Instruction guide

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Introduction

The Office of the Superintendent of Financial Institutions (OSFI) has issued this instruction guide to explain the requirements of the *Pension Benefits Standards Act, 1985* (PBSA), the Pension Benefits Standards Regulations, 1985 (PBSR) and OSFI's policies and procedures for a refund of surplus to the employer from a defined benefit plan.

The PBSA and the PBSR[1] define surplus as the amount by which the assets of the plan exceed the liabilities of the plan, as shown in an actuarial report filed with the Superintendent. The assets of the plan do not include letters of credit[2].

The PBSA[3] requires that the employer must establish that either it is entitled to the surplus under the pension plan, or it has a claim to the surplus. The Superintendent must also consent to the refund of the surplus or part of the surplus to the employer. Other requirements set out in the PBSA[4] and the PBSR[5] are described in this instruction guide.

An application to the Superintendent for consent to a refund of surplus to the employer must be submitted with all supporting documentation before consent will be considered. A detailed listing of the information to be provided in this application is included in the appendix to this instruction guide.

The PBSA and the PBSR are the authoritative source for requirements applicable to refunds of surplus to the employer. If there is a discrepancy between this instruction guide and the legislation, the legislation prevails.

1.0 Refund of Surplus Requirements - General

There are two methods by which an employer may seek the consent of the Superintendent to a refund of surplus from a pension plan:

1. Establishing employer entitlement to the surplus – this is derived from non-contradictory language in the pension plan documents.

2. Establishing a claim to the surplus regardless of the terms of the plan – a claim can be established[6] with the consent of two-thirds of the plan members and two-thirds of the persons in the group consisting of former members (includes retirees) and other persons prescribed in the PBSR[7].

   An employer may also establish a claim through arbitration if more than one-half but fewer than two-thirds of the persons in each of these groups consented to the proposal[8].

This section of the instruction guide provides general requirements for establishing both an entitlement and a claim (including a claim established through arbitration). Sections 2 and 3 of this instruction guide provide specific information for a refund of surplus by establishing an entitlement or a claim respectively. Section 4 provides further information regarding establishing a claim through arbitration.

1.1 Beneficiaries

Beneficiaries, for purposes of this instruction guide, are members, former members and any other person who is entitled to a pension benefit under the terms of the plan. In the case of a refund of surplus based on a claim, beneficiaries entitled to the notice of the employer's proposal for a refund also include those persons prescribed in the PBSR. Section 3 of this instruction guide provides further details on this.

Beneficiaries may authorize, in writing, a third party to act on their behalf and should be encouraged to seek independent legal advice.

1.2 Surplus Refund Amount

Ongoing plans

A refund of all or part of a surplus of an ongoing plan may be made if the surplus exceeds the greater of

1. two times the employer's normal cost contribution (current service cost); and
2. 25% of the solvency liabilities of the plan[9].

The maximum surplus amount that may be refunded to the employer is the amount by which the surplus exceeds the greater of (a) and (b) above[10].

Terminated plans

If a plan has been terminated, provision must first be made for the payment of all accrued or payable benefits[11] before the Superintendent will consider an application for a refund of surplus to the employer.

If the surplus assets of a terminated plan are not fully allocated to members as part of the plan's termination report, OSFI expects a detailed action plan regarding these remaining surplus assets. This action plan must be included with the documents submitted with the plan's termination report. The action plan should include a timeline for when decisions/actions will be made or taken with respect to these surplus assets, including when the administrator proposes to either allocate the surplus to members or submit an application for a refund of surplus

to the employer.

1.3 Notices to Beneficiaries

Before requesting the Superintendent's consent to a refund of surplus to the employer, the administrator must send a notice to beneficiaries pursuant to paragraph 16(2)(b) of the PBSR of the employer's intention to withdraw surplus. All required notifications made to individual unionized members must also be made to the executive of their union[12].

When an employer intends to establish a refund of surplus through entitlement, the notice required under paragraph 16(2)(b) of the PBSR is the only required notice to beneficiaries and OSFI's expectations for this notice are set out in section 2.1 of this instruction guide.

When an employer intends to establish a refund of surplus through a claim, the notice required under paragraph 16(2)(b) of the PBSR is preceded by a notice required under subsection 9.2(3) of the PBSA setting out the employer's proposal for the refund of surplus. OSFI's expectations for each of these notices are set out in sections 3.3.1 and 3.3.2 of this instruction guide.

In general, notices to beneficiaries should make full and complete disclosure of all relevant documents to all beneficiaries. The documents to be made available for review by beneficiaries include plan texts, trust documents, insurance contracts, employee booklets, notices, collective bargaining agreements, and information brochures dating from plan inception together with any other relevant documents (refer to sections 2.1 and 3.3 of this instruction guide). These documents can be made available in the office or location where the members were employed or, if the office is closed, in a nearby location. Documents may also be made available electronically (e.g. through a website or by email).

The actual wording of the provisions from the plan documents that may be relevant to the surplus entitlement or claim should be cited in the appropriate notice along with a description of their implications. This notice should also include a summary of the historical analysis of the plan documents addressing whether the plan has ever been subject to a trust, whether plan or trust provisions related to surplus ownership have been amended at any point and whether the employer had the authority to make such amendments.

If the employer previously attempted to establish an entitlement to surplus, details of that application should be included in the appropriate notice. Where the plan documents do not contain explicit provisions addressing surplus entitlement, this fact should be disclosed to beneficiaries.

The employer has an obligation to ensure full and fair disclosure. The Superintendent may require that a notice be re-issued if the requirements of the PBSA and the PBSR have not been satisfied, or if there has not been full disclosure of all relevant information.

1.4 Superintendent Consent

The Superintendent cannot consent to a refund of surplus to the employer until all requirements of the PBSA and PBSR have been satisfied. Statements and documents supporting the applicant's assertion that the requirements have been met should be included with the application. The onus is on the applicant to demonstrate to the Superintendent that the application meets the requirements of the PBSA and PBSR.

1.5 Waiting Periods

A refund of surplus may not be made until 30 days after the date the administrator gave notice to beneficiaries that it intended to withdraw surplus and was seeking the Superintendent's consent to a refund of surplus[13].

If the Superintendent consents to the refund of all or part of the surplus to the employer, the Superintendent will give notice of that consent in writing to anyone who made comments concerning the refund in response to the administrator notice[14]. A refund of surplus to the employer may not be made until 40 days[15] after the day on which the Superintendent gives this notice.

1.6 Provincial Beneficiaries

If any of the beneficiaries' benefits are subject to provincial pension legislation, any requirements of the appropriate provincial pension legislation relating to the approval of a refund of surplus to the employer, including notices and submissions, must also be respected. A breakdown of beneficiaries whose benefits are subject to provincial pension legislation is to be included in the application for the refund of surplus.

If the plan is also registered in Quebec or Newfoundland and Labrador, the refund of surplus may require the permission of the provincial regulator[16]. OSFI expects the employer to determine whether permission is required and to obtain any such required permission. Information regarding any other such required approval is to be included in the application for the refund of surplus.

2.0 Establishing an Entitlement to Surplus

The employer must demonstrate that it is entitled to the surplus on an ongoing or plan-termination basis, as applicable[17]. Any amendments to the plan that appear to establish a right of the employer to the surplus should have been properly undertaken and permitted by the plan. An assertion that this right exists will not be sufficient to establish entitlement. The employer must provide evidence of this entitlement.

In considering a refund of surplus request based on entitlement, the employer should either have a court decision or be able to show clear legal and/or documented evidence that it is entitled to the plan surplus. A citation of supporting evidence and an analysis of the plan's history and/or contradictory provisions are required.

Special events in the plan's history, such as a merger of two plans, may impact the employer's entitlement to surplus. Applicants should be aware of any circumstances that warrant including additional considerations, information, or documentation to support the refund of surplus application.

Before the Superintendent may consent to a refund of surplus to the employer, the Superintendent should be satisfied that the employer has a right to the surplus and that the employer has met the required conditions (e.g. maximum surplus withdrawal limit for an ongoing plan respected, all benefit payments made for a terminated plan, all required notices sent).

2.1 Notice to Beneficiaries of a Refund of Surplus Request Based on Entitlement

Notice must be given to beneficiaries outlining that the employer believes it has entitlement to the plan's surplus and is requesting the Superintendent's consent to a refund of surplus. The notice for purposes of paragraph 16(2)(b)[18] of the PBSR must be in writing, and should contain the following information:

1. The amount of the refund of surplus requested

2. Any reference that appears in the plan documents that establishes the employer's entitlement to the surplus

3. The financial condition of the plan immediately prior, and for an ongoing plan, subsequent to the surplus refund (i.e. an actuarial balance sheet showing plan assets, liabilities and surplus calculated on a going-concern and a solvency basis for an ongoing plan and on a solvency basis for a terminated plan). Such information should be based on an actuarial valuation conducted as of a date within the 12 months prior to the date of the notice.

4. A description of any events occurring at the same time that may be connected with the refund of surplus (e.g., plan termination, benefit changes, plan mergers, spin-offs, plan amendments that are currently under consideration, etc.), as well as a summary of any representations made by the employer to OSFI in support of the employer's request

5. The time and place (or electronic method) to review the actuarial report supporting the refund request, and other documentation related to current and prior versions of plan texts, trust agreements, collective agreements, and pension communications to employees, including those of predecessor employers

6. A statement that written comments concerning the refund of surplus to the employer may be sent to the Superintendent within 30 days of the date of receipt of the notice. Comments can be emailed to Information@osfi-bsif.gc.ca or mailed to:

   The Office of the Superintendent of Financial Institutions
   Private Pension Plans Division
   255 Albert Street
   Ottawa ON K1A 0H2

7. A statement that a refund, if approved, cannot be made until at least 30 days following the date of the notice; and 40 days after the day on which the Superintendent gives notice of their consent to the refund of surplus to the employer to the persons who wrote to the Superintendent in response to the administrator notice

3.0 Establishing a Claim to Surplus

The PBSA allows the employer to make a claim to the surplus, or part of it, provided that at least two-thirds of the persons in each of the following beneficiary categories have consented to a refund of surplus proposal by the employer[19]:

1. Members of the pension plan

2. Former members of the plan[20] (including retirees and those with deferred vested benefits payable from the plan) and any other persons who are entitled to pension benefits or pension benefit credits payable from the plan, including survivors, spouses, former spouses, common-law partners and former common-law partners of members or former members, and any persons for whom the administrator has provided a pension through the purchase of an annuity[21]

For refund of surplus purposes, the definition of a former member excludes those who have, before the termination of the whole of the plan, transferred their pension benefit credit or purchased a life annuity under section 26 of the PBSA (i.e. portability) and those who have had their pension benefits transferred to another pension plan (i.e. as part of an asset transfer).

If the employer's proposal for a refund of surplus (first notice to beneficiaries – see section 3.3.1 of this instruction guide) receives more than one-half but fewer than two-thirds support in each beneficiary category, the employer may submit – or, if the pension plan is terminated, must submit – the refund of surplus proposal to arbitration. Where the employer is in liquidation, the employer's claim to the surplus must be submitted to arbitration within 18 months of the termination of the plan.

The Superintendent should be satisfied that the employer has met the required conditions explained in this instruction guide. In addition to establishing the employer's claim, the application should provide evidence that

1. there was a recommendation that beneficiaries seek legal counsel with respect to the refund of surplus proposal;

2. sufficient time was given to all beneficiaries to consider the refund of surplus proposal before the employer requested written consent; and

3. required written consents were obtained.

Where the proposal or claim has been arbitrated, a certified copy of the arbitrator's decision should be forwarded with the application.

After the employer has established a claim, a second notice (see section 3.3.2 of this instruction guide) must be given to the beneficiaries informing them that a claim has been established and that the employer intends to seek the consent of the Superintendent to a refund of surplus.

3.1 Special Requirements for Unions

Unless the relevant collective agreement provides otherwise, the executive of a union shall represent its members for purposes of a request for consent to a refund of surplus to the employer[22].

The appropriate union is the union that represents active unionized plan members at the date consent to the proposal for a refund of surplus is provided by the union on behalf of those members. OSFI may require additional evidence that the union represents the active unionized plan members whose consent is sought, and that those signing on behalf of the union are authorized to do so.

The union cannot automatically represent former members of the plan, even if a former member remains a member of that union. If a pension plan involves more than one union, the written agreement of each union should be sought.

The consent of two-thirds of the total active plan members is required, regardless of union affiliations. In this regard, if a union consents to a proposal for a refund of surplus to the employer then all its members who are active plan members will be considered to have consented for purposes of complying with the two-thirds total active plan member consent requirement[23].

As noted in section 1.3 of this instruction guide (Notices to Beneficiaries), all notifications by the employer must be made to individual unionized members as well as to the executive of their union[24]. This is required even if the provisions of the pension plan are not collectively bargained.

3.2 Who has an Interest in Plan Surplus?

In a claim situation, beneficiaries may have an interest or potential interest in the surplus and must be a part of the process. Beneficiaries are sometimes hard to identify and often difficult to locate but this does not detract from the interest they may have in the surplus. For example, in accordance with the definition of a former member for purposes of the refund of surplus sections in the PBSA and PBSR, anyone who has exercised their portability options **after** the termination of a plan is included in the claim process. In other cases, beneficiaries with surplus entitlement might be defined by the terms of the plan. Therefore, the employer, when developing a proposal, should consider the interests of all beneficiaries as well as the plan provisions.

3.3 Notice to Beneficiaries of a Refund of Surplus Request Based on a Claim

3.3.1 First Notice[25]

The notice seeking consent to a proposed refund of surplus is to be given in writing to the beneficiary groups described in section 3.0 of this instruction guide. It should include a refund of surplus proposal or agreement that provides for the name and signature of the individual, the name and signature of a witness, and the date on which the agreement is signed.

The notice for consent for the first beneficiary group (plan members) must be sent to the current address of that person or, if the person is an employee, to their place of work[26]. The notice for consent for the second beneficiary group (former members and other persons entitled to pension benefits) must be sent to the current address contained in the employer's records or if the address is unknown, by publishing a notice, in both official languages, once a week for two consecutive weeks, in one or more newspapers in general circulation in each province[27].

The notice should also inform the beneficiaries and any union of the following:

1. The total amount of surplus involved and the amounts to be refunded to the employer and distributed to the members of entitled beneficiary groups

2. Any references in the plan documents that address surplus entitlements as well as a summary of any representations to be made in support of the claim

3. The financial condition of the plan immediately prior, and for ongoing plans, subsequent to the surplus refund (i.e., an actuarial balance sheet showing plan assets, liabilities and surplus calculated on a going-concern and a solvency basis for an ongoing plan and on a solvency basis for a terminated plan). Such information should be based on an actuarial valuation conducted as of a date within the 12 months prior to the date of the notice.

4. Any events occurring at the same time that may be connected with the refund of surplus (e.g., plan termination, benefit changes, plan mergers, spin-offs, plan amendments that are currently under consideration, etc.)

5. The time and place (or electronic method) to review the actuarial report supporting the refund request, and other documentation related to current and prior versions of plan texts, trust agreements, collective agreements and pension communications to employees, including those of predecessor employers

6. The requirement that at least two-thirds of the persons in each beneficiary category must consent to the proposal (the number of signed consent forms from each category required for the employer to establish the claim for the proposed refund of surplus should be indicated)

7. The requirement that if fewer than two-thirds but more than one-half of the beneficiaries in each category consent to the proposal, the employer may, or in the case of a terminated plan must, take the proposal to arbitration

8. A recommendation that each beneficiary seek legal counsel with respect to the refund of surplus proposal or agreement

9. The right of the executive of a union to represent their members, other than former members of the plan, for the purpose of obtaining member consent to the refund of surplus proposal or agreement, unless otherwise provided in the relevant collective agreement[28]

3.3.2 Second Notice[29]

After the employer has established a claim, a second written notice must be given to beneficiaries informing them that the employer intends to seek the Superintendent's consent to withdraw surplus. The second notice must include the following information:

1. A statement that written comments concerning the refund of surplus to the employer may be sent to the Superintendent within 30 days of the date of receipt of the notice. Comments can be emailed to Information@osfi-bsif.gc.ca or mailed to:

   The Office of the Superintendent of Financial Institutions
   Private Pension Plans Division
   255 Albert Street
   Ottawa ON K1A 0H2

2. The amount of surplus to be refunded to the employer and the amount to be distributed to any entitled beneficiary groups

3. The anticipated date **on or after** which the refund of surplus may be made to the employer. The notice must explain that this anticipated date must be **at least 30 days** following the date of this second notice and **40 days** after the day on which the Superintendent gives notice of their consent to the refund of surplus to the employer to the persons who made written comments to the Superintendent.

4.0 Arbitration

Should the consent of two-thirds of the persons in each beneficiary category not be obtained, an employer may submit the proposal for a refund of surplus to arbitration, provided that at least one-half of the persons in each of

the beneficiary categories consented to the employer's proposal[30]. If the pension plan is terminated and at least one-half of the persons in each of the beneficiary categories support the refund of surplus proposal, the employer must submit the proposal to arbitration.

If, after the plan has been terminated, the employer is being liquidated and the employer's claim to surplus has not been established, the employer's claim must be submitted to arbitration within 18 months of the date of the plan termination[31].

When the refund of surplus proposal is to be submitted to arbitration, the employer must notify the Superintendent and the beneficiaries[32].

The employer and the beneficiaries will choose the arbitrator, or, in the absence of an agreement after one year from the date of the arbitration notice, the Superintendent will choose the arbitrator[33].

The arbitrator must publish in a newspaper a notice of the date, time and place of the arbitration[34]. The notice must include the mailing address from where the beneficiaries can obtain a copy of the procedures for the arbitration and the mailing address where the beneficiaries may send their written representations[35].

The notice must be published, in both official languages, once a week for two consecutive weeks, in one or more newspapers in general circulation in each province in which the beneficiaries reside or if a person's province of residence is not known, in each province[36]. The last notice must be published not more than eight weeks and not less than four weeks before the day on which the arbitration begins[37]. The arbitrator's decision is binding on all parties[38].

Appendix

Applicants are advised to read the Instruction Guide for Refund of Surplus to the Employer and the relevant sections of the PBSA and the PBSR before submitting their application to the Superintendent of Financial Institutions.

The application should include a cover page indicating the name of the employer, the name of the pension plan and the date of submission. A table of contents for the application should be provided with items corresponding to the

section numbers set out below. Supporting documents should be categorized and assigned a section in the table of contents. All documents relevant to the refund of surplus to the employer should be included with the application.

1. Pension Plan

The official name of the pension plan as per the plan text along with the OSFI and Canada Revenue Agency registration numbers

2. Employer

The legal name and mailing address of the employer making the application

3. Administrator

The person or group of persons, such as a Board of Trustees, that acts as plan administrator, if the administrator is not the employer

4. Unions

All unions who represent members of the plan

5. Provincial Beneficiaries

The number of beneficiaries whose benefits are subject to provincial pension legislation by province

If the plan is also registered in Quebec or Newfoundland and Labrador, indicate if the approval of the provincial regulator is required for a refund of surplus to the employer and if yes, if a request for approval has been filed with the provincial regulator.

6. Advisors

Advisors retained in respect of the application by, or on behalf of, the employer and by, or on behalf of, the members/former members/other beneficiaries/unions:

- Counsel/Actuary for the employer

- Counsel/Actuary for the members/former members/other beneficiaries
- Counsel/Actuary for the union(s) (list, as necessary for each union)

7. Contact Information

The name, address, telephone number and email address for the person who is to receive correspondence from OSFI in respect of the application; this may be a representative or agent of the employer

8. Basis for the Application

(a) A brief summary of the basis for the application (i.e., terminated versus ongoing pension plan; entitlement versus claim (subparagraph 9.2(1)(a)(i) or (ii) of the PBSA); amount of the requested refund to the employer and amount, if any, to be distributed to members or former members, etc.)

(b) A description of expenses related to the application, if being paid from the pension plan

9. Background

A description of information relevant to the application:

1. Effective date of the plan
2. Type of plan – final average earnings, contributory, etc.
3. Employer status – liquidating or continuing
4. Classes of members covered by the plan (e.g., all employees, salaried employees, hourly employees, etc.)
5. Corporate history relevant to the plan (e.g., change in corporate name, mergers, divestitures, etc.)
6. Other plans from which assets have been transferred, information regarding plan mergers, spin-offs, conversions, past surplus refunds, amendments, etc. Applications based on entitlement should also provide a detailed history of the plan and support for surplus entitlement. If the surplus can be traced to a prior plan (through a merger or spin-off), relevant documents for the prior plan should be included with the application.

7. Compliance with the notice requirements of section 9.2 of the PBSA, paragraph 16(2)(b) and section 16.1 of the PBSR

8. Explanation of the involvement of beneficiaries or unions in the process leading up to the application if the application is based on a claim (e.g., formation of representative committees, involvement of legal counsel, meetings, mailing of information regarding the application, etc.)

9. Any other relevant information, such as a description of any litigation that affects or could affect the application or for cases involving arbitration, a copy of the arbitrator's written decision with reasons

10. Status of the Pension Fund

Either (A) or (B)

(A) Ongoing Plan

If the request is for a refund of surplus from an ongoing plan, provide information on compliance with paragraph 16(2)(a) and subsection 16(4) of the PBSR. Attach copies of relevant actuarial reports.

(B) Terminated Plan – Payment of Accrued Benefits

If the request is for a refund of surplus from a terminated plan, provide information on how provision has been made for the payment of all accrued or payable benefits in accordance with subsection 29(7) of the PBSA. Describe the status of the payment of accrued benefits from the plan.

11. Notice Requirements

Notices provided in accordance with section 9.2 of the PBSA and paragraph 16(2)(b) and section 16.1 of the PBSR. Arbitration notices pursuant to subsection 9.2(4) of the PBSA must contain the information specified in section 16.2 of the PBSR. Specify where records are available and attach a copy of the notices that were provided.

12. Basis of the Request

Either (A) or (B)

(A) Proof of Entitlement

Provide evidence of entitlement to the surplus by way of a court order or a legal opinion based on an analysis of the historical terms of the plan and whether the plan ever constituted a trust.

(B) Proof of Claim

Information regarding compliance with subsection 9.2(3) of the PBSA should be provided. A chart should be included showing a breakdown of beneficiaries described in paragraphs 9.2(3)(a) and (b) of the PBSA and subsection 16(5) of the PBSR, together with an indication of the number of people who consented. Numbers and percentages should be provided.

Other information that should be included:

1. Information on consent received from unions, if applicable
2. A copy of the consent form
3. If a surplus sharing arrangement has been entered into between the employer and beneficiaries, a copy of the surplus sharing arrangement
4. If applicable, information on the arbitration procedure (subsections 9.2(4), (5), (7) and (11) of the PBSA and subsection 16.2(2) of the PBSR), the name of the arbitrator selected, and a copy of the decision

13. Consent Requested

Finally, the applicant should make a statement of request for consent to a refund of surplus to the employer indicating the amount of the surplus refund requested, the status of the plan and whether the application is based on an entitlement or a claim.

The employer, or the person filing the application on behalf of the employer, must sign and date the application.

1 Subsection 2(1) of the PBSA and subsection 16(1) of the PBSR

2 In accordance with subsection 2(1) of the PBSR, the face value of letters of credit are added to the plan's assets only when determining the "solvency assets" of a plan.

3 Section 9.2

4 Section 9.2

5 Sections 16, 16.1 and 16.2

6 Subsection 9.2(3) of the PBSA

7 Subsection 16(5) of the PBSR. Section 3.0 of this instruction guide provides further details on the beneficiary groups.

8 Subsections 9.2(4) through (13) of the PBSA and section 16.2 of the PBSR

9 Paragraph 16(2)(a) of the PBSR. The amounts in (a) and (b) are those attributed to the defined benefit provisions of the plan.

10 Subsection 16(4) of the PBSR

11 Subsection 29(7) of the PBSA

12 Subsection 9.2(14) of the PBSA

13 Paragraph 16(2)(c) of the PBSR

14 Paragraph 16(2)(e) of the PBSR

15 An amendment to the PBSR effective April 1, 2015 resulted in a change from 14 to 40 days.

Dual permission may be required because the Government of Canada does not have a bi-lateral agreement with Newfoundland and Labrador and the agreement with Quebec covers only federal members who are

16 employed in included employment in the Northwest Territories, Nunavut or Yukon.

17 Subparagraph 9.2(1)(a)(i) of the PBSA

18 See section 1.3 of this instruction guide for general information regarding required notices.

19 Section 9.2 of the PBSA

20 Part (b) of the PBSA definition of "former member" is applicable when used in section 9.2 (Surplus) of the PBSA.

21 The beneficiary categories are as defined in subsection 9.2(3) of the PBSA and subsection 16(5) of the PBSR.

22 Subsection 9.2(15) of the PBSA

23 Subsection 9.2(3) of the PBSA

24 Subsection 9.2(14) of the PBSA

25 Subsection 9.2(3) of the PBSA

26 Subsection 16.1(1) of the PBSR

27 Subsection 16.1(2) of the PBSR

28 Subsection 9.2(15) of the PBSA

29 Paragraph 16(2)(b) of the PBSR

30 Subsection 9.2(4) of the PBSA

31 Subsection 9.2(5) of the PBSA

32 Subsection 9.2(4) of the PBSA

33 Subsections 9.2(7) of the PBSA and 16.2(2) of the PBSR

34 Subsection 16.2(3) of the PBSR

35 Subsection 16.2(4) of the PBSR

36 Subsection 16.2(5) of the PBSR

37 Subsection 16.2(6) of the PBSR

38 Subsection 9.2(13) of the PBSA