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PUBLIC SERVICE PENSIONS LAW

(2004 Revision)

PUBLIC SERVICE PENSIONS REGULATIONS

(2004 Revision)

Revised under the authority of the Law Revision Law (1999 Revision).

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PUBLIC SERVICE PENSIONS REGULATIONS

(2004 Revision)

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PUBLIC SERVICE PENSIONS REGULATIONS

(2004 Revision)

PART I - GENERAL

Introductory

1. These regulations may be cited as the Public Service Pensions Regulations (2004 Revision). Citation

2. In these regulations- Definitions

“active defined benefit participant” means a participant in Service and contributing to the Fund for benefits covered under the defined benefit part of the Law;

“active defined contribution participant” means a participant in Service and contributing to the Fund for benefits covered under the defined contribution part of the Law;

“active participant” means an active defined benefit participant or an active defined contribution participant;

“fifty per cent joint and survivor annuity” means a reduced annuity (determined by reference to Plan actuarial tables) for the life of the participant, followed, upon the participant’s death, by an annuity for the life of the participant’s spouse to whom the participant was married on the participant’s benefit commencement date equal to fifty per cent of the reduced annuity that would have been payable to the participant had the participant been alive;

“Law” means the Public Service Pensions Law (2004 Revision);

“married participant” means a participant who is legally married on the participant’s benefit commencement date or on the date of the participant’s death; and

“section” means a section of the Law.

Public Service Pensions Board

- Bank accounts
3. (1) The Board may retain incoming funds in such current or other bank accounts as it may consider appropriate for up to thirty days pending investment in accordance with section 16(1).
- (2) Interest, dividends, other income from invested moneys and investments coming due or otherwise realised shall be reinvested by the Board in approved investments unless needed for the discharge of the liabilities of the Fund.
- (3) The Board may, with the prior written approval of the Financial Secretary, incur an overdraft on a current account not exceeding five hundred thousand dollars.
- Investment managers
4. A person or entity shall be considered to be an investment manager under section 16(2) only if such person or entity is-
- (a) (i) a person or entity authorised to carry on investment business under the United Kingdom Financial Services Act, 1986;
 - (ii) registered as an investment advisor under the United States Investment Advisors Act of 1940; or
 - (iii) licensed by the Securities Commission of the province in Canada in which the person or entity operates and licensed by the Investment Dealers Association of Canada; or
 - (b) a bank that is either-
 - (i) authorised under the laws of the United Kingdom to have trust powers;
 - (ii) as defined under the US Investment Advisors Act; or
 - (iii) authorised under the laws of Canada to have trust powers.
- Forms
5. The Board may prescribe various standard forms to be used for communication purposes and for such other purposes of the Plan as the Board deems appropriate.

Account Adjustments

- Participant contribution account - credits
6. (1) On each account adjustment date described in regulation 10, the Administrator shall credit the participant contribution account of each participant with an amount equal to the sum of-

- (a) the aggregate amount of participant contributions deducted from his pensionable earnings and paid into the Fund since the last account adjustment date;
- (b) the amount, if any, transferred to the Fund on behalf of the participant from an approved plan under section 49 since the last account adjustment date;
- (c) the amount, if any, to be credited to his participant contribution account as the result of the participant's transfer since the last account adjustment date to the defined contribution part from the defined benefit part under section 29; and
- (d) for account adjustment dates falling on or prior to a participant's benefit commencement date, the interest attributable to his participant contribution account since the last account adjustment date determined by applying the credited rate of return for the period ending on the account adjustment date to-
 - (i) the participant contribution account balance on the prior account adjustment date; and
 - (ii) each contribution, transfer and distribution credited to or debited from such account since the last account adjustment date, taking into account the date each such contribution, transfer and distribution was paid into or out of the Fund.

7. On each account adjustment date described in regulation 10, the Administrator shall credit the employer contribution account of each defined contribution participant with an amount equal to the sum of-

Employer contribution
account--credits

- (a) the employer matching contributions allocated to such participant's employer contribution account under regulation 30(2) since the last account adjustment date;
- (b) the amount, if any, to be credited to the participant's employer contribution account as the result of the participant's transfer since the last account adjustment date to the defined contribution part from the defined benefit part under section 29;
- (c) the amount, if any, to be credited to a former defined benefit participant's employer contribution account under section 34(2) as the result of the participant's transfer since the last account adjustment date to an approved plan; and
- (d) for account adjustment dates falling on or prior to a participant's benefit commencement date, the interest attributable to the participant's employer contribution account since the last account adjustment date determined by applying the credited rate of return for the period ending on the account adjustment date to-
 - (i) the employer contribution account balance on the prior account adjustment date; and

- (ii) each contribution, transfer and distribution credited to or debited from such account since the last account adjustment date taking into account the date each such contribution, transfer and distribution was paid into or out of the Fund.

Account adjustments -
debits

8. On each account adjustment date described in regulation 10, the Administrator shall debit an amount equal to the sum of all distributions made to, by or on behalf of a participant since the last account adjustment date-

- (a) firstly, against his participant contribution account balance until such account balance is exhausted, and
- (b) secondly, in the case of a defined contribution participant, after his participant contribution account balance is exhausted, any distributions that remain to be debited shall be debited against his employer contribution account balance until that account balance is exhausted.

Beneficiary accounts

9. The account adjustments described in regulation 8 in respect of a participant's accounts shall be made to the accounts, if any, of the surviving spouse, children, designated beneficiary or estate of a deceased participant on each applicable account adjustment date described in regulation 10 until the balance of such accounts has been fully distributed in accordance with the Law and these regulations.

Account adjustment date

10. The Administrator shall make the account adjustments described in regulations 6, 7, 8 and 9 to the account balances of a participant or beneficiary as at-

- (a) in respect of a participant or beneficiary described in section 30(1), the 31st December, 1997;
- (b) the 31st December, 1998 and the last day of each calendar year thereafter that an account balance continues to be maintained on behalf of a participant or beneficiary;
- (c) the date of retirement, resignation or death of a participant;
- (d) the benefit commencement date of a participant or beneficiary; and
- (e) such other date or dates which the Administrator, in his discretion, considers necessary or appropriate.

Special Rules Regarding Pension Payments

Cash out of small
benefits

11. Notwithstanding any provision of the Law or these regulations to the contrary, if the present value of a participant's accrued benefit determined by reference to Plan actuarial tables on such participant's benefit commencement date or on the participant's date of death in the event that the participant died

while in active service or on the participant's date of death in the event that the participant dies whilst in active service is less than five thousand dollars, the Board, in its discretion, may direct the Administrator to distribute the benefit to the participant, or the participant's beneficiaries if the participant is deceased, in a single lump sum cash payment payable on the participant's or beneficiaries' benefit commencement date.

12. (1) As a condition to the commencement and continued payment of pensions to or on behalf of a participant under the Plan, the Administrator shall require each person who is or will be in receipt of pension payments to submit prior to the recipient's benefit commencement date and on each anniversary thereafter (and at such other times as may be prescribed by the Administrator in his discretion) a signed certificate in the form and manner prescribed by the Board that such person is the participant or beneficiary who is authorised under the Plan to receive such pension payments. The signature on the certificate shall be witnessed by a Justice of the Peace, a notary public, a minister of religion, an attorney licensed to practice law in the Islands, a member of the Legislative Assembly or the Administrator.

Payments under Plan
conditioned on periodic
certification

(2) If the certificate described in subregulation (1) is not received by the date prescribed, or if a certificate is not in the proper form or is otherwise defective, or if the Administrator has reasonable grounds to suspect its authenticity, the pension payments shall be suspended until the Administrator is in receipt of a proper certificate or is satisfied that such person is the appropriate recipient of the payments.

PART II - DEFINED BENEFITS

13. This Part shall apply in determining the rights and benefits of each defined benefit participant who retires or resigns from Service or dies on or after the 14th April, 1999 and his beneficiaries.

Application of this Part

Retirement Benefits

14. (1) The normal retirement benefit payable under section 31 shall be based on a defined benefit participant's pensionable service and final average pensionable earnings determined on the date he attains normal retirement age, subject to the limitations set out in section 38 with respect to maximum pensions.

Normal retirement
benefit

(2) A defined benefit participant who was first employed by an employer before the 10th July, 1980 shall be provided on retirement at normal retirement

age with a monthly pension of an amount equal to one six-hundredth of his final average pensionable earnings for each full month of his pensionable service.

(3) A defined benefit participant who was first employed by an employer on or after the 10th July, 1980 shall be provided on retirement at normal retirement age with a monthly pension of an amount equal to one seven hundred and twentieth of his final average pensionable earnings for each full month of his pensionable service.

(4) Notwithstanding the foregoing, a pension provided to a defined benefit participant under the Law shall be adjusted for inflation on an annual basis in accordance with section 22.

Early retirement benefit

15. The early retirement benefit payable under section 32, subject to the limitations set out in section 38 with respect to maximum pensions, shall-

- (a) in the case of a participant who retires from Service with ten or more years of qualifying service upon or after attaining the age of fifty-five years but before attaining normal retirement age, be determined in the same manner as his normal retirement benefit except that the participant's pensionable service and final average pensionable earnings shall be determined on his actual date of retirement; and
- (b) in the case of a participant who retires from Service with ten or more years of qualifying service upon or after attaining the age of fifty years but before attaining the age of fifty-five years, be determined in the manner described in paragraph (a), except that the benefit so determined shall be actuarially reduced by the relevant early retirement reduction factor set out in the Plan actuarial tables to take into account the additional years prior to attaining the age of fifty-five years that he shall be entitled to receive benefit payments.

Deferred retirement after resignation from Service

16. (1) An active defined benefit participant who resigns from Service and who fails to make the election described in section 34(1) after his resignation date shall have the rights of a deferred vested participant in respect of his accrued benefit.

(2) A deferred vested participant is entitled to receive a deferred benefit commencing on the first day of the month following his attainment of normal retirement age, calculated in accordance with regulation 14 based on his pensionable service and final average pensionable earnings on his resignation date.

(3) In lieu of the benefit described in subregulation (2), a deferred vested participant may elect to commence payment of his deferred benefit on the last day of any month following his attainment of early retirement age and, in such event, the deferred benefit will be determined in the manner described in subregulation (2), except that the benefit so determined shall be actuarially reduced by the relevant early retirement reduction factor set out in the Plan actuarial tables to take into account the additional years prior to attaining the age of sixty years that he shall be entitled to receive benefit payments.

17. (1) The additional disability pension payable to a participant under section 36(2) or 53(2) who retires under section 35 or 52 due to injuries received while he is on duty shall be equal in amount to one-third of his final average pensionable earnings, determined as at his disability retirement date.

Additional pension for participants retiring on account of on-duty injuries

(2) This regulation shall not apply in the case of an active defined benefit participant who, as a consequence of his injury, is entitled to compensation under the Workmen's Compensation Law (1996 Revision).

1996 Revision

18. (1) The normal form of payment of a pension provided under the Law to a defined benefit participant shall be an annuity for the life of the participant paid by equal monthly payments (subject to annual adjustments for inflation under section 22) commencing at the end of the month following retirement or, in the case of a deferred vested participant, following attainment of normal retirement age (or the end of the month such deferred vested participant elects to commence benefits under regulation 16(3)).

Forms of benefit payment

(2) A defined benefit participant to whom a pension is payable under the Law may elect, at the time of retirement from Service, to be paid in lieu of such pension-

- (a) a reduced pension at a rate of not less than seventy-five per cent of such pension; plus
- (b) an immediate lump sum cash payment equal in amount to the present value, determined with reference to Plan actuarial tables, of the difference between such pension and the reduced pension described in paragraph (a).

Death Benefits

19. (1) Upon the death of a defined benefit participant there shall be paid to such participant's surviving spouse and children, if any-

Pensions payable to surviving spouse and children of defined benefit participants

- (a) if the deceased was a retired defined benefit participant, a monthly pension based on the amount of pension he was drawing at the date of his death, or
- (b) if the deceased was an active or deferred vested defined benefit participant, a monthly pension based on his accrued benefit at the time of his death,

in accordance with this regulation.

(2) Where the defined benefit participant dies leaving a spouse but no children, subject to the limitations set out in subregulation (6), the surviving spouse is entitled to a monthly pension equal to fifty per cent of the pension determined in subregulation (1).

(3) Where the defined benefit participant dies leaving a spouse and children-

- (a) subject to the limitations set out in subregulation (6), the surviving spouse is entitled to a monthly pension equal to fifty per cent of the pension determined in subregulation (1); and
- (b) each child is entitled, until the date specified in section 21 for cessation of children's pensions, to a monthly pension equal to fifty per cent of the pension determined in subregulation (1), divided by the total number of children left by the deferred benefit participant.

(4) Notwithstanding subregulation (3), where at the time of a defined benefit participant's death, the Administrator is in receipt of either-

- (a) an election by the participant to which the participant's spouse has consented in writing; or
- (b) a court order,

directing that upon the participant's death the Administrator shall pay the surviving spouse's pension to the children, then the pension otherwise payable to the participant's surviving spouse, if any, shall be equally distributed among the children; and such pension shall be paid in addition to any other benefit otherwise payable to the children under this regulation.

(5) Where the defined benefit participant dies leaving children, but no surviving spouse, the children shall be entitled to the benefit described in subregulation (3) determined as if a surviving spouse existed and the election described in subregulation (4)(a) had been made.

(6) Notwithstanding any other provision in this regulation to the contrary, the benefit payable to a surviving spouse of a deceased retired participant shall be actuarially reduced in accordance with Plan actuarial tables if such surviving spouse is less than sixty years of age and more than ten years younger than the deceased retired participant.

(7) This regulation shall apply to a beneficiary only if application of this regulation would result in a greater pension payable to the beneficiary than would be payable under regulation 20; and no pension shall be paid under regulation 20 to the legal representatives, surviving spouse or children to whom, after application of this subregulation (7), a pension is payable under this regulation.

20. (1) Where an active defined benefit participant dies while in Service as a result of injuries received-

Pensions to beneficiaries
where a participant is
killed on duty

- (a) whilst in the actual discharge of his duty, and
- (b) without his own default,

there shall be paid to the participant's beneficiaries an additional pension as provided in section 44.

(2) Where the deceased participant dies leaving a spouse, a monthly pension shall be paid to the surviving spouse, at a rate not exceeding twenty-five per cent of such participant's final average pensionable earnings on the date of injury.

(3) Where the deceased participant dies leaving a surviving spouse to whom a pension is provided under subregulation (2) and six children or less, a monthly pension shall be paid to each such child, until the date specified in section 21 for cessation of children's pensions, at a rate not exceeding one-sixth of the pension, prior to commutation, provided to the surviving spouse under subregulation (2).

(4) Where the deceased participant dies leaving six children or less, but does not leave a surviving spouse, a monthly pension shall be paid to each child, until the date specified in section 21 for cessation of children's pensions, at a rate of twice the amount specified in subregulation (3).

(5) Where the deceased participant dies leaving six children or less and a surviving spouse to whom a pension is provided under subregulation (2) and the surviving spouse subsequently dies, the monthly pension in respect of each child shall be increased at the date of death of the surviving spouse to twice the amount specified in subregulation (3).

(6) Where the deceased participant dies leaving more than six children, the aggregate amount of pension payments that would be payable to six children under subregulation (3), (4) or (5), as the case may be, shall be divided equally among all such children during the period in which there are more than six children who are entitled to receive a pension under this regulation.

(7) Where the deceased participant dies without leaving a spouse and without leaving any children, and if the deceased participant's mother or father or both parents were wholly or mainly dependent on him for financial support and have no other means of financial support, as determined by the Administrator, a monthly pension shall be paid to the mother or father or both, while they are without adequate means of support at a rate not exceeding one-sixth of the deceased participant's final average pensionable earnings as at the date of injury.

(8) A pension provided under subregulation (7) shall cease on the written instructions of the Administrator if it appears to the Administrator that the mother or father or both are receiving adequate financial support by other means.

(9) An active defined benefit participant who dies as a result of injuries received while travelling in pursuance of official instructions shall be deemed to have died in the circumstances detailed in subregulation (1).

(10) This regulation shall not apply in the case of the death of an active defined benefit participant if his beneficiaries, as defined in the Workman's Compensation Law (1996 Revision), are entitled to compensation under that law if no pension is paid under this regulation.

1996 Revision

Payment of pensions to
surviving spouse

21. A surviving spouse to whom a pension is payable under regulation 19 or 20 may elect, prior to his benefit commencement date, to be paid in lieu of such pension-

- (a) a reduced pension at a rate of not less than seventy-five per cent of the pension; and
- (b) an immediate lump sum cash payment equal in amount to the present value, determined with reference to Plan actuarial tables, of the difference between such pension and the reduced pension described in paragraph (a).

Recalculation of
children's pensions

22. The Administrator shall recalculate the pensions payable to a deceased participant's children under regulations 19 and 20 upon written notice received by the Administrator within ten months after the participant's death of the birth of a posthumous child or posthumous children of such deceased participant.

Service Rules

23. (1) Except as otherwise provided in these regulations, qualifying service shall be the inclusive period between the date on which a defined benefit participant begins to draw salary or wages in respect of his employment in Service and the date of his leaving Service.

General rules as to
qualifying service and
pensionable service

(2) Except as provided in regulation 25(4)(b), all periods of service which count as qualifying service under subregulation (1) shall count as pensionable service, and no period which does not count as qualifying service shall be taken into account as pensionable service.

(3) No period during which a defined benefit participant was not in Service shall be taken into account as qualifying service or as pensionable service.

(4) A period of service during which a defined benefit participant was employed with an employer on a part-time basis shall count as qualifying service and as pensionable service; except that the number of months of pensionable service that shall be counted in respect of such part-time service shall equal the product of-

(a) the number of full months of part-time service actually performed by the participant,

multiplied by-

(b) a fraction, the numerator of which equals the average number of hours per month actually worked by such participant during such period of part-time service and the denominator of which equals the number of hours per month a full-time participant was expected to work during the same period,

rounded to the closest number of full months.

24. Except as provided in regulation 25, only continuous service shall be taken into account as qualifying service or as pensionable service.

Continuity of service

25. (1) For purposes of regulation 24, a permitted break in service shall not be regarded in determining whether service is continuous.

Permitted breaks in
service

(2) Notwithstanding subregulation (1), no break in service shall be counted as qualifying service or pensionable service.

(3) In this regulation-

“break in service” does not include periods during which a defined benefit participant is-

- (a) on paid leave; or
- (b) on secondment to an employer not participating in the Plan, except that the period during which a participant is on such secondment shall be counted as qualifying service, but shall not be counted as pensionable service; and

“permitted break in service” means-

- (a) a break in service which does not exceed the lesser of-
 - (i) the aggregate amount of prior pensionable service of the participant; or
 - (ii) four years; or
- (b) a break in service which was approved by the Governor on or prior to the 13th April, 1990.

Participation after
impermissible breaks in
service

26. Where an active defined benefit participant incurs a break in service which exceeds the maximum duration for permitted breaks in service as set out in regulation 25, the break in service shall be treated as a termination of employment and-

- (a) the participant shall have the rights of a former participant with respect to any accrued benefits under the defined benefit part; and
- (b) upon his return to Service, the participant shall-
 - (i) no longer accrue benefits under the defined benefit part; and
 - (ii) become an active defined contribution participant upon his re-employment.

Approved leave of
absence

27. No period during which a defined benefit participant has been absent from duty on leave without pay shall be taken into account as qualifying service or pensionable service unless such leave has been granted on grounds of public policy with the approval of the Governor on or prior to the day immediately prior to the 13th April, 1999.

PART III - DEFINED CONTRIBUTIONS

Application of Part III

28. This Part shall apply in determining the rights and benefits of each defined contribution participant and his beneficiaries.

Notification of
eligibility

29. The Administrator shall notify an employee of his participation in the defined contribution part when the employee first becomes a defined contribution

participant under section 29, 34(2), 36(3) or 46 and the accounts specified in section 48 are established on his behalf.

Employer Contributions

30. (1) An employer shall contribute to the Fund, on behalf of each active defined contribution participant whom it employs, the amount required under section 17(2), which amount shall not be less than the amount such participant is required to contribute to the Fund under section 17(1) for the same period of service.

Employer matching
contribution

(2) Out of the amount contributed by an employer to the Fund on behalf of an active defined contribution participant under subregulation (1), the Administrator shall allocate to the participant's employer contribution account an employer matching contribution equal in amount to his participant contributions which were credited to his participant contribution account under regulation 6(a) for the period for which the employer contribution relates.

Retirement Benefits

31. (1) The normal form of payment of the accrued benefit of a defined contribution participant shall be-

Methods of benefit
payment

- (a) in the case of an unmarried participant, an annuity for the life of the participant paid by equal monthly payments (subject to annual adjustments for inflation under section 22); or
- (b) in the case of a married participant, a fifty per cent joint and survivor annuity paid by equal monthly payments (subject to annual adjustments for inflation under section 22).

(2) In lieu of the pensions described in subregulation (1), a defined contribution participant may elect any one of the following optional forms of payment of his accrued benefit-

- (a) in the case of an unmarried participant, an annuity consisting of equal monthly payments (adjusted annually for inflation under section 22) for the life of the participant, but if the participant should die prior to receiving a total of one hundred and twenty monthly payments, the participant's designated beneficiary shall receive an immediate lump sum cash payment upon such death equal to the product of the deceased participant's monthly payment at the time of death times the number of monthly payments which remain to be made to reach one hundred and twenty total payments; and

- (b) in the case of a married participant, subject to the written consent of his spouse to such election-
 - (i) the annuity described in subregulation (1)(a); or
 - (ii) the annuity described in subregulation (2)(a).

(3) In addition to any other optional form of payment described in this regulation, a defined contribution participant may elect to receive up to twenty-five per cent of his accrued benefit in the form of an immediate lump sum cash payment, subject to the written consent of the spouse in the case of a married participant, and to receive the balance of his accrued benefit in any of the other forms applicable to such participant, as set out in this regulation.

(4) The amount of benefit payable under each of the payment options described in this regulation shall be determined by reference to Plan actuarial tables based on a defined contribution participant's account balances valued on his benefit commencement date and taking into consideration the age of the participant at the time of retirement (and, in the case of a fifty per cent joint and survivor annuity, the age of the participant's spouse).

(5) A defined contribution participant who retired from Service prior to normal retirement age may elect under this regulation to defer payment of his accrued benefit until he attains normal retirement age.

Method of election

32. (1) Upon the request of a defined contribution participant, or at least three months prior to such participant's normal retirement date, the Administrator shall provide the participant with a form of Application for Retirement (including commutation and optional form of benefit elections).

(2) In order to elect an optional form of benefit, a defined contribution participant must complete the application indicating his election, sign the application (and, if applicable, have his spouse sign the consent to such election) and return it to the Administrator not later than one month prior to his benefit commencement date.

Death Benefits

Pensions payable to surviving spouse and children of active or deferred vested defined contribution participants

33. (1) Upon the death of a defined contribution participant prior to commencement of his benefits, there shall be paid to the participant's surviving spouse and children, if any, a pension in accordance with this regulation.

(2) Where the defined contribution participant dies leaving a spouse but no children, the surviving spouse is entitled to a pension payable in the form of

an annuity equal in value to such participant's account balances as at the date of such participant's death.

(3) Where the defined contribution participant dies leaving a spouse and children -

- (a) the surviving spouse is entitled to fifty per cent of the pension described in subregulation (2); and
- (b) fifty per cent of the participant's account balances on the date of the participant's death shall be divided equally among the children and paid to the children in a single lump sum cash payment.

(4) Notwithstanding subregulation (3), where at the time of a defined contribution participant's death, the Administrator is in receipt of either-

- (a) an election by the participant to which the participant's spouse has consented in writing; or
- (b) a court order,

directing that upon the participant's death the Administrator shall pay the surviving spouse's pension to the children, then the pension otherwise payable to the participant's surviving spouse, if any, shall be divided equally among the children and paid to the children in a single lump sum cash payment; and the pension shall be paid in addition to any other benefit otherwise payable to the children under this regulation.

(5) Where the defined contribution participant dies leaving children, but no surviving spouse, the deceased participant's account balances on the date of the participant's death shall be divided equally among the children and paid to the children in a single lump sum cash payment.

(6) Where the defined contribution participant dies leaving no spouse and no children, the full value of the deceased participant's account balances shall be paid in a single lump sum to the participant's designated beneficiary, and if such designated beneficiary predeceases the participant, to the participant's estate.

(7) This regulation shall apply to a beneficiary only if application of this regulation would result in a greater pension payable to the beneficiary than would be payable under regulation 34, and no pension shall be paid under regulation 34 to the legal representatives, surviving spouse or children to whom, after application of this subregulation (7), a pension is payable under this regulation.

34. (1) Where an active defined contribution participant dies while in Service as a result of injuries received-

Pensions to beneficiaries
where a participant is
killed on duty

- (a) whilst in the actual discharge of his duty; and
- (b) without his own default,

there shall be paid to the participant's beneficiaries, if any, a pension.

(2) Where the deceased participant dies leaving a spouse, a monthly pension shall be paid to the surviving spouse at a rate not exceeding twenty-five per cent of the participant's final average pensionable earnings on the date of injury.

(3) Where the deceased participant dies leaving a spouse to whom a pension is provided under subregulation (2) and six children or less, a monthly pension shall be paid to each child, until the date specified in section 21 for cessation of children's pensions, at a rate not exceeding one-sixth of the pension, prior to commutation, provided to the surviving spouse under subregulation (2).

(4) Where the deceased participant dies leaving six children or less, but does not leave a surviving spouse, a monthly pension shall be paid to each child, until the date specified in section 21 for cessation of children's pensions, at a rate of twice the amount specified in subregulation (3).

(5) Where the deceased participant dies leaving six children or less and a surviving spouse to whom a pension is provided under subregulation (2) and the surviving spouse subsequently dies, the monthly pension in respect of each child shall be increased on the date of death of the surviving spouse to twice the amount specified in subregulation (3).

(6) Where the deceased participant dies leaving more than six children, the aggregate amount of pension payments that would be payable to six children under subregulation (3), (4) or (5), as the case may be, shall be divided equally among all the children during the period in which there are more than six children who are entitled to receive a pension under this regulation.

(7) Where the deceased participant dies without leaving a surviving spouse and without leaving any children, and if the deceased participant's mother or father or both were wholly or mainly dependent on him for financial support and have no other means of financial support, as determined by the Administrator, a monthly pension shall be paid to the mother or father or both, while without adequate means of support, at a rate not exceeding one-sixth of the deceased participant's final average pensionable earnings as at the date of injury.

(8) A pension provided under subregulation (7) shall cease on the written instructions of the Administrator if it appears to the Administrator that the mother or father or both are receiving adequate financial support by other means.

(9) An active defined contribution participant who dies as a result of injuries received while travelling in pursuance of official instructions shall be deemed to have died in the circumstances detailed in subregulation (1).

(10) This regulation shall not apply in the case of the death of any active defined contribution participant if his beneficiaries, as defined in the Workmen's Compensation Law (1996 Revision), are entitled to compensation under that law if no pension is paid under this regulation.

1996 Revision

35. (1) A surviving spouse to whom a pension is payable under regulation 33 may elect, prior to his benefit commencement date, to be paid in lieu of the pension-

Payment of pensions to surviving spouse

- (a) a reduced pension at a rate of not less than seventy-five per cent of the pension; and
- (b) an immediate lump sum cash payment equal in amount to the present value, determined with reference to Plan actuarial tables, of the difference between the pension and the reduced pension described in paragraph (a).

(2) A surviving spouse to whom a pension is payable under regulation 34 may elect, prior to his benefit commencement date, to be paid in lieu of the pension-

- (a) a reduced pension at a rate of not less than seventy-five per cent of such pension; and
- (b) an immediate lump sum cash payment equal in amount to the present value, determined with reference to Plan actuarial tables, of the difference between the pension and the reduced pension described in paragraph (a).

36. Upon written notice received by the Administrator of the possibility of the birth of a posthumous child of a deceased defined contribution participant, the Administrator shall delay payment of any pension payable to a child under regulation 33 or 34 for up to ten months after the participant's death in order to determine whether there are any posthumous children of the participant who are entitled to a pension under such regulation.

Payment of pensions to surviving children

37. Benefit payments (including lump sum cash payments) provided under the Law and these regulations shall commence-

Commencement of benefits

- (a) in the case of a retired participant, at the end of the month following retirement;
- (b) in the case of a deferred vested participant or defined benefit participant who has yet to receive a full distribution of his account balances, at the end of the month following his attainment of normal retirement age; and
- (c) in the case of a beneficiary, at the end of the month following the participant's death, except as provided in regulation 36.

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Carmena Watler
Clerk of Cabinet

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