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c 348 Ontario Municipal Employees Retirement System Act

Ontario

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CHAPTER 348

Ontario Municipal Employees
Retirement System Act

1. In this Act,

Interpre-
tation

- (a) "approved pension plan" means a pension plan that has been established by a municipality or local board under any general or special Act;
- (b) "benefit" means a pension, refund or other payment that may be payable in accordance with the regulations to or with respect to a member;
- (c) "Board" means the Ontario Municipal Employees Retirement Board;
- (d) "councillor" means a person who is a member of a council of a municipality;
- (e) "earnings", in the case of an employee who is a member, means the salary or wages paid to him by an employer including the value of any perquisites received from an employer and, in the case of a councillor who is a member, means any moneys paid to him for his services as a councillor under the *Municipal Act* or under any Act establishing a metropolitan, regional or district municipality; R.S.O. 1980, c. 302
- (f) "employee" means any person who is employed by an employer, but does not include any person who contributes to a pension plan under the *Public Service Superannuation Act* or the *Teachers' Superannuation Act*; R.S.O. 1980, cc. 419, 494
- (g) "employer" means a municipality or local board or an association of municipalities or local boards or of their officials or employees designated by the Lieutenant Governor in Council as an employer under this Act or the Province of Ontario in respect of a member who is not eligible to contribute under the *Public Service Superannuation Act* or the *Teachers' Superannuation Act*;
- (h) "Fund" means the Ontario Municipal Employees Retirement Fund;

R.S.O. 1980,
c. 303

- (i) "local board" means a local board as defined in the *Municipal Affairs Act*, excluding a hospital board established under any general or special Act that operates a public hospital on behalf of a municipality, and includes an agency of the Crown designated by the Lieutenant Governor in Council and the Board;
- (j) "member" means a person who has become a member of the System;
- (k) "Minister" means the Treasurer of Ontario and Minister of Economics;
- (l) "municipality" includes a metropolitan, regional and district municipality;
- (m) "optional service" means,
- (i) service with any municipality or local board in Canada,
 - (ii) service with the civil service of Canada or of any province of Canada,
 - (iii) service with the staff of any board, commission or public institution established under any Act of Canada or any province of Canada, or
 - (iv) war service;
- (n) "pension" means an amount that is payable at periodic intervals in accordance with the regulations;
- (o) "prior service" means the service of an employee or councillor before the date upon which this Act and the regulations become applicable to the employer;
- (p) "regulations" means the regulations made under this Act;
- (q) "service" means service rendered to an employer by an employee or councillor, as the case may be, for which earnings are received and, for purposes of supplementary benefits, may include optional service;
- (r) "supplementary benefit" means a benefit in addition to the benefit to which a member or the widow,

widower, child, beneficiary or estate of the member is entitled by reason of his membership in the System;

(s) "System" means the Ontario Municipal Employees Retirement System;

(t) "war service" means active service during World War II or the Korean War,

(i) in His or Her Majesty's naval, army or air forces or in the Canadian or British Merchant Marine, or

(ii) in any naval, army or air force that was allied with His or Her Majesty's forces and that is designated by the Lieutenant Governor in Council,

providing satisfactory proof of such service is produced;

(u) "widow" or "widower" includes a woman or a man who,

(i) establishes to the satisfaction of the Board that she or he had, for a period of not less than seven years immediately prior to the death of a member with whom she or he had been residing and with whom by law, she or he was prohibited from marrying by reason of a previous marriage either of the member or of herself or himself to another person, been maintained and publicly represented by the member as her husband or his wife, or

(ii) establishes to the satisfaction of the Board that she or he had, for a number of years immediately prior to the death of a member with whom she or he had been residing, been maintained and publicly represented by the member as her husband or his wife, and that at the time of the death of the member, neither she or he nor the member was married to any other person. 1972, c. 102 s. 1; 1973, c. 159, s. 1; 1976, c. 27, s. 1.

2. For the purposes of this Act, a woman or a man who has established to the satisfaction of the Board that

When
common-law
wife deemed
married to
member

she or he is a widow or widower under subclause 1 (u) (i) or (ii) shall, if the Board so directs, be deemed to have become married to the member at such time as she or he commenced being represented by him or her as his wife or her husband and a woman or man who could establish that she or he is a widow or widower under subclause 1 (u) (i) or (ii) but for her or his marriage to a member after such time as she or he commenced being represented by him or her as his wife or her husband shall, if the Board so directs, be deemed to have become married to the member at the time when, in fact, she or he commenced being so represented. 1972, c. 102, s. 2; 1973, c. 159, s. 2.

System continued

3. The system known as the Ontario Municipal Employees Retirement System is continued. R.S.O. 1970, c. 324, s. 2.

Board continued

4.—(1) The Ontario Municipal Employees Retirement Board is continued as a corporation, and the management and administration of the System are vested in the Board.

Remuneration of members of Board

(2) The remuneration of the members of the Board shall be as recommended by the Board and approved by the Minister. R.S.O. 1970, c. 324, s. 3 (1, 2).

Appointment of officers and employees

(3) The Board shall appoint or cause to be appointed such officers, employees, legally qualified medical practitioners and advisers as are necessary to carry out the responsibilities of the Board and shall appoint an auditor and an actuary and determine the remuneration of all such persons.

Investment policy committee

(4) The Board may appoint an investment policy committee that shall be composed of members of the Board, officers of the Board and other persons with senior investment or other financial management experience and determine their remuneration and may delegate to the committee, subject to any restrictions which may be imposed by the Board, the power to invest the portion of the Fund mentioned in subsection 8 (5).

Quorum

(5) The investment policy committee may fix its quorum, which shall be not less than a majority of its members.

Officers

(6) The investment policy committee, with the approval of the Board, may, in accordance with policies established by the committee, assign to an officer or officers of the Board such of its duties as it decides are necessary or desirable.

Rules and regulations

(7) The Board may make rules and regulations for the management and administration of the System and

may assign to the persons mentioned in subsection (3) such of its duties as it decides are necessary or desirable. 1974, c. 102, s. 1.

(3) The Board shall, after the close of each fiscal year, ^{Annual report} make a report upon its affairs during the preceding year to the Minister, and every such report shall contain a financial statement certified by the auditor, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session, or, if not, at the next ensuing session. R.S.O. 1970, c. 324, s. 3 (6).

5.—(1) The Ontario Municipal Employees Retirement ^{Fund continued} Fund is continued for the payment of pension benefits to members, their widows, widowers and children, in accordance with the regulations. R.S.O. 1970, c. 324, s. 4 (1); 1972, c. 102, s. 3.

(2) The Fund shall include the cash, investments and other ^{What Fund to include} assets and the liabilities and the reserves of the Board. R.S.O. 1970, c. 324, s. 4 (2).

(3) The contributions of the employers and of the members, the income from investments plus profits less losses on the sale of investments and any other credits of the Board shall be deposited in the Fund. ^{Deposits in Fund} R.S.O. 1970, c. 324, s. 4 (3); 1974, c. 102, s. 2.

(4) The benefits and the expenses of the Board shall be ^{Payments out of Fund} paid out of the Fund. R.S.O. 1970, c. 324, s. 4 (4).

6. The auditor appointed by the Board shall audit the ^{Auditor} transactions of the Board and shall make a report to the Board on the annual financial statement of the Fund and shall state in his report whether in his opinion the annual financial statement presents fairly the financial position of the Fund and the results of its operation for the year. R.S.O. 1970, c. 324, s. 5.

7.—(1) The actuary appointed by the Board shall make ^{Actuarial valuation} an actuarial study and valuation of the assets and liabilities of the Fund as required by the Board, but not less frequently than at three-year intervals, and shall report thereon to the Board and shall make such recommendations to the Board as he considers advisable for the proper management and administration of the System.

(2) The report to the Board shall include a statement of ^{Idem} the actuarial assumptions used by the actuary in the prepar-

ation of the valuation mentioned in subsection (1). R.S.O. 1970, c. 324, s. 6.

Issue of
Ontario
debentures

8.—(1) In each year to and including the year 1969, the Treasurer of Ontario shall issue Province of Ontario debentures to become due and payable on the 31st day of December, 1973 for the amount of money accumulated to the credit of the Fund from time to time and not required for current expenditures, and,

- (a) such debentures issued during the period commencing on the 18th day of April, 1962, and ending on the 31st day of December, 1967, shall bear interest at the rate of 5 per cent per annum payable half-yearly; and
- (b) such debentures issued during the period commencing on the 1st day of January, 1968, and ending on the 31st day of December, 1969, shall bear interest at the rate of 6½ per cent per annum payable half-yearly. R.S.O. 1970, c. 324, s. 7 (1).

1973 issue of
debentures
authorized

(2) On the 31st day of December, 1973, the Treasurer of Ontario shall issue a Province of Ontario debenture in respect of each year for which a debenture was issued under subsection (1) and the debenture to be issued in respect of the year,

- (a) 1963, shall be in the amount of \$4,400,000 and shall bear interest at the rate of 5.49 per cent per annum payable half-yearly and shall become due and payable on the 31st day of December, 1993;
- (b) 1964, shall be in the amount of \$10,700,000 and shall bear interest at the rate of 5.56 per cent per annum payable half-yearly and shall become due and payable on the 31st day of December, 1994;
- (c) 1965, shall be in the amount of \$14,100,000 and shall bear interest at the rate of 5.54 per cent per annum payable half-yearly and shall become due and payable on the 31st day of December, 1995;
- (d) 1966, shall be in the amount of \$20,100,000 and shall bear interest at the rate of 6.00 per cent per annum payable half-yearly and shall become due and payable on the 31st day of December, 1996;

(e) 1967, shall be in the amount of \$24,900,000 and shall bear interest at the rate of 6.30 per cent per annum payable half-yearly and shall become due and payable on the 31st day of December, 1997;

(f) 1968, shall be in the amount of \$33,100,000 and shall bear interest at the rate of 7.21 per cent per annum payable half-yearly and shall become due and payable on the 31st day of December, 1998; and

(g) 1969, shall be in the amount of \$46,700,000 and shall bear interest at the rate of 8.19 per cent per annum payable half-yearly and shall become due and payable on the 31st day of December, 1999.

(3) On the 31st day of December, 1973, the Treasurer of Ontario shall pay to the Fund \$9,045,170 as an adjustment of the interest heretofore paid to the Fund on the Province of Ontario debentures issued under subsection (1). 1973, c. 159, s. 3.

Interest adjustment payment authorized

(4) Commencing in the year 1970, the Board shall pay over to the Treasurer of Ontario from time to time money accumulated to the credit of the Fund and not required for current expenditures for the year and the Treasurer shall issue to the Board at the end of each year a Province of Ontario debenture for the amount of such money, such debenture to bear interest payable half-yearly at a rate of interest not less than the weighted average yield to maturity of long term debentures and bonds issued or guaranteed by the Province in the Canadian capital market in such year and such debenture shall be for a term of not less than twenty years and not more than thirty years.

Debentures to be issued

(5) Notwithstanding subsection (4), commencing in the year 1975, all or a portion of the money accumulated to the credit of the Fund and not required for current expenditures, as shall be agreed upon between the Treasurer of Ontario and the Board and approved by the Lieutenant Governor in Council, shall be retained by the Board.

Money retained by the Board

(6) The money retained by the Board under subsection (5) shall form part of the Fund and the Board shall invest such part of the Fund as pension fund moneys subject to the limitations of the *Pension Benefits Act*, and, for the purposes of that Act, such part of the Fund shall be treated as a separate pension fund. 1979, c. 19, s. 1.

Money retained to be invested

R.S.O. 1980, c. 373

(7) For the purposes of subsection (4), the weighted average yield to maturity of the debentures and bonds issued or

Yield and term of debenture

guaranteed by the Province in a calendar year and the term of the debenture to be issued to the Board shall be as agreed upon between the Treasurer of Ontario and the Board and approved by the Lieutenant Governor in Council.

Charge on Consolidated Revenue Fund

(8) The Province of Ontario debentures issued under this section are a charge upon the Consolidated Revenue Fund.

Province of Ontario debentures authorized to be delivered

(9) The Treasurer of Ontario shall deliver to the Board the Province of Ontario debentures as authorized in this section,

- (a) upon delivery to him of a cheque drawn on the Fund for the principal amount of the debentures plus any accrued interest thereon;
- (b) upon delivery to him of an equal amount of Province of Ontario debentures that were issued under the authority of this section; or
- (c) upon delivery of a cheque and Province of Ontario debentures that were issued under the authority of this section, the sum of which is equal to the amount of the Province of Ontario debentures to be delivered. R.S.O. 1970, c. 324, s. 7 (4-6).

Contributions by employer

9.—(1) Notwithstanding any general or special Act, an employer shall not make a contribution for the provision of a pension to an employee unless the contribution is made,

R.S.C. 1970, c. C-5

- (a) under this Act or the *Canada Pension Plan*; or
- (b) under an approved pension plan in respect of an employee who became employed by the employer before the 1st day of July, 1965, provided that such plan was in effect on such day and the contribution is in respect of service of the employee before he becomes entitled to be a member under the regulations.

Where bargaining agreement

(2) If an employer is required to make contributions to an approved pension plan under the terms of a bargaining agreement with respect to any employees and to persons who may become employees, the date the agreement is terminated or the 1st day of July, 1968, whichever is earlier, shall be substituted for the 1st day of July, 1965, in subsection (1) as it applies to such employees or persons. R.S.O. 1970, c. 324, s. 8.

Contributions of members

10. The contributions of the members shall be as prescribed in the regulations. R.S.O. 1970, c. 324, s. 9.

11. The contributions of the employers who participate in the System shall be such an amount as is required, in addition to the contributions of the members and the interest earned by the Fund, to provide for the payment of the benefits and the expenses under the regulations. R.S.O. 1970, c. 324, s. 10. Contributions of employers

12.—(1) The interest of a person in the Fund and in any benefit under this Act is not subject to garnishment, attachment, seizure or other process of law, and is not assignable. R.S.O. 1970, c. 324, s. 11. No attachments, etc.

(2) Subsection (1) does not apply to the garnishment, attachment or seizure of moneys payable out of the Fund in satisfaction of an order for support under the *Family Law Reform Act*. 1979, c. 19, s. 2. Application of subs. (1)
R.S.O. 1980, c. 152

13. Any sum the payment of which has not been made by an employer as required in the regulations is a debt recoverable from the employer by the Board in a court of competent jurisdiction. R.S.O. 1970, c. 324, s. 12. Sum payable by employer recoverable

14. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the composition of the Board and the appointment of the members of the Board;
- (b) governing the operation and administration of the Board including the powers and duties of the officers and employees of the Board;
- (c) governing the administration of the Fund including the receipt, deposit and payment of all moneys of the Fund, the receipt, safekeeping and delivery of securities of the Fund, the borrowing of such sums as are necessary and the procedures for the determination of benefits;
- (d) requiring participating employers to pay to the Fund the contributions of employers and members and to pay interest at a prescribed rate on amounts of contributions that are overdue and unpaid, and to furnish information to the Board;
- (e) authorizing the Board to accept securities or any class thereof from participating employers as a payment on account of contributions in respect of prior service, and to determine the price of the securities;

- (f) providing for the participation of employers and for the membership of employees and councillors in the System, and the terms and conditions upon which such participation and membership are permitted;
- (g) prescribing the rates of contributions of the members and the principles for the determination of the rates of contributions of the employers;
- (h) providing for and defining,
 - (i) a normal retirement pension,
 - (ii) a disability retirement pension,
 - (iii) a pension to the widow, widower or children,
 - (iv) a deferred pension,
 - (v) an early retirement pension,
 - (vi) a refund of the member's contributions, plus interest thereon,and prescribing the terms and conditions upon which such benefits shall be paid, and for giving such terms and conditions retroactive effect in cases considered appropriate;
- (i) providing for supplementary benefits and prescribing the terms and conditions upon which such supplementary benefits may be provided;
- (j) providing for the transfer from or to the Fund of a pension entitlement;
- (k) prescribing the terms and conditions upon which pensions in respect of prior service may be provided;
- (l) prescribing the terms and conditions upon which pensions and increases in pensions for retired employees, their widows, widowers and children may be provided;
- (m) prescribing the duties of employers and of members with respect to the System;
- (n) prescribing the duties and liabilities of members and their employers with respect to contributions

and rights of members and employees under approved pension plans;

(o) prescribing the terms and conditions upon which members may accumulate pension benefits while absent from duty;

(p) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 324, s. 13; 1972, c. 102, s. 4; 1974, c. 102, s. 4; 1976, c. 27, s. 2.

15.—(1) An employer may by by-law or resolution participate in the System and pay to the Fund the total of the employer and member contributions, and has all of the powers necessary and incidental thereto. R.S.O. 1970, c. 324, s. 14 (1); 1972, c. 102, s. 5 (1). Power of employer to participate in System

(2) Participation in the System by a municipality may be in respect of both councillors and employees or in respect of either of them. 1972, c. 102, s. 5 (2). Participation in System

16.—(1) The Board may, with the approval of the Lieutenant Governor in Council, enter into an agreement to administer any pension plan or fund to which the other provisions of this Act do not apply and to recover the cost of such administration from such plan or fund. Administration of other plans or funds

(2) Money accumulated from time to time in a pension plan or fund mentioned in subsection (1), which is not required for the current expenditures of such plan or fund, may be deposited in the Fund. Money deposited in Fund

(3) The return to be credited by the Fund to a pension plan or fund mentioned in subsection (1) shall be as provided for in an agreement mentioned in subsection (1). 1974, c. 102, s. 5. Return credited by Fund

