved Plan shall apply, *mutatis mutandis*, to a pension payable under this section provided however that no other provision of this that Plan shall reduce the amount of the immediate unreduced pension payable under this section.
- (3) Notwithstanding any other provision of the 1974 Improved Plan and subject to the Act and the *Income Tax Act* (Canada) and Regulations made thereunder, the cost of the pensions payable under this section shall be charged against the Fund and the employer shall contribute to the Fund the unfunded liability arising as a result of the difference in the cost of providing the pensions payable under this section and what it would have cost to provide such pensions under other provisions of that Plan had this section not been passed.

Such contributions shall be made on the recommendation of an actuary which shall be based on an actuarial valuation report of the 1974 Improved Plan, which complies with the provisions of subsection 147.2(2) of the *Income Tax Act* (Canada) and Regulations made thereunder.

- (4) Notwithstanding anything contained herein to the contrary with respect to the member, the lifetime pension benefit paid as a result of retirement under this section shall not exceed an annual amount calculated as set out below and determined in the year in which such pension benefit commences to be paid, that is the lesser of:
- (a) \$1,722.22 for each year of the member's service credits on and after January 1, 1992, or such other limit as may be prescribed under the *Income Tax Act* (Canada); and
- (b) 2% of the average of the member's final average indexed earnings times the number of years of service credits on and after January 1, 1992.

The amount of lifetime pension benefit payable to the member under the 1974 Improved Plan commencing prior to his normal retirement date shall not exceed in the year in which such pension benefit commences to be paid, the maximum retirement pension as set out under (a) or (b) above, reduced by 3% for each year by which the commencement of the early pension benefit precedes the earliest of the member's 55th birthday, completion of 25 years of continuous service or combination of age plus continuous service equals 75.

The amount of lifetime pension benefit payable to a member for a particular calendar year after the year in which the lifetime pension benefit commences to be paid cannot exceed the maximum allowable amount of lifetime pension benefit in the year in which the lifetime pension benefit commences to be paid multiplied by the percentage increase in the Consumer Price Index from the calendar year in which the lifetime pension benefit commences to be paid until such particular calendar year. Such percentage increase may be determined in any other alternative manner provided for by the Regulations under the *Income Tax Act* (Canada).

6. Upon termination of service with the City (other than by death or on account of disability or early disability), members who are employees as defined in this by-law under paragraph (a) of the definition of employee shall be entitled to and receive pensions, benefits and privileges in accordance with the following schedule, viz.:

**A. AFTER COMPLETION OF TWO YEARS AS A MEMBER BUT BEFORE COMPLETION OF 10 YEARS OF SERVICE WITH THE CITY, AND PRIOR TO ATTAINING COMPULSORY RETIREMENT AGE**

- (1) A return in cash, with interest as defined in this by-law, of the member's past personal contributions made prior to January 1, 1987 to the member's credit in the Fund plus an additional service pension payable monthly for life commencing at age 65, calculated in the same manner as prescribed in subsection (1) under heading C of this section less the pension credit earned by such member up to and including December 31, 1986 calculated in accordance with the provisions of this by-law applying to such member on December 31, 1986, except the minimum pension provisions shall not apply. The member may elect to commence his pension at any time after he has attained age 55 by filing the prescribed election form with the Committee, in which case his pension will be actuarially reduced to reflect the earlier commencement date.
- (2) Notwithstanding any other provisions of the 1974 Improved Plan, a member who is entitled to a benefit in accordance with subsection (1) above after December 31, 1987 and who has not attained age 55, in lieu of any other benefits under this by-law, and subject to the provisions of the Act and any other appropriate legislation, shall be entitled to require that the Committee authorize the transfer of the commuted value of his benefit in accordance with any one of the transfer options and subject to the same restrictions as provided in subsection (2) under heading A of section 5.

**B. AFTER COMPLETION OF 10 YEARS OF SERVICE WITH THE CITY BUT PRIOR TO ATTAINING COMPULSORY RETIREMENT AGE**

- (1) An annual service pension commencing at compulsory retirement age, payable monthly for life, computed as provided in subsection (1) under heading C of section 5 the member may elect to commence his pension at any time after he has attained age 55 by filing the prescribed form with the Committee, in which case his pension will be actuarially reduced to reflect the earlier commencement date.
- (2) Notwithstanding any other provisions of this by-law, a member who is entitled to a benefit in accordance with subsection (1) above after December 31, 1987 and who has not attained age 55, in lieu of any other benefits under the 1974 Improved Plan, and subject to the provisions of the Act and any other applicable legislation, shall be entitled to require that the Committee authorize the transfer of the commuted value of his benefit in accordance with any one of the transfer options and subject to



the same restrictions as provided in subsection (2) under heading A of section 5.

**C. AFTER COMPLETION OF 20 YEARS OF SERVICE WITH THE CITY (BUT SUBJECT TO REDUCTION FOR ARREARS AS HEREINAFTER PROVIDED)**

- (1) Upon attaining compulsory retirement age, (but subject to reduction for arrears and employee liability as hereinafter provided) an annual service pension, payable monthly for life calculated in the same manner as prescribed in subsection (1) under heading C of section 5. The member may elect to commence his pension at any time after he has attained age 55 by filing the prescribed form with the Committee, in which case his pension will be actuarially reduced to reflect the earlier commencement date.
- (1a) Notwithstanding any other provisions of this by-law, a member who is entitled to a benefit in accordance with subsection (1) above after December 31, 1987 and who has not attained age 55, in lieu of any other benefits under this by-law, and subject to the provisions of the Act and any other applicable legislation, shall be entitled to require that the Committee authorize the transfer of the commuted value of his benefit in accordance with any one of the transfer options and subject to the same restrictions as provided in subsection (2) under heading A of section 5.
- (2) In the event of retirement on pension occurring before a member has paid the total amount of employee liability described in paragraph 4(1)(b) the member may elect:
  - (a) to remit the unpaid balance of employee liability in a lump sum at the time of ceasing to be employed by the City; or
  - (b) not to remit the said unpaid balance in which case the pension credit in respect of the period of previous service for which he had elected to establish credit under the 1974 Improved Plan shall be recalculated so as to be the amount which bears the same relation to the total pension credit in respect of the period of previous service as the amount of employee liability paid into the Fund bears to the total amount of employee liability required to be paid into the Fund for his entire pension credit in respect of previous service disregarding in each case any interest on such employee liability after the date from which the employee became a member of the Fund;
  - (c) In the event such member has arrears within the meaning of paragraph 4(1)(c), the pension shall be reduced in accordance with the provisions of subsection (4) under heading C of section 5.

- (3) The provisions of subsections (4), (5), (6), (7), (8), (9), (11), (12), (13), (14) and (15) under heading C of section 5 shall apply to the pensions, benefits and privileges provided under heading C of this section.
- (4) In the event that the pension payable under this section is less than \$10.00 per month the Treasurer may pay the pension in quarterly, half-yearly or yearly instalments. In the event that any pension under this by-law is less than 2% of the year's maximum pensionable earnings as defined in the Canada Pension Plan at the member's date of termination of service, or such other amount as may be permitted from time to time by the Act, the Committee may elect to pay the pension in a single sum settlement of the actuarial equivalent value, the payment of such single sum settlement representing the full discharge of all liability with respect to such pension.

#### **UPON DISABILITY RETIREMENT AT ANY AGE**

7. (1) Subject to subsection (4), in the case of a member who retires or is retired on account of becoming totally and permanently disabled after December 31, 1987, after completing more than two years as a member but less than 20 years of service with the City, a return in cash shall be made of any paid personal contributions made prior to January 1, 1987 to the member's credit in the Fund with interest as defined in this by-law plus an annual service pension payable monthly for life commencing at age 65, calculated in the same manner as prescribed in subsection (1) under heading C of section 5 less the pension credit earned by such member up to and including December 31, 1986, except that the minimum pension provisions shall not apply. The member may elect to commence his pension at any time after he has attained age 55 by filing the prescribed form with the Committee, in which case his pension will be actuarially reduced to reflect the earlier commencement date.
- (2) Any member who has at least twenty years of service with the City may retire or be retired on account of being totally and permanently disabled in which event the member shall be entitled to and receive an annual disability pension, payable monthly for life computed for members who are employees as defined in paragraphs (a), (b) and (c) of the definition of employee in this by-law in the same manner as provided in subsection (1) under heading C of section 5.
- (3) The provisions of subsections (4), (7), (8), (9), (11), (12), (13), (14), (15) and (16) under heading C of section 5 shall apply to the pensions, benefits and privileges provided for under this section.
- (4) If the member has attained the age of 45 years or more and has completed at least ten years service with the City and retires or is retired on account of totally and permanently disabled before completion of twenty years of such service, such member shall, without limiting the right in respect to service prior to January 1, 1965, to a return of contributions, together with interest, under subsection (2), be entitled to and receive an annual service pension payable monthly for life commencing at age 65, calculated in the same manner as prescribed in

subsection (1) under heading C of section 5 less the pension credit earned by such member up to and including December 31, 1964, except that the minimum pension provision of the 1974 Improved Plan shall not apply in calculating the pension credit earned under that Plan unless the member's entire service is in respect to periods on and after January 1, 1965. The member may elect to commence his pension at any time after he has attained age 55 by filing the prescribed form with the Committee, in which case his pension will be actuarially reduced to reflect the earlier commencement date.

- (5) Notwithstanding any other provisions of this by-law, a member who is entitled to a benefit in accordance with subsections (1), (2) or (4) above after December 31, 1987 and who has not attained age 55, in lieu of any other benefits under this by-law, and subject to the provisions of the Act and any other applicable legislation, shall be entitled to require that the Committee authorize the transfer of the commuted value of his benefit in accordance with any one of the transfer options and subject to the same restrictions as provided in subsection (2) under heading A of section 5.

#### **UPON EARLY DISABILITY RETIREMENT AT ANY AGE**

8. (1) Any member who has at least 10 but less than 20 years of service with the City may retire or be retired on account of early disability, in which event the member shall be entitled to and receive, subject to the provisions of subsection (3), an annual early disability pension payable monthly for life computed for members who are employees as defined in paragraphs (a), (b) and (c) of the definition of employee in the same manner as provided in subsection (1) under heading C of section 5 (save and except that for the purpose of such computation the age requirement of paragraph (a) of the aforesaid section shall be disregarded).
- (2) Where an early disability pension has been granted and the person to whom such early disability pension was granted ceases to be totally and permanently disabled as defined in the definition of early disability in this by-law, such pension shall be suspended during the period such person is no longer totally and permanently disabled but shall recommence being paid to him upon his becoming again so totally and permanently disabled or in any event upon attaining age 65, or if he shall elect, age 55, actuarially reduced to reflect the earlier commencement date.
- (3) Where the early disability pension plus the initial benefits, if any, payable from the Canada Pension Plan and the Workmen's Compensation Board would otherwise exceed one hundred (100) per centum of the member's earnings immediately before becoming totally and permanently disabled his pension from the Fund shall be reduced by the amount required to bring the aggregate of income from these three sources back to one hundred (100) per centum of such earnings provided that this subsection shall operate to limit only the early disability pension payable to such former member prior to such former member attaining age 65 and shall not operate so as to limit the pension payable to such former member after attaining age 65 or the pension payable to the Spouse or Post Retirement Spouse, as applicable, or dependent children on the death of such

former member at any time.

- (4) The provisions of subsections (4), (7), (8), (9), (11), (12), (13), (14), (15) and (16) under heading C of section 5 shall apply to pensions, benefits and privileges granted under this section.
- (5)
  - (a) For the purposes of determining whether a person has ceased to be disabled or, having ceased to be disabled, as set out in subsection (2), the Committee may from time to time but not oftener than once in every year require such medical examination or other evidence as in its opinion is necessary. After examination of such evidence the Committee shall order the suspension, continuance or recommencement of the early disability pension and the former member shall be advised forthwith of the Committee's decision.
  - (b) A member may appeal the decision of the Committee and in such event a medical board as described in paragraph (b) of the definition of disability in this by-law shall be established to determine the eligibility of such former member for an early disability pension in this by-law and the conclusion of such board shall be final but notwithstanding such decision such former member may again apply for a recommencement of such early disability pension twelve or more months after the decision of such medical board has been rendered.
  - (c) Failure of the former member to submit to a medical examination or to furnish evidence as required by the Committee within a reasonable time as determined by the Committee may result in a suspension of the pension by the Committee in which case the former member shall be forthwith advised thereof and such former member shall have the same right of appeal as described.

#### **UPON DEATH WHILE IN THE SERVICE**

- 9. (1.0.1) The maximum benefit payment under this section shall not exceed the greater of the commuted value of the whole of the member's accrued benefits and the member's contributions with interest.
  - (1)
    - (a) Subject to paragraph (g), where a member dies after December 31, 1987, there shall be paid to his surviving Spouse if then living, unless the member and his Spouse have signed waivers in the prescribed form, a benefit equal to the greater of the following:
      - (A) A return in cash, with interest as defined in this by-law of the paid personal contributions made prior to January 1, 1987 to the member's credit in the Fund, plus a benefit equal to the commuted value of the member's benefit accrued after December 31, 1986 paid, as the surviving Spouse shall elect, as a deferred or immediate annuity, or as a lump sum cash payment. If the

surviving Spouse does not elect within the time period prescribed by the Act, the benefit shall be paid as an immediate annuity.

AND

- (B) A pension equivalent to Sixty-Six and Two-Thirds per centum ( $66\frac{2}{3}\%$ ) of the pension credit earned up to the date of death calculated in accordance with subsection (1) under heading C of section 5, but disregarding any age requirements referred to in paragraph (a) thereof and such pension shall be paid to the surviving Spouse for life.

provided that

- (i) if the age of the Spouse is more than 5 years less than that of the deceased member the aforementioned pension to the Spouse shall be actuarially reduced but notwithstanding the foregoing where a member dies on or after the 13th day of February, 1978, no actuarial reduction shall be applied unless the Spouse so surviving or so designated is more than 10 years younger than the deceased member;
  - (ii) Notwithstanding clause (i) above, where a member dies on or after April 22, 1982, no actuarial reduction shall be applied for any age difference between such member and the Spouse of such member;
  - (iii) if the member married or remarried subsequent to 12 months prior to death the benefit provided by this subsection shall not apply. Notwithstanding the foregoing, if the member's date of death is after December 31, 1987 and on such date the member had a Spouse as defined in this by-law, the benefits as provided by this subsection shall apply.
- (b) [Deleted by (111-76)]
- (c) Subject to paragraph (g), on the death of the Spouse the amount payable under paragraph (a) to the Spouse, if the Spouse elects to receive any benefit other than the lump sum cash payment, shall be paid to the dependent children living and under the age of 18 as long as there is at least one dependent child living under the age of 18.
- (d) Subject to paragraph (g) and subsection (2), where a male or female member dies after December 31, 1986, and where his or her Spouse predeceased such member's dependent children living and under the age of 18 or the member and his Spouse have signed waivers in the prescribed form, provided some person other than the Spouse hereinbefore referred to

or the dependent children have not been designated a pension equivalent to Sixty-Six and Two-Thirds per centum ( $66\frac{2}{3}\%$ ) of the pension credits earned by such member up to the date of death, shall be paid to the dependent children living and under the age of 18 as long as there is at least one dependent child living under the age of 18.

- (e) Subject to paragraph (g) and subsection (2), where a member dies in the service after December 31, 1986, and where such member's dependent children have been designated as beneficiaries, if the member's Spouse has predeceased him or the member and his Spouse have signed waivers in the prescribed form, a pension equivalent to Sixty-Six and Two-Thirds per centum ( $66\frac{2}{3}\%$ ) of the pension credits earned by such member up to the date of death, shall be paid to the dependent children living and under the age of 18 as long as there is at least one dependent child living and under the age of 18.
  - (f) Where the aggregate of the pension payments made under paragraphs (a), (c), (d) or (e), or any one or more of such paragraphs together with any amount received by a person named as a beneficiary for payments from the City's Government Annuity Contracts G104, G129 and G1129, are less than the payments that would otherwise have been paid under subsection (2) the difference between the amounts that would have been payable under subsection (2) and the aggregate of such payments (in this bylaw referred to as "residual death benefit") shall be paid in accordance with the provisions of subsection 10(2).
  - (g) If on the death while in the service of a member registered with the City's Annuity Contracts G104, G129 and G1129 an amount is paid or will be paid under such contracts to a Spouse, dependent children or other beneficiary or to their respective estates in excess of that expressed to be paid under the provisions of paragraphs (a), (c), (d) and (e), the pensions payable under the aforesaid said subsections shall be actuarially reduced to the extent of such excess unless such Spouse, dependent children or other beneficiary pay to the Fund the amount of such excess in which case such actuarial reduction shall not be made.
- (2) Upon the death of any member while in the service of the City after December 31, 1987, if the member does not have a surviving Spouse or if the member and his Spouse have signed waivers in the prescribed form, there shall be paid to the designated beneficiary of the member, if any, otherwise to the estate of the member, a benefit equal to the greater of the following, less any benefit paid to dependent children as provided in subsection (1):
- (a) an amount equivalent to the paid personal contributions to the member's credit in the Fund at the date of his death together with interest thereon as defined in the 1974 Improved Plan, together with the paid personal contributions to the member's credit with the Government Annuities Branch, Ottawa, plus any interest allowed thereon by the Government

Annuities Branch, Ottawa; plus if the member dies after completion of five years of service with the City, the sum of \$750.00 plus \$150.00 for each additional completed year of service with the City;

and

- (b) the commuted value of the member's benefit accrued after December 31, 1986, plus an amount equal to the paid personal contributions to the member's credit in the Fund made prior to January 1, 1987, together with interest thereon as defined in the 1974 Improved Plan, paid as a lump sum cash payment.

### **POST RETIREMENT SPOUSE'S PENSION**

- 9A.**
- (1) Effective January 1, 1995, a pension is payable under this section to a Post Retirement Spouse provided that no Spouse's or dependant children's pension is payable to a Spouse or dependent children under the provisions of sections 5 or 9.
  - (2) The amount of the pension payable under subsection (1) shall be Sixty-Six and Two-Thirds per centum (66 $\frac{2}{3}$ %) of the pension which the former member was receiving immediately prior to his or her death, provided that if the Post Retirement Spouse is more than 10 years younger than the former member, the Post Retirement Spouse's pension will be actuarially reduced to reflect a maximum age difference of 10 years.
  - (3) If a member died prior to January 1, 1995, a Post Retirement Spouse shall, subject to the conditions in subsection (1) above, be entitled to receive the pension described in subsection (2), reduced by any death benefits or residual payments paid out as a result of the member's death whether or not these were received by such Post Retirement Spouse or other designated beneficiary of the member, and provided, however, that such pension shall not in any case, commence prior to January 1, 1995.

### **BENEFICIARIES**

- 10.**
- (1) (a) The beneficiary or beneficiaries designated under subsection 9(1) of By-law 18777, as amended, shall be the beneficiary or beneficiaries designated to receive any payments on the death of the member or former member of the 1974 Improved Plan subject to such member changing such designation in accordance with the provisions of paragraph (b).
  - (b) Subject to the Act and any other applicable legislation, and notwithstanding the provisions of subsection 9(1A) of By-law 18777, as amended, each member shall have the right:
    - (i) to designate, by completing and delivering a statement of designation to the Committee in such form and in such manner as the Committee shall prescribe, one or more persons to receive any death benefits under the 1974 Improved Plan;

- (ii) to change, revoke or amend any such designation prior to his death and no change, revocation, or amendment shall require the consent of such beneficiary previously designated by such member, subject always to the provisions of the said Plan, any annuity, insurance or other contract, including Government Annuity Contracts G104, G129, and G1129, or law governing the designation of beneficiaries, from time to time in force, which may apply to such member.
  
- (2) (a) Subject to subsection (1) of this section, designations made under By-law 18777, as amended, and subject to paragraph (b) and subsection (3), designations hereinafter made shall mean and have the following effect:
  - (i) Regardless of whether or not the Spouse or Post Retirement Spouse of a member or former member has been designated as sole beneficiary or is the sole surviving beneficiary designated, then, provided such Spouse or Post Retirement Spouse is entitled to a Spouse's or Post Retirement Spouse's pension under the 1974 Improved Plan and survives the member or former member, the spouse's pension provided by such Plan shall be paid on the death of the member or former member to such Spouse or Post Retirement Spouse in accordance with the provisions of such Plan and on the death of such Spouse or Post Retirement Spouse if there be surviving dependent children under the age of 18 a dependent children's pension shall be paid in respect of dependent children under the age of 18 during and so long as there is at least one dependent child under the age of 18 and upon cessation of such dependent children's pension or in the event no such dependent children's pension is payable if a residual benefit or residual death benefit is payable under such Plan such residual benefit or residual death shall be paid to the estate or beneficiary of the former member, in accordance with such Plan.
  
  - (ii) Where the Spouse or Post Retirement Spouse of a member or former member predeceases such member or former member or where, after December 31, 1987, the member and the Spouse or Post Retirement Spouse, as applicable, of the member have signed waivers in the prescribed form, and where, on the death of such member or former member there are surviving dependent children under the age of 18, a dependent children's pension shall be paid in respect of dependent children under the age of 18 during and so long as there is at least one dependent child under the age of 18 and upon cessation of such dependent children's pension a residual benefit or residual death benefit is payable under the 1974 Improved Plan such residual benefit or residual death benefit shall be paid to the estate or beneficiary of the former member, in accordance with such Plan.



- (iii) Where the Spouse or Post Retirement Spouse of a member or former member has been designated as sole beneficiary or is the sole surviving beneficiary designated and survives such member or former member but is not entitled to a Spouse's or Post Retirement Spouse's pension under the 1974 Improved Plan any benefits payable under such Plan shall be paid to such Spouse or Post Retirement Spouse, as applicable, or where such Spouse or Post Retirement Spouse predeceases the member or former member or where, after December 31, 1987, the member and the member's Spouse or Post Retirement Spouse, as applicable, have signed waivers in the prescribed form, the applicable benefits shall be paid to the estate of the member or former member, in accordance with this by-law.
- (iv) Where there is no person entitled to a Spouse's or Post Retirement Spouse's pension under the 1974 Improved Plan and one or more children are designated by name or names as beneficiaries and no other person or persons are designated, and provided all such surviving children so named are, on the death of the member or former member, dependent children under the age of 18, a dependent children's pension shall be paid in respect of dependent children under the age of 18 during and so long as there is at least one dependent child under the age of 18 and upon cessation of such dependent children's pension a residual benefit or residual death benefit is payable under the 1974 Improved Plan, such residual benefit or residual death benefit shall be paid to the surviving children so designated. If any child or children so named and surviving are not dependent children under the age of 18 at the date of death of the member or former member no pension shall be paid, but applicable benefit shall be paid to the surviving child or children so named, in equal amounts. If all children so named predeceased the member or former member such benefits shall be paid to the estate or beneficiary of the member or former member, in accordance with such Plan.
- (v) Where the Spouse or Post Retirement Spouse and one or more children are designated by name as beneficiaries and such Spouse or Post Retirement Spouse is entitled to a Spouse's or Post Retirement Spouse's pension and all children so named are, on the date of death of the member or former member, dependent children under the age of 18, a Spouse's or Post Retirement Spouse's pension shall be paid to the Spouse or Post Retirement Spouse, as applicable, in accordance with the provisions of the 1974 Improved Plan until the death of such Spouse or Post Retirement Spouse, as applicable, and if at that time any of the children so named are dependent children under the age of 18, a dependent children's pension shall be paid in respect of dependent children under the age of 18 during and so long as there is at least one dependent

child under the age of 18 and upon cessation of such dependent children's pension or in the event no such dependent children's pension is payable if a residual benefit or residual death benefit is payable under such Plan such residual benefit or residual death benefit shall be paid in equal amounts to the surviving persons so named. In the event that there are no surviving persons so named, the residual benefit or residual death benefit shall be paid to the estate of the member or former member.

- (vi) Where a designation has been made in accordance with the provisions of clause (v) and the Spouse or Post Retirement Spouse predeceases the member or former member, a dependent children's pension, residual benefit, residual death benefit or other applicable benefits shall be paid in accordance with the provisions of clause (iv).
  - (vii) Where a designation has been made in accordance with the provisions of clause (v), but either the Spouse or Post Retirement Spouse, as applicable, would not be entitled to a Spouse's or Post Retirement Spouse's pension, if such Spouse or Post Retirement Spouse has been named as sole beneficiary or if any one of the named children are over the age of 18 at the death of the member or former member, any benefits payable under the 1974 Improved Plan shall be paid to the surviving persons so named in equal amounts. In the event that all persons so named predeceased the member or former member any benefits payable under such Plan shall be paid to the estate of the member or former member.
- (b) Notwithstanding paragraph (a) a member or former member may designate beneficiaries under the 1974 Improved Plan using the words "dependent children". Where such a designation is made, as long as there is no person entitled to benefits as a Spouse or Post Retirement Spouse, a dependent children's pension shall be paid on the death of the member or former member in respect of dependent children under the age of 18 during and so long as there is at least one dependent child under the age of 18 and if [*sic*] upon cessation of such dependent children's pension a residual benefit or residual death benefit is payable, such residual benefit or residual death benefit shall be paid to the estate or beneficiary of the member or former member, in accordance with such Plan.
- (3) Where a member or former member dies and the beneficiary designated by such member or former member under the City's Government Annuity Contracts G104, G129 and G1129 is different from the beneficiary designated by such member or former member, as evidenced by the record of the Committee, the type of benefit payable on and after his death shall be determined in accordance with the beneficiary designated in the records of the Committee.

11. (1) Every member shall within three months of becoming a member of the 1974 Improved Plan furnish documentary evidence as to the date of his or her birth. Such evidence may be in the following order of preference:
- (a) a birth certificate;
  - (b) a baptismal certificate;
  - (c) a copy of the entry in the Family Bible certified to be a true copy by a Notary Public or a Justice of the Peace;
  - (d) a declaration by a reputable person having cause to know the date of birth of the employee; or
  - (e) a declaration by the employee himself.
- (2) Subsection (1) shall not apply to a member who has furnished such evidence under either By-law 15939, 18777, as amended, 375-70 amended, or 284-71 as amended.
- (3) Where a Spouse, Post Retirement Spouse or dependent child becomes entitled to a pension under the 1974 Improved Plan there shall, prior to the payment of such pension, be furnished documentary evidence of the date of birth of such Spouse, Post Retirement Spouse or dependent child. Such evidence may be in the same order of preference as is provided for in subsection (1).
12. (1) The Committee prior to making any payments under the 1974 Improved Plan may require such proof of marital status or identity of any person or persons as is in the opinion of the Committee necessary for the determination of the eligibility of such person or persons for such payment.
- (2) Where a pension is being paid, the Committee may require at any time after the commencement of such pension, further proof of marital status or identity of any person or persons as is in the opinion of the Committee necessary for the purpose of making a determination of continuing eligibility for such pension.
13. [Deleted by (911-79)]

#### **THE FUND**

14. (1) All contributions from the City, the Metropolitan Corporation or from the members contributing hereunder shall be placed in the Fund and all payments of pensions, benefits and privileges authorized by the 1974 Improved Plan other than those provided by the City's Government Annuity Contracts G104, G129 and G1129 shall be charged against the Fund.

- (2) All charges other than:
  - (a) those referred to in subsection (1);
  - (b) those fees authorized to be paid out of the Fund pursuant to subsection 14A(1);
  - (c) those expenses authorized to be paid out of the Fund pursuant to subsections 14A(3) and (4); and
  - (d) any honorarium authorized to be paid by the Fund pursuant to subsection 15A(4);

that are competent to and in connection with the operation and administration of the 1974 Improved Plan shall be borne by the City.

- (3) The Fund shall be reported on actuarially by a competent actuary at least every three years.
- 14A.**
- (1) The Committee may delegate to any person or body, subject to any restrictions which may be imposed by the Committee, the power to invest all or any part of the money accumulated to the credit of the Fund and not required for current expenditure and may disburse from the Fund any fees payable to such person or body.
  - (2) All or any part of the money and investments accumulated to the credit of the Fund may be held in the name of the Fund or may be held for the account of the Fund by another person or body designated for that purpose by the Committee.
  - (3) The Committee may pay out of the Fund any expenses incurred by the Committee in providing for the custody and safekeeping of securities, certificates or other investments belonging to the Fund or in obtaining investment performance measurements.
  - (4) The Fund shall be responsible for and shall pay for the following external professional services and expenses:
    - (a) actuarial valuations, cashflow projections and services directly related to plan administration;
    - (b) external legal assistance and advice directly related to the administration of the Fund;
    - (c) training and development expenses for employee or pensioner representatives on the Committee;
    - (d) out-of-pocket and other administrative expenses which the Committee deems to be necessary for the proper administration of the Fund.

## **SURPLUS**

- 14B.** (1) Subject to subsections (3) and (5), all actuarial surpluses or any portion thereof in the Fund, shall continue to be used solely to pay for improved pension benefits, including excess interest indexing under subsection (3a) or as approved by City Council.
- (2) City Council shall continue to provide the necessary funding, by way of special payments, to fund those benefit improvements adopted prior to October 21, 1988, which were not funded from Fund surpluses.
- (3) In the event that any future pension benefit improvements are approved by City Council which, as a result of there being insufficient surplus in the Fund to fund such improvements, require the City to make additional special payments, the City may, following consultation with the Committee, offset in part or in full the amount of such special payments against any surpluses arising subsequent to the granting of the benefit, provided however, that no such offset shall occur in any year unless the actuary has reported that the surplus for that year is sufficient to pay all previously approved pension benefits, including excess interest indexing under subsection (3a) or as approved by City Council.
- (3a) In each year, if the Actuary has determined that the Fund is in a surplus position as at December 31 of the preceding year and that there are sufficient surpluses available to provide for an additional increase, pension benefits, including survivor benefits but excluding payments to beneficiaries under subsection (7) under heading C of section 5, that commenced on or before that date shall be increased according to the formula in subsection 1(3b)] as of:
- (a) July 1 in the years 1998, 1999, 2000 and 2001;
  - (b) July 1 in the year 2002, together with, as soon thereafter as is convenient, a lump-sum payment equal to the additional increases that would have been paid prior to that date in that year if such formula had been implemented as of January 1 of that year;
  - (c) January 1 in any year following 2002.
- (3b) Subject to subsections (3c) and (3d), the increase under subsection (3a) shall be the lesser of:
- (a) the investment rate of return of the Fund (using a five (5) year smoothing technique) \*in excess of the rate of return required to maintain the actuarial solvency of the Fund as determined by the Actuary; and
  - (b) the increase in the year over year level of the average Consumer Price Index (CPI) for Canada as published by Statistics Canada.

- (3c) For the purposes of the increase payable pursuant to clause (3a)(b) on July 1, 2002, subsection (3b) shall be interpreted as if the word "lesser" in the first line read "greater".
- (3d) For the purposes of the increases payable pursuant to subsection (3a) on January 1 in each of the years 2003 to 2005 inclusive, and 2009 to 2013 inclusive, subsection (3b) shall be interpreted as if the word "lesser" in the first line read "greater".
- (3e) As of January 1, 2008, subject to the same determinations by the actuary as those described in subsection (3a):
  - (a) any pension benefits then in payment which would have been at a higher level if the cost-of-living increases granted to Plan pensioners beginning in any of the five calendar years from 1989 to 1993 had been based on the relevant full increase in the Index referred to in clause (3b)(b) rather than on only a portion of that Index, shall be increased to such higher level; and
  - (b) any increase resulting from the operation of subsection (3a) shall be calculated after taking into account the operation of foregoing clause (a).
- (4) Nothing in this section precludes the City from improving pension benefits and funding these from sources other than surpluses.
- (5) Upon wind-up of the Original Plan, the Improved Plan and the 1974 Improved Plan, the City of Toronto shall receive any surplus then remaining in the Fund, subject to the appropriate provisions of the 1974 Improved Plan, applications, legislation and government rules relating to Plan wind-up in effect at that time.

#### **CIVIC EMPLOYEES' PENSION COMMITTEE**

- 15. (1) The Toronto Civic Employees' Pension Committee (the Committee) established is hereby continued to administer the 1974 Improved Plan, the Improved Plan, the Original Plan and the Fund but subject to the provisions of the 1974 Improved Plan respecting the election, constitution, powers and duties and other matters relating to the Committee.)
- (2) The Committee shall, subject to section 15A, be composed of
  - (a) **(REPEALED: By-law 207-2013)**
  - (b) **(REPEALED: By-law 207-2013)**
  - (c) **(REPEALED: By-law 128-2016)**
  - (d) **(REPEALED: By-law 128-2016)**
  - (e) **(REPEALED: By-law 207-2013)**

- (f) **(REPEALED: By-law 207-2013)**
  - (g) the City Treasurer;
  - (h) **(REPEALED: By-law 888-1999);**
  - (i) **(REPEALED: By-law 207-2013)**
  - (j) one person appointed by the City Manager from among his or her subordinates for a term as provided for in subsection (2.1), subject to subsection (2.2);
  - (j.1) one person appointed by the Chief Financial Officer from among his or her subordinates for a term as provided for in subsection (2.1), subject to subsection (2.2);
  - (k) three members of the Toronto Civic Pensioners' Protective Association appointed by that Association for a term in each case coinciding with the election term of office of the said Association and until his or her successor is appointed; and
  - (l) subject to subsection (3), not in excess of three who are members of the Toronto Civic Pensioners" Protective Association appointed by that Association for a term in each case coinciding with the election term of office of the said Association and until his or her successor is appointed.
- (2.1) Subject to subsection (2.2), the term of office of any designate provided for in paragraph (2)(j) or (j.1) shall coincide with the remainder of the term of the City Council in existence when the designate is appointed, or such shorter term as the document appointing the designate may specify.
- (2.2) Notwithstanding the appointment of a person under paragraph (2)(j) or (j.1), the City Manager, or the Chief Financial Officer, as the case may be, may at any time make a further appointment under that paragraph and thereupon such further appointment shall, to the extent inconsistent with any previous appointment, supersede such previous appointment.
- (3) Alternate members of the Committee provided for in paragraph 2(l) shall receive notices, agendas and minutes of all Committee meetings, but only when acting in the stead of an absent member shall an alternate member have the right to participate in Committee discussions and vote on any matter coming before the Committee.
- (3.1) Nothing in subsection (3) shall prevent an alternate member referred to therein from attending any meeting of the Committee or, if the Committee so permits, from participating in any discussion thereat.

- (3.2) None of the alternates provided for in paragraph (2) (l) shall when not acting in the stead of an absent member be considered to be a member of the Committee for the purposes of establishing a majority to determine any question or matter.
- (3.3) **(REPEALED: By law 128-2016)**
- (3.4) If any member of the Committee appointed pursuant to paragraph (2)(k) is absent from a meeting of the Committee or any part thereof:
- (a) any member of the Committee appointed as an alternate pursuant to paragraph (2)(l) and who is present thereat may for all purposes act in the stead of such absent member during such absence;
- but
- (b) no such alternate may simultaneously act in the stead of more than one absent member of the Committee; and
- (c) if the number of such alternates present at any meeting of the Committee is greater than the number of such absent members, the determination of which of them shall act pursuant to paragraph (a) shall be made by agreement among them, failing which they shall draw lots.
- (4) The City Treasurer shall be an *ex officio* member~~s~~ of the Committee and may appoint one of his or her subordinates, other than the Secretary of the Committee or a person acting for that Secretary, to attend and vote at meetings thereof in his or her stead.
- (5) When the office of the City Treasurer is vacant, the person acting in his or her stead shall be *pro tempore* an *ex officio* member of the Committee with the powers of the City Treasurer in that respect.
- (6) The cessation in office of the City officer who has made the appointment of a designate under paragraph (2)(j) or (2)(j.1), shall not affect the continuing validity of such appointment.
- (7) If there is a cessation of office as described in subsection (6), the individual exercising the powers of that office during any resulting vacancy shall have the power to make a further appointment under subsection (2.1).
- (8) The cessation of the employment with the City of any designate appointed under paragraph (2)(j) or (2)(j.1) shall constitute his or her resignation from the Committee.
- 15A.** (1) From and after a date in 1992 to be named by Council, in addition to the members of the Committee set out in section 15, one member of the Committee shall be appointed by Council on nomination of the Committee and the member appointed under this subsection shall not be:



- (a) a member or former member of the 1974 Improved Plan; or
  - (b) an employee of the City of Toronto; or
  - (c) a member of Council.
- (2) The term of office of the member appointed by Council under subsection (1) shall be the same as the term of office of the Council making such appointment, but notwithstanding the foregoing, such member shall continue to hold office after the expiry of the term of office of the Council until his or her successor is appointed by the newly-elected Council.
- (3) The member of the Committee appointed under subsection (1) shall have full voting rights on all matters before the Committee, save and except he or she shall have no vote in respect of the appointment, dismissal or honorarium of the Chair.
- (4) The Committee may appoint as Chair of the Committee the member appointed by Council under subsection (1) and any person appointed Chair under this subsection shall be paid by the Fund an honorarium of \$7,500.00 per annum.

**16. (REPEALED: By-law 128-2016)**

- 17.** (1) The Committee shall appoint a secretary and may define his or her duties in addition to his or her duties as set out in the 1974 Improved Plan.
- (2) The secretary may be paid such salary or other remuneration as is from time to time fixed by the Committee and approved by Council but no member of the Committee shall receive any remuneration for the member's services as such nor shall any remuneration be paid to the City Treasurer or the City Auditor or to any member of the staff of either for services rendered to or on behalf of the Committee.

**18.** It shall be the duty of the Committee:

- (a) to keep a record of all employees under the 1974 Improved Plan in which shall be set out the name and age of each, the time of entered into the service of the City, a cumulative record of service, the amount of salary from time to time, the name, address, age and relationship of each beneficiary nominated by the employee, the normal retirement age, and the earlier retirement age;
- (b) to keep a record of all former employees who have retired or who have terminated their employment or whose employment has been terminated and the amount of the pension benefit or privileges which each became or will become entitled to under the 1974 Improved Plan;
- (c) to keep such statistical and other records relative to the 1974 Improved Plan as may be required;

- (d) to provide that each member of the 1974 Improved Plan and any other persons entitled under the Act be furnished annually with a statement showing the member's contributions during the year and the member's total contributions to the end of such year, and any other information required to be provided under the Act;
  - (e) to provide that each member of the 1974 Improved Plan and any other persons entitled under the Act be furnished annually with copies of a condensed statement of revenue and expenditure and a balance sheet for such year and such information as the Committee shall direct, and any other information required to be provided under the Act;
  - (f) to keep proper and correct minutes of all meetings so as to show clearly the action of the Committee in respect of every matter considered by it;
  - (g) to appoint scrutineers for the election of the representatives of the employees;
  - (h) to report to the City Council as early as possible in each year:
    - (i) statement of revenue and expenditure;
    - (ii) detailed statement of all pensions, benefits and privileges paid or granted during the year, showing:
      - (A) with reference to each person retired, name, sex, age at retirement, position, cause of retirement, length of service, date of commencement of pension and total amount paid during the year;
      - (B) with reference to Spouses, eligible Post Retirement Spouses, dependent children, and other beneficiaries under the by-law, in each case, the name, sex, age, and relationship to member or former member, date of payment or commencement of benefit, amount of benefit, and total amount paid during the year, along with the name, age at death, and length of service of such member or former member;
    - (iii) detailed statement of the investments of the Fund;
    - (iv) balance sheet as at 31<sup>st</sup> of December.
- 19.** (1) Subject to the approval of City Council, the Committee may make regulations respecting matters of the administration of the 1974 Improved Plan, the Improved Plan, the Original Plan and the Fund, including regulations respecting proof of length of service, procedure leading to retirement on pension, date of retirement and commencement date of pensions, and financial adjustments of advantage to the 1974 Improved Plan, the Improved Plan, the Original Plan and the Fund.

- (2) The Committee may make regulations respecting:
- (a) the appointment of the Chair and prescribing the role, responsibilities and duties of the Chair;
  - (b) the time and place of its meetings and the proceedings thereat;
  - (c) generally for the better carrying out of the provisions of the 1974 Improved Plan, the Improved Plan and/or the Original Plan.
- 19A.** Any question or matter considered by the Committee shall be determined by a majority of the members of the Committee holding office at that time provided however, that any question or matter involving the investment of money accumulated to the credit of the Fund shall be determined by a vote of at least two-thirds of the members of the Committee in attendance at the meeting when such determination is made but in no case shall any question or matter involving the investment of money accumulated to the credit of the Fund be determined by less than a majority of the members of the Committee holding office at that time.
- 20.** (1) The Committee shall meet quarterly in each year; provided that the Chair may call a meeting of the Committee at any time.
- (2) Four members of the Committee with power to vote shall constitute a quorum.
- 21. (REPEALED: By-law 128-2016)**

#### MISCELLANEOUS

- 22.** (1) Notwithstanding anything hereinbefore contained no member who is a member under By-law 18777, as amended, By-law 375-70, as amended, and By-law 284-71, as amended, shall receive a lesser pension under the 1974 Improved Plan than he or she would have received under By-law 18777, as amended, together with supplementary By-law Nos. 21470, 21515, 21550, 21588, 22044 and 22315, By-law 375-70, as amended, and By-law Nos. 275-72, 285-72 and 244-73 and By-law 284-71, as amended, but save as aforesaid the pension, benefits and privileges of the 1974 Improved Plan supersede the pensions, benefits and privileges of the Original Plan established by By-law 18777, as amended, By-law 284-71, as amended, and the aforesaid supplementary by-laws.
- (1a) Notwithstanding anything hereinbefore contained in this by-law, a Spouse whose pension was terminated upon remarriage prior to the 22nd day of April, 1982, shall have such pension reinstated effective the 1st day of July, 1984, on the basis that the monthly pension to be recommenced under this subsection will be equivalent to the monthly amount that would have been paid to such Spouse on the 1st day of July, 1984, if such pension had not been so terminated.

- (2) A member may not terminate membership in the 1974 Improved Plan as long as the member is in the full-time or part time permanent service of the City and under retirement age.
- (3) A member whose service with the City is finally terminated on or after the September 18, 1974, and who re-enters the service of the City at a later date shall for all purposes of the 1974 Improved Plan be deemed to be a new employee; and for the purposes of this subsection a member's service shall be deemed to have been finally terminated when, in the opinion of the Committee, the member has left the service of the City without reason to believe that the member will be further employed by the City.
- (4) (a) Subject to the Act, the *Income Tax Act* (Canada) and Regulations made thereunder and every other applicable enactment, including in particular but without restricting the generality of the foregoing the exclusions provided for in clauses 8502(f)(i) and (ii) of the Regulations under the *Income Tax Act* (Canada) and subject to paragraph (d) the pensions, benefits and privileges provided under the 1974 Improved Plan may not be assigned, changed, anticipated, given as security, surrendered or otherwise alienated, and contributions by a member may not be borrowed against, and may not be withdrawn other than as hereinbefore provided.
- (b) Without limiting anything herein contained, but subject to paragraph (d) the entitlement to pensions referred to in subsection (2) under heading B of section 5, clause (iii) of paragraph (b) of subsection (3) and subsection (17) all under heading C of section 5, heading B of section 6 or subsection 7(5) are not capable of surrender or commutation.
- (c) Subject to paragraph (d) a member who becomes entitled to a pension referred to in paragraph (b) shall not upon termination of employment be entitled to withdraw any part of the contributions he or she has been required to make on or after January 1, 1965, pursuant to the 1974 Improved Plan or any by-law of the City providing for contributions to the Fund, and such contributions shall be applied to the provisions of the pensions, benefits and privileges conferred by this by-law.
- (d) Subject to the Act and any other applicable legislation, a former employee entitled to a deferred pension referred to in subsection (2) under heading B of section 5, clause (iii) of paragraph (b) of subsection 3 under heading C of section 5, heading B of section 6 or subsection 7(5), may elect before the commencement of payment of such pension to receive a payment or series of payments by reason of a mental or physical disability as prescribed by the Act or any other applicable legislation, partly or wholly in lieu of the pension to which such former employee would otherwise be entitled and the Committee in its sole discretion shall determine the amount of the payment or payments to be made in consultation with the actuary.

- (5) Membership in the 1974 Improved Plan shall not constitute a guarantee of employment.
- (6) Where a decree, an order or judgement from a court of competent jurisdiction or a valid written domestic contract pursuant to the *Family Law Act* (Ontario), as amended from time to time, has been received by the Committee requiring division of a member's benefit under the 1974 Improved Plan due to breakdown of marriage or dissolution of common-law relationship,
  - (a) such division shall be made in accordance with such order or contract, as determined by the Committee, and subject to the Act and any requirements prescribed under applicable legislation;
  - (b) any necessary adjustments shall be made to the member's benefit entitlement.
- 23. Where a member of the 1974 Improved Plan on or after September 18, 1974, becomes a member of the Pension Plan of the Metropolitan Corporation, the member or the member's beneficiary shall be entitled, upon termination of services with the Metropolitan Corporation, to all benefits under the 1974 Improved Plan accrued up to the date when he or she became a member of the Metropolitan Corporation Plan, and employment by and service with the Metropolitan Corporation shall, for any of the benefits under the 1974 Improved Plan, be deemed to be employment by and service with the City.
- 24. Every member and every other person entitled to such information under the Act shall be given a written explanation of the terms and conditions of the Original Plan, the Improved Plan and the 1974 Improved Plan together with an explanation of the rights and duties of the member with reference to the benefits available to him or her under the terms of the 1974 Improved Plan and any other information prescribed by the Act.
- 25. Where a person, being a member of the 1974 Improved Plan, becomes a member of the Ontario Municipal Employees Retirement System (hereinafter referred to as OMERS) without terminating his service with the City, such person or his beneficiaries shall be entitled on termination of the person's service with the City to all benefits of the 1974 Improved Plan accrued up to the date when the person became a member of OMERS, and the person's service with the City subsequent to becoming a members of OMERS shall be included for the purpose of determining the person's eligibility for such accrued benefits.
- 26. References to By-law 15939 and registered employees under or within the meaning of said By-law 15939 shall be deemed to be references to the Public Library Board Plan.
- 27. By-law 15939, as amended, By-law 18777, as amended, and By-law Nos. 21470, 21515, 21516, 21550, 21588, 21598, 22044 and 22315, By-law 375-70, as amended, and By-law 284-71, as amended, are amended insofar as may be necessary to give effect to the 1974 Improved Plan.

- 28.** The 1974 Improved Plan comes into force on September 18, 1974 upon approval of the Ministry of Treasury, Economics and Intergovernmental Affairs.