

**Public Service Pension Board of Trustees**  
**TERMS AND CONDITIONS OF NEW EMPLOYER ELIGIBILITY**

In accordance with paragraph 2(1)(c) of the Public Service Pension Plan Rules (**Rules**), the Public Service Pension Board of Trustees (**Board**) sets the following terms and conditions for employer enrolment in the Public Service Pension Plan (**Plan**):

**Part 1: Terms and Conditions of New Employers who are not B.C. Public Sector Entities**

**This Part applies to employers who i) are not B.C. Public Sector Entities (as defined below), and ii) are seeking to participate in the Plan pursuant to paragraph 2(1)(c) of the Rules.**

1. The new employer can participate in the Plan only so long as its sole business activity in British Columbia is the performance of "public services" for one or more of the following:
  - (i) the B.C. Government,
  - (ii) an organization directly or indirectly controlled by the B.C. Government (a "**B.C. Public Sector Entity**"),
  - (iii) an organization that the Board has determined carries out a public function or purpose (a "**Public Function Entity**"), or
  - (iv) an organization exclusively engaged in providing public services for the B.C. Government, a B.C. Public Sector Entity, or a Public Function Entity (a "**Public Service Entity**").
  
2. For the purposes of subsection 1(iii) an organization is considered to carry out a public function or purpose if it provides governmental or social services and meets at least two of the three following criteria:
  - (i) the organization is:
    - (a) recognized as carrying out a public purpose or function, or
    - (b) is required to carry out a public purpose or function as determined by legislation;
  - (ii) the organization is listed as a public sector employer in legislation; or
  - (iii) the organization is financed in part by public funds.
  
3. For the purposes of these terms and conditions "public services" means governmental or social services which would otherwise be provided by employees of the B.C. Government, a B.C. Public Sector Entity or a Public Function Entity, including privatized services previously provided by such employees. Without limitation, "public services" includes [named services provided by proposed employer and contract agreement between proposed employer or their parent company and the B.C. Government].
  
4. If the new employer desires to carry on business activity other than the provision of public services for the B.C. Government, a B.C. Public Sector Entity, a Public Service Entity, or a Public Function Entity, and wishes to continue participating in the Plan, it must establish a separate legal entity to carry on such business activities. The employees of such separate legal entity and the employees of the new employer must each devote substantially all of their time and efforts to the business activities of their respective employers. The employees of that separate legal entity will not be eligible for membership in the Plan.
  
5. Individuals employed by an affiliate of the new employer may by way of a bona fide

secondment to the new employer provide services to it within British Columbia, and may remain employed by such affiliate during the period of secondment. Such individuals will not be eligible for membership in the Plan unless and until they become employed by the new employer within British Columbia.

6. Individuals employed by the new employer may by way of a bona fide secondment to an affiliate of the new employer engage in activities other than providing public services, so long as such secondment is temporary in nature and consistent with the policy on secondment adopted by the BC Government for the secondment of its employees. Such individuals will not be eligible for membership in the Plan during such secondment. Upon their return to employment with the new employer, such individuals may resume membership in the Plan.
7. If the new employer undertakes any business activities that do not comply with the preceding conditions, the new employer's designation as an employer under the Plan will be thereupon automatically revoked, and all of its employees who are then participating in the Plan will be deemed to have thereupon terminated employment for all purposes of the Plan.

## **Part 2: Terms and Conditions of New Employers who are B.C. Public Sector Entities**

**This Part applies to employers who i) are B.C. Public Sector Entities (as defined above), ii) do not qualify for participation in the Plan as of right pursuant to paragraph 2(1)(b) of the Rules, and iii) are seeking to participate in the Plan pursuant to paragraph 2(1)(c) of the Rules.**

8. The new employer can participate in the plan only so long as it meets the definition of a B.C. Public Sector Entity as defined in paragraph 1(ii) above
9. If the new employer ceases to meet the definition of a B.C. Public Sector Entity as defined in paragraph 1(ii), the Board may alter any of these conditions or revoke the new employer's designation as an employer on written notice to the new employer if the Board considers it appropriate to do so to preserve any registered or other preferential status the Plan has under the *Income Tax Act* (Canada), the *Pension Benefits Standards Act* (PBSA), the U.S. Internal Revenue Code, or other applicable legislation.

## **Part 3: Terms and Conditions applicable to all Employers**

10. Plan membership is restricted to those employees of the new employer who pursuant to subsections 1(7) or 1(8) of the PBSA are deemed to be employed in British Columbia. If any employee of the new employer who is enrolled in the Plan ceases to be deemed to be employed in British Columbia pursuant to subsections 1(7) or 1(8) of the PBSA, such individual shall be deemed to have thereupon terminated employment for all purposes of the Plan.
11. If the Plan should cease to be exempt from the *Pension Benefits Standards Act, 1985* (Canada) pursuant to s. 28.1 of the federal Pension Benefits Standards Regulation, the Board may unilaterally change these Terms and Conditions on notice to the new employer in such manner as the Board considers appropriate to address the participation of federally regulated employees in the Plan.
12. All aspects of the new employer's participation in the Plan shall be governed by and construed in accordance with the laws of the Province of British Columbia without reference

to the choice of law principles thereof, and by participating in the Plan the new employer shall be deemed to have

- (i) agreed to attorn to the non-exclusive jurisdiction of the courts of the Province of British Columbia (the "Chosen Courts"),
  - (ii) irrevocably submitted to the non-exclusive jurisdiction of the Chosen Courts,
  - (iii) waived any objection to venue in any such action or proceeding in the Chosen Courts, and
  - (iv) waived any objection that the Chosen Courts are an inconvenient forum or do not have jurisdiction over any party hereto.
13. The Board reserves the right to alter any of these conditions or revoke the new employer's designation as an employer on written notice to the new employer in such circumstances as the Board reasonably considers appropriate. Without limitation, the Board may alter any of these conditions or revoke the new employer's designation if doing so is necessary to preserve any registered or other preferential status the Plan has under the *Income Tax Act* (Canada), the PBSA, the U.S. Internal Revenue Code, or any other applicable legislation.
14. If the new employer's designation is so revoked, all of its employees who are then participating in the Plan will be deemed to have thereupon terminated employment for all purposes of the Plan.
15. The new employer shall provide the Board with such evidence as the Board reasonably requires to demonstrate its compliance with any of these terms and conditions.
16. The new employer shall otherwise comply with all terms of the Plan applicable to employers.