

# CONTRACT INTERPRETATION MANUAL

## Article 49 PENSION PLAN

### Interpretation Guidelines

#### Article 49.01 - Municipal Pension Plans

RFT employees must enroll in the Municipal Pension Plan (MPP) as a condition of employment.

RPT and casuals have the option to enroll in the Municipal Pension Plan.

Former public service employees had an option to remain in the Public Service Pension Plan (PSPP); however, all new employees are enrolled in the MPP when they become eligible.

For more information regarding the MPP/PSPP rules and the Pension Corporation communications, see [www.pensionsbc.ca](http://www.pensionsbc.ca).

#### Governance and Structure

1. The Municipal and Public Service Pension Plans are jointly trustee (i.e. Unions have representatives on the Pension Board), defined benefit plans.

#### Enrollment

1. Employers are obligated to comply with all the enrolment rules of the MPP.
2. Failure to enroll on time or to remit contributions properly can result in an obligation on the Employer to remit the missed contributions. The enrollment rules are as follows:
  - (a) Mandatory Enrollment (employees who are required as a condition of employment to enroll in the MPP include):
    - i. Employees who are permanent, full-time employees after completing the three-month probationary period;
    - ii. Employees who are not permanent, but who have worked on a continuous full-time basis for one year;
    - iii. New employees who are already contributing to the plan through another MPP employer; or
    - iv. New employees who were contributing to the plan through a previous employer where the break in employment is 30 days or less.
  - (b) Optional Enrollment rules require that all eligible employees must be enrolled in the plan unless the employee signs a written waiver to opt out of the plan. In the absence of a waiver, an Employer's failure to enroll eligible employees as soon as they become eligible to contribute to the plan will result in arrears (owed contributions). Employees who have the option to join the plan include:
    - i. RPT employees;
    - ii. Casuals who earn at least 35 per cent of the Year's Maximum Pensionable Earnings in each two consecutive years of continuous employment with one or more plan employers; or

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- iii. Existing employees who were employed when their Employer first became a plan Employer and who would otherwise be subject to mandatory enrollment.
3. Once an employee is a member of the MPP, they cannot later opt out. However, a waiver can be rescinded at any time and an employee can apply to become a member of the MPP.
4. The start date of contributions will be the first pay period following the date of application to become a member.
5. Plan members cannot later purchase service for which they waived enrolment after April 1, 2000.
6. Contributions will cease once a member has accrued 35 years of pensionable service or reaches age 71.

## Pensionable Salary

The following describes what types of earnings, compensation or pay are pensionable and lists some exclusions:

1. Municipal Pension Plan Pensionable Salary
  - (a) Wages;
  - (b) Salary paid to a member on rehab program;
  - (c) Sick pay paid on a regular basis;
  - (d) Service pay;
  - (e) Vacation or statutory holiday pay if service is credited, including pay to regular part-time employees under Article 39.02(B);
  - (f) First Aid pay;
  - (g) Acting or substitution pay;
  - (h) Shift differential pay;
  - (i) Long service awards in addition to salary;
  - (j) Sick pay top up / LTD top up / maternity leave to top up;
  - (k) WCB payment made through the Employer;
  - (l) Cost of living payments;
  - (m) Allowances for housing / room and board;
  - (n) Retroactive pay (applicable only to the period of time that the employee was a member of the plan);
  - (o) Training pay;
  - (p) Wage premiums for “dirty work” as defined by union contract; and
  - (q) Insufficient notice pay, only the straight time pay for the shift worked, not the premium.
2. Municipal Pension Plan non-pensionable salary (includes but not limited to):
  - (a) Overtime pay (unless determined otherwise by resolution);
  - (b) Additional pay for statutory holidays worked;
  - (c) Employment insurance rebate payments;
  - (d) Car, meal, travel and clothing allowances;
  - (e) Lump sum payments in lieu of vacation;
  - (f) Premiums paid by Employer for employee benefits;
  - (g) Additional pay for on call or stand-by hours;
  - (h) Payment in lieu of notice unless termination date is extended and service is credited;
  - (i) Special lump sum payments in recognition of service; and
  - (j) Additional pay in lieu of benefits.

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3. Public Service Pension Plan Pensionable Salary:
  - (a) Regular pay;
  - (b) Substitution pay/temporary assignment pay;
  - (c) Vacation pay;
  - (d) Retroactive pay;
  - (e) Salary while on rehabilitation from long-term disability;
  - (f) Salary protection pay (Red-Circled employee);
  - (g) WCB pay made through the employer;
  - (h) Shift work and/or shift change premiums pay;
  - (i) Ongoing special allowances, including dirty pay and diving pay;
  - (j) Pay for achieving extra education requirement of a job;
  - (k) Pay for achieving and maintaining certification for specific tasks, (e.g. first aid certification);
  - (l) Lieu days paid at termination (paid as additional days of pay);
  - (m) Pay in lieu of statutory holidays;
  - (n) Pay for time off in lieu of lump sum overtime;
  - (o) Maternity and parental leave top-up pay as of March 11, 2003; and
  - (p) Pre-placement adoption leave allowance as of March 11, 2003.
4. Public Service Pension Plan non-pensionable salary (includes but not limited to):
  - (a) Overtime pay, including additional pay for working statutory holidays;
  - (b) Isolation pay;
  - (c) Stand-by pay;
  - (d) Honorariums; and
  - (e) Lump sum payments in lieu of a benefit, including:
    - i. Vacation;
    - ii. Severance payments;
    - iii. Unused sick days;
    - iv. Achievement or other one-time awards or bonuses; and
    - v. Long-service awards.
5. Contributions while on LTD
  - (a) While on a claim for LTD, neither the employee nor the Employer contributions are made to the pension plan under both the MPP and PSPP. Both pensionable and contributory service continues to accrue to the employee.
  - (b) At retirement, the highest average salary, which is used to calculate the pension benefit, is indexed to keep pace with the cost of living.
6. Contributions while on an unpaid leave of absence
  - (a) Article 37 requires the Employer to continue paying pension contributions during the first 20 days of an unpaid leave of absence provided the employee continues to pay contributions.
  - (b) To trigger the Employer requirement to pay their share of the contributions you must apply for a purchase of service by March 31 of the year following the leave.
7. Contributions when working for more than one Plan Employer
  - (a) Under the MPP, an employee who is already a plan member and obtains employment with another Plan Employer, will be required to join the MPP without having to meet otherwise applicable eligibility requirements.
  - (b) Contributions on all earnings will be used to determine the employee's highest average salary when calculating the retirement benefit.

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## 8. Retirement

- (a) If an employee wishes to return to work after retirement, they should verify the Employer's policies and practices regarding re-employment of retirees. The formal application for re-employment must be made after the retirement date.
- (b) The MPP rules do not restrict the ability for a retiree, hired within the 31 day calendar period per Article 13.03(B), to maintain seniority.
- (c) However, many Employers have policies which do not allow re-hiring within the 31 days. As a result, employees who return to work following retirement lose all their seniority and are therefore at the bottom of the casual call-in list. The Union grieved this on the basis that policies such as these discriminated on the basis of age. However, the grievance was dismissed.
- (d) In HEABC (Interior Health Authority) and BCNU, December 11, 2004 (Taylor), the Arbitrator found that as long as they resigned, the IHA did not require employees in the 55-64 age group to relinquish seniority if they wanted to work as a casual. It was only if they retired that they lost seniority. Further the Arbitrator noted that Section 13(3) of the Human Rights Code provides that the prohibition on discrimination in employment does not apply, as it relates to age, to a bona fide scheme based on seniority or "...to the operation of a bona fide retirement, superannuation or pension plan".
- (e) If a retiree is hired by a Plan Employer, there are options available to either keep receiving the pension without contributing to the Plan or cease receiving a pension and begin contributions once again.

## 9. Regular employees who have maximized their pension contributions and who either choose to continue to work in a RFT or RPT position or return to work in a RFT or RPT position following retirement, the Employer will contribute an amount equal to what they would have contributed to the pension plan directly to the employee.

- (a) The following conditions apply (Appendix P):
  - i. The employee needs to have maximized their pension contributions;
  - ii. Be working in a regular position;
- (b) The payment is made by the Employer after December 31 of each year the employee remains employed in a regular position;
- (c) The employee who returns to regular employment after retirement can continue to collect their pension;
- (d) Please remember to also check with your pension plan; and
- (e) In Fraser Health Authority; HEABC; BCNU; 2017 (Bell), the Arbitrator allowed the grievance on the issue of the incentive payment being withheld because member retired in September instead of December.

## Arbitration Awards

1. HEABC (Interior Health Authority) and BCNU, December 11, 2004 (Taylor). The grievance was dismissed both on the issue of arbitrability and on the merits. The arbitrator ruled that an Employer policy that prohibited the rehiring of retired employees until after the seniority extinguishment periods (i.e. over 30 days) in the applicable collective agreements was not discriminatory on the basis of age.
2. Fraser Health Authority; HEABC; BCNU; 2017 (Bell). Grievance was allowed on the issue of the incentive payment being withheld because member retired in September instead of December.

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## Additional Resources

1. Municipal Pension Plan and Public Service Pension Plan, [www.pensionsbc.ca](http://www.pensionsbc.ca), 1-800-668-6335.
2. Canada Pension Plan, [www.sdc.gc.ca/en/isp/cpp/cpptoc.shtml](http://www.sdc.gc.ca/en/isp/cpp/cpptoc.shtml)
3. Old Age Security. Payable at age 65, residency requirements must be satisfied, taxed back if income exceeds a certain amount, [www.sdc.gc.ca/en/isp/oas/oastoc.shtml](http://www.sdc.gc.ca/en/isp/oas/oastoc.shtml) .
4. Pacific Blue Cross. Extended health and dental benefits plans, [www.pac.bluecross.ca/](http://www.pac.bluecross.ca/).
5. Canada Revenue Agency. Income Tax information related to retirement, [www.cra-arc.gc.ca](http://www.cra-arc.gc.ca).
6. Municipal Pension Retirees Association (MPRA), [www.mpra.ca](http://www.mpra.ca).

## Footnotes

Article	49
Sub-Article	49.01, 49.02
Last Update	31-03-21
Related Articles	13, 14, 37, 38, 42, 51, Appendix P