



PLEASE NOTE

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the [Table of Public Acts](#).

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CHAPTER T-1

TEACHERS' SUPERANNUATION ACT

1. In this Act	Definitions
(a) "chairperson" means the chairperson of the Commission appointed under subsection 3(2);	Chairperson
(a.1) "Commission" means the Teachers' Superannuation Commission appointed under subsection 3(1);	Commission
(a.2) "commissioner" means a member of the Commission appointed under subsection 3(1);	commissioner
(b) "dependant" of a teacher or person entitled to or receiving a pension under this Act means the father, mother, brother, sister or child whether over eighteen years of age or not, of the teacher or said person, who at the time of the death of the teacher or said person is dependent upon the teacher or said person for support;	dependant
(c) "employer" means the employer of a teacher who makes contributions to the Fund under this Act in respect of service to which this Act applies;	employer
(d) "Fund" means the Teachers' Superannuation Fund established under this Act;	Fund
(d.1) "instructional personnel" means teachers and such other persons as the Minister designates pursuant to the <i>School Act</i> R.S.P.E.I. 1988, Cap. S-2.1.	instructional personnel
(e) "Minister" means the Minister of Education;	Minister
(e.1) "pension" means a pension granted upon retirement under section 16;	pension
(f) "regulations" means regulations made under this Act;	regulations
(g) "salary" means the total remuneration payable to a teacher for service and, where applicable, includes such amounts of compensation as are prescribed amounts for the purposes of subsection 147.1(1) of the <i>Income Tax Act</i> (Canada) related to disability and eligible periods of reduced pay or temporary absence;	salary
(h) "service" or "teaching service" means, subject to the limitations imposed by section 11, 11.2 and 12.1, service rendered by a teacher	service or teaching service
(i) in teaching in the public schools of the province,	

(ii) in teaching in any school located in the province operated by the Department of National Defence (Canada) or the Department of Indian and Northern Affairs (Canada) or by any other agency recognized by the Minister as providing efficient instruction in a school by teachers who apply for permission to come under this Act and who make contribution to the Fund,

(iii) on the teaching staff of Prince of Wales College and Normal School,

(iv) in the supervision of teaching or other service in the Department of Education or a regional school board, or

(v) in the employment of the Prince Edward Island Teachers' Federation, who applies for permission to come under the Act and who makes the contributions to the Fund under this Act,

and includes any period during which the teacher is in receipt of temporary wage loss benefits under the *Workers Compensation Act* R.S.P.E.I. 1988, Cap. W-7.1 in respect of a total loss of earning capacity, but does not include service as a substitute or temporary teacher or service given by a teacher to a person other than the primary employer of the teacher;

spouse

(h.1) "spouse" means either of a man and woman who

(i) are married to each other,

(ii) are married to each other by a marriage that is voidable and has not been annulled by a declaration of nullity,

(iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting in a conjugal relationship or, if they have ceased to cohabit, have cohabited in a conjugal relationship within the twelve-month period immediately preceding the date of entitlement, or

(iv) not being married to each other and neither being married to another person have lived together as husband and wife for three years and are living together as husband and wife at the relevant time;

teacher

(i) "teacher" means a person who holds a valid instructional license issued by the Minister under subsection 3(1) of the *School Act* R.S.P.E.I. 1988, Cap. S-2.1;

totally and permanently disabled

(j) "totally and permanently disabled" means, in relation to an individual, suffering from a physical or mental impairment that prevents the individual from engaging in any employment for which the individual is reasonably suited by virtue of the individual's education, training or experience, and that can reasonably be expected to last for the remainder of the individual's practical working life;

- (k) “vice-chairperson” means the vice-chairperson of the Commission appointed under subsection 3(2). 1975,c.28,s.1; 1982,c.32,s.1; 1993,c.29,s.4; 1991,c.43,s.1; 1994,c.61,s.1; 1995,c.8,s.1; 1997,c.50,s.1; 2004,c.48,s.1; 2005,c.55,s.1; 2005,c.21,s.1. vice-chairperson
2. This Act applies to Application
- (a) instructional personnel;
- (b) all teachers receiving a pension under this Act or who made contributions to the Fund. 1991,c.43,s.2.
3. (1) This Act shall be administered by a Teachers' Superannuation Commission consisting of Administration of Act
- (a) three persons appointed by the Minister from among the employees of the Department of Education;
- (b) three teachers who are contributors to the Fund appointed by the Prince Edward Island Teachers' Federation;
- (c) one person appointed by the Provincial Treasurer.
- (2) The Minister shall appoint the chairperson and vice-chairperson of the Commission from the members referred to in clause (1)(a). Chairperson and vice-chairperson
- (2.1) The vice-chairperson shall perform the duties and functions of the chairperson where the office of the chairperson is vacant or in the absence of the chairperson or where the chairperson is unable to act. Vice-chairperson
- (2.2) The commissioners shall serve for the term specified in their appointments. Term
- (3) The chairperson shall call a meeting of the Commission Meetings of the Commission
- (a) at least twice annually and at such other times as he or she considers necessary; and
- (b) within 15 days of the request in writing made to the chairperson by at least four members of the Commission.
- (4) The Commission shall provide an annual report to the Minister by March 31 of each year containing the following information: Annual report
- (a) the audited financial statements of the Fund;
- (b) the operations of the Fund in the preceding fiscal year;
- (c) a summary by category of the pensions being paid out of the Fund;
- (d) such other information as may be required by the regulations or requested by the Minister.
- (5) The Minister shall lay the Commission's report before the Legislative Assembly if it is then in session, or if it is not in session then during the ensuing session, together with a complete statement of the financial Laying report before Legislature

standing of the Fund for the preceding fiscal year, showing the moneys withheld as contributions by teachers and moneys paid out in respect of pensions or refunds of contributions. 1975,c.28,s.3; 1982,c.32,s.2; 1983,c.1,s.6; 1986,c.5,s.2; 1993,c.29,s.4; 2004,c.48,s.2.

Incapacity of a commissioner	4. In the case of the death, illness or absence from Prince Edward Island of a commissioner or his or her inability to act from any cause, the Lieutenant Governor in Council may appoint some person to act for the time being in his or her stead, and the person so appointed has all the powers and shall perform all the duties of a commissioner; notwithstanding section 3, if the commissioner who is unable to act for the foregoing reasons is a contributory teacher, the appointment of his or her replacement may be made by the Prince Edward Island Teachers' Federation. 1975,c.28,s.4; 1982,c.32,s.3; 2004,c.48,s.3.
Re-appointment	5. A commissioner may be re-appointed. 1975,c.28,s.5; 2004,c.48,s.4.
Quorum	6. Four commissioners are necessary to constitute a quorum of the Commission. 1975,c.28,s.6.
Vacancies, effect of	7. Vacancies in the Commission do not, if there remain four members of it, impair the authority of the four members to act. 1975,c.28,s.7.
Clerical assistants	8. The Minister shall provide for the proper administration of this Act. 1975,c.28,s.8.
Teachers' Superannuation Fund	9. (1) There shall be a Fund known as the "Teachers' Superannuation Fund" into which, subject to section 14, shall be paid all contributions made by teachers and employers under this Act.
Payments out of Fund	(2) All pensions, payments, refunds and administrative expenses shall be a charge on and payable out of the Fund.
Payments into Fund by Provincial Treasurer	(3) If at any time the Fund is insufficient to make all payments by this Act required to be made, the Provincial Treasurer shall pay into the Fund an amount out of the Operating Fund sufficient to enable such payments to be made.
Investment of Fund	(4) The Fund shall be held in trust by the Provincial Treasurer and shall be invested in accordance with the investment policy approved by the Lieutenant Governor in Council.
Reduction of unfunded liability	(5) Repealed by 2005,c.55,s.2. 1975,c.28,s.10; 1982,c.32,s.5; 1983,c.1,s.6; 1986,c.5,s.2; 1988,c.65,s.1; 1993,c.29,s.4; 1995,c.40,s.1; 1997,c.20,s.3; 2005,c.55,s.2.

10. There shall be periodic actuarial valuations of the Fund at such times as the Minister may direct and not more than three years shall elapse between valuations. 1980,c.51,s.1; 1991,c.43,s.3. Actuarial valuations

11. (1) Computation of teaching service is subject to this Act and to the following limitations Limits

(a) teaching service after July 1, 1931 may be computed as teaching service; and

(b) approved leave may be computed as teaching service within the overall limits imposed by the *Income Tax Act* (Canada) and regulations on the crediting of service in a registered pension plan.

(2) Where a person has been employed in teaching in the province for at least one year between the last year of teaching service outside the province and his or her retirement, the Commission may, for all purposes relating to pension, include similar service since 1931 as a teacher fully engaged in teaching service in any province of Canada or in any country approved by the Commission if the teacher has paid into the Fund the full actuarial value of the transferred service, as determined by the Commission. Including five years service outside province

(3) Service in the armed forces of Canada during any period when Canada is at war, or in any theatre of operation where a state of war exists, counts in computing teaching service, if the person claiming the service has, within the twelve month period immediately preceding his or her enlistment, been engaged in the teaching profession, or in the pursuit of studies appertaining to the teaching profession, and has resumed or commenced teaching in Prince Edward Island within five years of the date of his discharge from the forces. Military service during war, computed as service

(4) A teacher who has been on approved leave without pay or with part pay under clause (1)(b) or subsection (3) may make such payments after returning from leave or re-employment as a teacher, as are equal to the full actuarial value, as determined by the Commission, of the period of leave or the equivalent period of unpaid leave in the case of part pay. 1975,c.28,s.12; 1982,c.32,s.6; 1987,c.67,s.1; 1995,c.40,s.2; 2001,c.58,s.1; 2004,c.48,s.5. Purchase of previous leave

11.1 Notwithstanding subsection 11(4) and subject to clause 11(1)(b), a teacher may make contributions to the Fund for a period of leave taken as maternity, parental, adoption or sabbatical leave, in accordance with the regulations. 2001,c.58,s.2; 2005,c.21,s.2. Contribution for parental leave

11.2 (1) In this section, "Program" means the Workforce Renewal Program 2005 for School Boards. "Program", defined

Computation of service	(2) Where a teacher takes the approved paid leave option under the Program, that leave may be computed as service under this Act if the teacher opts to receive the teacher's earnings over a leave period that does not exceed two times the total number of weeks awarded under the Program.
Service	(3) A teacher shall have his or her service under the Program credited as service under this Act as follows: <ul style="list-style-type: none"> (a) if the teacher elects to make contributions to the Fund as if he or she were full-time during the leave period, the teacher shall be credited with the service equivalent in full-time hours of the period of the leave; (b) if the teacher does not elect to make contributions as described in clause (a), the teacher shall be credited with the actual number of hours for which the teacher was paid under the Program.
Rate to be used for calculation	(4) For greater certainty, the rate to be used for the purposes of subsection 18(1.1) shall be the salary amount for which contributions are actually made under the Program.
Repeal	(5) This section is repealed on June 30, 2007. 2005,c.55,s.3
Prior employment with civil service Application of recognized <i>Income Tax Act</i> rules	<p>12. Repealed by 2004,c.48,s.6. 1975,c.28,s.13; 2004,c.48,s.6.</p> <p>12.1 Notwithstanding section 11, calculation of service, and contributions for purchase of pension entitlement for past service, shall be governed by the applicable rules and limitations required by the <i>Income Tax Act</i> (Canada) and service of a teacher prior to January 1, 1992 with an employer who does not make contributions to the Fund may be counted as service of the teacher under this Act only in accordance with a reciprocal transfer agreement or portability arrangement acceptable under the <i>Income Tax Act</i> (Canada). In addition, any foreign service may be counted as service of a teacher under this Act only if it conforms with the requirements under that Act. 1994, c.61, s.2; 2004,c.48,s.7.</p>
Maximum period of service	13. Repealed by 1995,c.40,s.3.
Teacher's contribution	<p>14. (1) Every teacher shall contribute to the Fund an amount which is</p> <ul style="list-style-type: none"> (a) nine per cent of that part of his or her salary that represents the basic exemption under the Canada Pension Plan as defined in the <i>Canada Pension Plan Act</i> R.S.C. 1985, Chap. C-8; (b) seven and two-tenths per cent of that part of his or her salary that exceeds the basic exemption up to the amount of the "Year's Maximum Pensionable Earnings" as defined in the said Act; (c) nine per cent of that part of his or her salary that exceeds the amount of the "Year's Maximum Pensionable Earnings";

(d) nine per cent of the salary of a teacher whose employment is excluded from the Canada Pension Plan.

(2) The employer shall deduct proportionally in each pay period from the salary of each teacher the amount of the teacher's contribution and pay the same into the Fund. Deduction

(3) The employer shall, in respect of each teacher, make an employer's contribution equal to the amount of the teacher's contribution and pay the same into the Fund. Employer's contribution

(4) Repealed by 1995,c.40,s.4. After 35 years service, effect of

(5) Notwithstanding any other provision of this section, if a situation exists in which any contribution to the Fund by the employers would not be an eligible contribution pursuant to paragraph 147.2(2)(d) of the *Income Tax Act* (Canada), the Minister shall notify the employers and the teachers of the duration of a cessation of contributions as necessary to bring the Fund within the required limits, and the employers and the teachers shall cease making the contributions as required by the notice. Cessation of contributions

(6) Subject to the requirements of sections 8507 and 8508 of the regulations to the *Income Tax Act* (Canada), a teacher who is participating in a deferred salary plan pursuant to a collective agreement with the employer shall continue to make contributions calculated on the reduced salary the teacher is actually receiving or, at the teacher's option, on the salary the teacher would have received if the teacher had continued to work at the full-time equivalent for their position. Deferred salary plan

(7) Where, pursuant to clause 1(h), the service of a teacher includes a period of wage loss benefits under the *Workers Compensation Act*, the employer shall pay the teacher's contribution under subsection 14(1) based on the teacher's salary at the date of commencement of receipt of those benefits by the teacher. 1975, c.28, s.15; 1985, c.42, s.1; 1992, c.66, s.1; 1994, c.61, s.3; 1995,c.40,s.4; 2004,c.48,s.8; 2005,c.21,s.3. Wage loss benefits

14.1 (1) Where all or part of Written notice
 (a) the teacher's contributions to the Fund required under subsection 14(1); or
 (b) the employer's contributions to the Fund required under subsection 14(3),
 have not been paid into the Fund, the Commission shall give written notice to the employer and the teacher respecting the contributions.

(2) An employer who has received a written notice under subsection (1) shall pay into the Fund the amounts that the employer should have paid under subsection 14(3), together with interest. Missed contributions of employer

Teacher may make contributions	(3) Subject to subsection (4), a teacher may make the contributions to the Fund in respect of the teacher's service for the period during which the contributions were required to be paid under subsection 14(1) but were not paid, together with interest, in accordance with the regulations.
<i>Idem</i>	(4) Where a teacher pays contributions to the Fund under subsection (3), the interest accrued on the contributions shall be paid <ul style="list-style-type: none"> (a) by the employer for the period during which the contributions were required to be paid under subsection 14(1) but were not paid, up to the earlier of the following: <ul style="list-style-type: none"> (i) the date the teacher starts making the contributions, or (ii) the date which is 180 days after the date on which written notice was given under subsection (1); and (b) by the teacher, starting on the earlier of the following: <ul style="list-style-type: none"> (i) the date the teacher starts making contributions under this section, or (ii) 180 days after the date on which written notice was given under subsection (1).
Interest	(5) Interest payable under this section <ul style="list-style-type: none"> (a) shall be at the rate of five per cent compounded annually; and (b) may be waived by the Commission in whole or in part. 2004,c.48,s.9.
Termination of right to contribute	15. (1) Notwithstanding section 14, a teacher shall cease contributing to the Fund not later than December 31 of the year in which the teacher reaches the age of 69 years.
Commencement of pension payment	(2) Unless otherwise approved in accordance with the <i>Income Tax Act</i> (Canada), any pension to which a teacher is entitled under this Act shall commence on or before December 31 of the year in which the teacher reaches the age of 69 years.
Maximum contribution	(3) Notwithstanding any other provision of this Act, the contribution to the Fund made by a teacher for a year shall in no case exceed \$1,000 plus seventy per cent of the total pension credit for the teacher for the year as defined in the <i>Income Tax Act</i> (Canada). 1994, c.61, s.4; 2004,c.48,s.10.
Persons eligible for pension	16. (1) Subject to section 20 and the regulations, upon written application, a yearly pension, payable monthly, will be granted upon retirement to every person who <ul style="list-style-type: none"> (a) is of the age of sixty years or more and has five or more years of service; (b) is of the age of fifty-five years or more and has thirty or more years of service;

- (c) subject to subsection (1.1), is of the age of fifty-five years or more and has at least five years but less than thirty years of service;
- (d) has five or more years of service and retires on the grounds that he or she is totally and permanently disabled; or
- (e) has thirty-five or more years of service.

(1.1) A pension payable pursuant to clause (1)(c) shall be reduced by the lesser of Reduced pension calculation

(a) one quarter per cent for each full month between the date of actual retirement and the date the person reaches the age of sixty years; or

(b) one quarter per cent for each full month between the date of actual retirement and the date the person would reach thirty years of service,

from the pension that would otherwise be calculated if the person were age 60.

(1.2) For the purposes of subsection (1), the periods of service that may be counted in the calculation of a pension under this section are those periods, or portions thereof, for which the full contributions required under this Act are made. Periods for which contributions made

(2) Where a teacher applies for a pension on the grounds that he or she is totally and permanently disabled, the teacher shall provide evidence satisfactory to the Commission of the physical or mental condition of the teacher that resulted in the total and permanent disability. Evidence of disability

(3) Subject to the regulations, the Commission shall review annually the case of a teacher superannuated on account of being totally and permanently disabled and, on the recovery of the teacher, the pension shall cease unless, in the meantime, the teacher has reached the age of sixty years or unless the teacher would have been eligible for a pension under clause (1)(b) or (c). 1975,c.28,s.16; 1980,c.51,s.2; 1987,c.67,s.2; 1991,c.43,s.4; 1995, c.40,s.5; 1996,c.45,s.1; 1997,c.50,s.2; 2000,c.13,s.1; 2004,c.48,s.11. Review

17. (1) Every person who has five years or more of teaching service and subsequently leaves the service may, within six months after leaving, elect Election to withdraw contributions or leave in until age sixty

(a) to receive a refund of his or her contributions to the Fund; or

(b) to allow his or her contributions to remain in the Fund until eligible to receive a pension under subsection 16(1),

and that election is final.

(2) Where a person eligible to make an election under subsection (1) does not give notice to the Commission within the six months referred to Election deemed, where

in subsection (1), that person shall be deemed to have elected clause (1)(b).

Consequences of election

(3) Where a person mentioned in subsection (1) elects
 (a) clause (a) thereof, the contributions shall be refunded to him; or
 (b) clause (b) thereof, and allows his contributions to remain in the Fund, a yearly pension payable monthly shall be paid to that person commencing on the effective date of the pension for which application is made under subsection 16(1). 1975,c.28,s.17; 1991,c.43,s.5; 1996,c.45,s.1; 2004,c.48,s.12.

Calculation of pension

18. (1) The pension payable under this Act shall be calculated as one-fiftieth of the highest average yearly salary multiplied by the total number of years of service, any fraction of years of service and any fraction of a year.

average salary, defined

(1.1) In this section, "average salary" means, in respect of a teacher, the average of the five highest years of salary paid to the teacher for years in which the teacher made contributions under section 11 or 14.

Calculation of average salary

(1.2) In calculating the average salary of a teacher, the salary used for any period during which the teacher was working less than full-time in his or her position shall be the salary the teacher would have received if the teacher had worked full-time in his or her position during that period.

Computation of five-year period where interruption in service

(2) Where teaching service has been interrupted, teaching service given immediately before the interruption may be added to teaching service given immediately after the interruption in determining the five-year period.

Calculation of part-time service

(3) The pension payable to part-time teachers under this Act shall be calculated based on full-time equivalent days worked in accordance with the following formula:

$$\text{service} = \frac{\text{number of full-time equivalent days worked}}{\text{number of days in school year}}$$

1975,c.28,s.18; 1980,c.51,s.3; 1982,c.32,s.9; 1985,c.42,s.2; 1990,c.62,s.1; 1994,c.61,s.6; 1995,c.40,s.6; 2005,c.21,s.4; 2005,c.21,s.4.

Minimum pension

19. (1) The minimum annual pension payable to a teacher under this Act with respect to service prior to January 1, 1992 shall be \$100 multiplied by the number of years of the teacher's service prior to January 1, 1992, subject to a maximum of thirty-five years of such service.

Maximum pension

(2) Notwithstanding any other provision of this Act, the lifetime pension payable in any year to a teacher under this Act in respect of

service after 1991 shall in no case exceed the maximum allowed under section 8504 of the regulations to the *Income Tax Act* (Canada) and any bridging benefit payable in any year to a teacher under this Act in respect of service after 1991 shall in no case exceed the maximum allowed under section 8503(2)(b) of the regulations made under the *Income Tax Act* (Canada).

(3) Notwithstanding any other provision of this Act, the total initial annual pension (prior to any reduction for early retirement) payable under this Act in respect of service prior to 1990 purchased after 1991 pursuant to this Act, but which was never previously counted as service under this Act, shall in no case exceed an amount equal to \$1,150, or two-thirds of such other defined benefit limit that is prescribed under the *Income Tax Act* (Canada) for the calendar year in which the pension commences, multiplied by the number of years of purchased service. 1994, c.61, s.7; 2004,c.48,s.13.

Limit on initial annual pension purchased service prior to 1990

20. (1) When a person receiving a pension under this Act is re-employed in the province as a teacher, payment of the pension to the teacher shall be suspended, but the salary paid, during the period of re-employment if it is higher than the salary formerly received, and the additional teaching service rendered, shall be used in computing the five years of highest salary for the teacher.

Suspension of pension on re-employment

(2) Upon further retirement by the teacher, the pension shall be reinstated as recalculated using the higher salary levels and additional service.

Reinstatement on further retirement

(3) If the recalculation referred to in subsection (2) results in a pension lower than that received prior to re-employment, the pension received prior to re-employment shall be paid on the termination of the period of re-employment. 1975,c.28,s.19; 1982,c.32,s.10; 1994,c.61,s.8.

Idem

21. The Commission shall annually, on or before July 1, increase the pension otherwise payable under this Act to any person by 60% of the percentage increase in the Consumer Price (all items) Index for Canada (1992 = 100) for the previous year, subject to a maximum increased payment of 4%. 1995,c.40,s.7; 2005,c.21,s.5.

Annual increase

22. (1) Where a person receiving a pension under this Act reaches the age of sixty-five years, the pension payable under this Act shall be reduced by 0.7% of the person's average salary rate for the highest five years of salary, for each year of service after July 1, 1972, and that reduction shall be computed only on that part of the person's salary which constitutes the "Year's Maximum Pensionable Earnings" as defined in the Canada Pension Plan. 1995,c.40,s.8; 1999,c.17,s.1.

Integration with Canada Pension

(2) Repealed by 1999,c.17,s.1.

Transitional

Refund of contribution after April 25, 1968

23. (1) A person who ceases to teach and to contribute to the Fund on or after April 25, 1968, and is not eligible for a pension is upon written application to the Commission, entitled to a refund of all contributions made by him or her to the Fund.

Return to teaching, minimum teaching period to receive refund

(2) A person who was not teaching and contributing to the Fund on April 25, 1968, and was not eligible for a pension, and who returns to teaching and contributes to the Fund thereafter, must teach a minimum of one year in order to receive all contributions made by him or her to the Fund.

Amount of refund

(3) A person who ceased to teach and contribute to the Fund prior to April 25, 1968, and was not eligible for a pension is entitled to a refund of all contributions made by him or her to the Fund except those of the first two years.

Death of teacher before being eligible for allowance

(4) If a teacher dies before becoming eligible for a pension, any refunds to which he or she would be entitled shall be paid to his or her personal representative. 1975,c.28,s.22; 2004,c.48,s.14.

Teacher dies after five years service, payment to spouse

24. (1) Where a teacher dies after five years of service and before retirement, three-fifths the pension to which he or she would have been entitled if he or she had retired by reason of incapacity immediately prior to his or her death, shall be paid to his or her spouse for life.

Payment to dependent

(2) Where a teacher dies after five years of service and before retirement, leaving dependent children in addition to a spouse entitled to a pension under subsection (1), one-quarter of the remaining two-fifths of the pension to which the teacher would have been entitled if the teacher had retired by reason of incapacity immediately prior to death, shall be paid for each child until the child attains the age of sixteen years, or to age twenty five years if the child continues to attend school, and in no case shall payment to such children exceed three-quarters of the remaining two-fifths of the pension.

Dependant children but no spouse, payment to

(3) Where a teacher dies after five years of service and before retirement leaving dependent children but no spouse, a total pension equal to three-fifths of the pension to which the teacher would have been entitled if the teacher had retired by reason of incapacity immediately prior to death, shall be paid on behalf of any children under the age of sixteen years, or under the age of twenty five years while they are attending school and the allowance shall be paid to the guardian or guardians of the children or to any person designated by the Minister.

(4) Where a teacher dies after five years of service and before retirement leaving a dependant other than those provided for in subsections (1) to (3), the Lieutenant Governor in Council may grant that an allowance be continued to be paid on behalf of the dependant; this allowance shall not exceed fifty per cent of the pension to which the teacher would have been entitled if he or she had retired by reason of incapacity immediately prior to his or her death. 1975,c.28,s.23; 1987,c.67,s.4; 1996,c.45,s.1; 1999,c.17,s.2; 2004,c.48,s.15.

Other dependants,
payments where

25. (1) Where a teacher dies while receiving pension, three-fifths of the pension which he or she was receiving shall continue to be paid to his or her spouse for life.

Teacher dies while
receiving pension,
payment to spouse

(2) Where a teacher dies while receiving pension leaving dependent children in addition to a spouse entitled to a pension under subsection (1), one-quarter of the remaining two-fifths of the pension which the teacher was receiving shall continue to be paid for each child until the child attains the age of sixteen years, or to age twenty five years if the child continues to attend school, and in no case shall payment to such children exceed three-quarters of the remaining two-fifths of the pension.

Dies while
receiving pension,
payment to spouse
and dependent
children

(3) Where a teacher dies while receiving pension leaving dependent children but no spouse, a total pension equal to three-fifths of the pension which the teacher was receiving shall continue to be paid on behalf of any children under the age of sixteen years, or under the age of twenty five years while they are attending school and the pension shall be paid to the guardian or guardians of the children or to any person designated by the Minister.

Dependent children,
no spouse,
payments where

(4) Where a teacher dies while receiving pension and having a dependant other than those provided for in subsections (1) to (3), the Lieutenant Governor in Council may grant that a pension, not to exceed fifty per cent of the pension received by the teacher, to continue to be paid on behalf of the dependant. 1975,c.28,s.24; 1987,c.67,s.5; 1999,c.17,s.3; 2004,c.48,s.16.

Other dependants,
payments where

25.1 (1) Notwithstanding sections 24 and 25, payments due to a child or other dependant of a teacher pursuant to section 24 or 25, shall cease upon the death of the child or other dependant.

Death of child or
other dependant

(2) The aggregate amount of benefits payable under subsections 24(1), (2) and (3) for a particular month or payable under subsections 25(1), (2) and (3) for a particular month shall not exceed the limit on the aggregate amount of such benefits allowed under the *Income Tax Act* (Canada).1994, c.61, s.9.

Maximum
aggregate benefits

Apportionment of pension between two families of teacher	26. Where a teacher dies leaving a spouse and dependent children by a previous marriage, then the Lieutenant Governor in Council upon the recommendation of the Commission may direct an apportionment among them of the pension otherwise payable under subsections 24(2) and 25(2), which apportionment may continue during dependency of any child, but no longer and may exclude the spouse or any child by a previous marriage. 1975,c.28,s.25.
Computation of pension to dependants, right to	27. (1) Where a teacher dies while receiving or being entitled to receive a pension, then a pension shall be continued to his or her dependants as of right in accordance with the intent of sections 24 to 26.
Teacher dies leaving no dependants	(2) Where a teacher dies after becoming eligible for the pension provided for under this Act or while drawing pension, and leaving no dependants, his or her personal representatives are entitled to receive out of the Fund an amount equal to his or her contributions remaining in the Fund. 1975,c.28,s.26; 2004,c.48,s.17.
Interest payable on refunds	28. (1) Interest at the rate of four per cent per year is payable by the Minister on all refunds made by him or her under this Act.
Repayment of refunded contributions	(2) Where a teacher repays refunded contributions, such repayment shall be in an amount equal to the full actuarial value of the repurchased service. 1975,c.28,s.27; 1995,c.40,s.9; 2004,c.48,s.18.
Payment of benefits and administration expenses by requisition	29. The payment of any pension or benefit under this Act, or of any expenses incurred in its administration, shall be made upon a requisition in writing signed by the chairperson or vice-chairperson of the Commission, or by persons designated to act on their behalf, directing the issuance of a cheque by the Deputy Provincial Treasurer for the amount named in the requisition. 1975, c.28, s.28; 1983, c.1, s.6; 1986, c.5, s.2; 1993, c.29, s.4; 2004,c.48,s.19; 2005,c.21,s.6.
Assignment etc. of rights	29.1 No right of a person under this Act is capable of being assigned, charged, anticipated, given as security or surrendered, and, for the purposes of this section (a) assignment does not include assignment pursuant to a decree, order or judgment of a competent tribunal or a written agreement in settlement of rights arising as a consequence of the breakdown of a marriage between an individual and the individual's spouse or former spouse nor does it include assignment by the legal representative of a deceased individual on the distribution of the individual's estate; and (b) surrender does not include a reduction in pension or benefits to avoid the revocation of the registration of the plan under the <i>Income Tax Act</i> (Canada). 1994,c.61,s.10; 2004,c.48,s.20.

- 30.** (1) The Commission may, with the approval of the Minister, enter into reciprocal transfer agreements with
- Reciprocal transfer agreements
- (a) any commission, board, corporation or body having similar objects to those of the Commission;
 - (a.1) any department or agency of the government of the province;
 - (b) the government of any province of Canada;
 - (c) the government of Canada;
 - (d) any municipality, college or university in the province; and
 - (e) the Council of Maritime Premiers established under the *Council of Maritime Premiers Act* R.S.P.E.I. 1988, Cap. C-27,
- for the transfer between Funds of contributions and periods of service.
- (2) Agreements entered into by the Commission pursuant to subsection (1), are subject to any restrictions or limitations imposed under the *Income Tax Act* (Canada). 1975,c.28,s.29; 1994,c.61,s.11; 2004,c.48,s.21.
- Agreements subject to restrictions
- 31.** The Auditor General shall conduct an annual audit of the affairs of the Commission. 1975,c.28,s.30; 1980,c.10,s.21.
- Audit of Commission affairs
- 32.** (1) Where a question arises as to the application of this Act, or as to the periods of service to be reckoned for the purpose thereof, it shall be determined by the Commission.
- Application of Act
- (2) The Minister may review a determination of the Commission
- Review
- (a) under subsection (1); or
 - (b) respecting the amount of pension payable to a person,
- if the person affected applies to the Minister in writing for a review within 30 days of the date that the determination of the Commission was made known to the person.
- (3) After a review under subsection (2), the Minister may
- Powers of Minister
- (a) confirm the determination of the Commission; or
 - (b) substitute his or her determination for the determination of the Commission. 1975,c.28,s.31; 2004,c.48,s.22.
- 33.** The Lieutenant Governor in Council may make regulations
- Regulations
- (a) respecting the Teachers' Superannuation Commission;
 - (b) respecting the Teachers' Superannuation Fund, including investments, annual reports and reporting on the activity of the Fund to the Minister;
 - (c) respecting the payments of pensions or benefits under this Act, including proof of eligibility for a pension or benefit;
 - (d) respecting maternity, parental or adoption leave, sabbatical leave or other approved leaves;

- (e) respecting the calculation of the yearly pension payable under this Act, including recalculations, deductions, adjustments for overpayments or underpayments of a pension or benefit, integration with the Canada Pension Plan, and compliance with the *Income Tax Act* (Canada);
- (f) respecting pensions granted on the grounds that a teacher is totally and permanently disabled;
- (g) respecting refunds of contributions to the Fund;
- (h) respecting elections under section 17;
- (i) respecting retirement from the service before the age of 60 or before reaching 30 years of service;
- (j) respecting the suspension of a pension when the person receiving the pension is re-employed to provide teaching service in the province;
- (k) respecting transfers of service from any of the bodies listed in subsection 30(1), transfers to the Fund from another superannuation or equivalent fund, the calculation of the full actuarial value of transferred service, payments in addition to transfers, and reciprocal transfer agreements;
- (l) defining any expression that is used but not defined in this Act; and
- (m) generally providing for the better administration of this Act. 1975,c.28,s.32; 2004,c.48,s.23.

**SCHEDULE
TEACHERS' SUPERANNUATION FUND
SCHEDULE OF ADDITIONAL GOVERNMENT
CONTRIBUTIONS**

Repealed by 2005,c.55,s.4.