



## SALARY INDEMNITY PLAN

**September 1, 2018**

Pursuant to the BCTF Constitution and By-Laws, the Federation shall administer a Salary Indemnity Plan (hereinafter called the “plan”) for the benefit of its members.

The plan shall provide short-term and long-term benefits, in accordance with the following regulations, to members disabled from employment as a result of illness or accident.

**Note: The Salary Indemnity Plan is not insured by an insurance company regulated under the *Financial Institutions Act*. The BCTF is exempt from the regulatory requirements of the *Financial Institutions Act*.**

These regulations, adopted by the 1984 Annual General Meeting are effective September 1, 1984. Amendments to these regulations by subsequent Annual General Meetings are effective on September 1, following the Annual General Meeting at which the amendments were made, except as otherwise noted.

Table of contents		
Section	Topic	Page
<b>General provisions</b>		
1	Eligibility and participation	2
2	Effective date of coverage	3
3	Proof of claim	3
4	Leave of absence	5
5	Death of a claimant	5
6	Administration	5
7	Financing of the plan	5
8	Amendments	6
<b>Short-term</b>		
9	Definition of disability	7
10	Qualifying period	7
11	Benefits	7
12	Successive claims	8
13	Duration of benefits	9
14	Accommodation (teaching) employment	9
15	Accommodation (non-teaching) employment	9
16	Adjudication of claims	10
<b>Long-term</b>		
17	Definition of disability	10
18	Qualifying period	10
19	Benefits	11
20	Successive disabilities	12
21	Duration of benefits	13
22	Benefit exclusions	14
23	Accommodation employment	14
24	Adjudication of claims	15
25	Subrogation	16
	Subrogation agreement—Schedule A	17

# REGULATIONS

## GENERAL PROVISIONS

### 1. Eligibility and participation

1.1 The following people shall participate in the plan:

- (a) all active members of the Federation employed by a school board or a local association on a regular full-time or regular part-time assignment;
- (b) all employees of the Federation except those specifically exempted from participation in the plan by the Federation; and
- (c) all affiliate administrative members not participating in a wage loss replacement plan may participate in the plan, providing they do so within 30 days of appointment as an administrative officer.

1.2 For the purposes of these regulations, the word “member” includes the following:

- (a) an individual who became disabled from employment while a contributor to the plan; and
- (b) except for the purposes of the Salary Indemnity Plan—short-term portion of the plan, employees of the Federation participating in the plan pursuant to regulation 1.1 (b).

1.3 A member who has attained age 64, has reached the later of Factor 88 or age 60, has 34 years of contributory service or, who is in receipt of a retirement pension from the Pension Corporation (BC) may apply to withdraw from the long-term section of the plan. Application for withdrawal may be made during any school year in which one of the foregoing conditions has been met and upon the completion of the appropriate withdrawal form. Withdrawal will be effective, upon approval, in September for applications submitted in that month, and applications submitted later will be effective the month following approval of the application.

1.4 A member who has previously applied for and been granted a pension through the Pension Corporation (BC), and has subsequently returned to employment as defined in 1.1 is ineligible for long-term disability benefits.

1.5 A member who is an inmate of a prison or similar institution shall not be eligible for benefits from the plan during such period of incarceration. A member whose teaching certificate is suspended or cancelled due to a criminal conviction shall not be eligible for benefits from the plan. Where such conviction is unrelated to the member’s teaching career and/or is medically based, the Income Security Committee shall review the case and, at its sole discretion, may determine that benefits should continue to be paid.

- 1.6 The plan at its discretion shall have the right, on behalf of claimants, to purchase leaves of absences or to reinstate previously withdrawn service through the Pension Corporation (BC), where in the opinion of the Income Security Committee such a purchase will be cost effective in conjunction with the application of regulation 21.1.
  - 1.7 Non-compliance with a licensed physician's recommendations related to the disabling condition may result in suspension of benefits until the claimant follows the physician's advice. Such suspension will be reviewed by the Income Security Committee.
  - 1.8 Failure to acknowledge in writing, within three months at the request of the plan administrator, a willingness to participate or co-operate in a rehabilitation program that has been recommended by the member's licensed physician and approved by the Salary Indemnity Plan will result in the termination of benefits, forthwith.
  - 1.9 If a repayment is owed to the plan, the member shall make such repayment forthwith or in a repayment schedule approved by the plan administrator. Any amount owing and not repaid may be deducted from current or future benefits despite any passage of time.
2. Effective date of coverage
    - 2.1 A member shall be eligible for benefits under this plan as follows:
      - (a) for Salary Indemnity Plan: Short-term benefits from the date the member is first actively at work.
      - (b) for Salary Indemnity Plan: Long-term benefits from the twentieth or later day of employment exclusive of sick leave.

Employees of the Federation participating in the plan pursuant to regulation 1.1(b) are not eligible for benefits under the Salary Indemnity Plan—short-term portion of the plan.
3. Proof of claim
    - 3.1
      - (a) Proof of claim, satisfactory to the plan administrator, must be made to the plan within twelve months of the expiration of the qualifying period. The Income Security Committee, in its sole discretion, may extend this period.
      - (b) Any action against the British Columbia Teachers' Federation with respect to the denial or termination of disability benefits under the plan must be commenced not later than one year after the claimant has been advised of the decision to deny or terminate benefits.
      - (c) Any action against the British Columbia Teachers' Federation with respect to the plan, other than those actions referred to in regulation 3.1(b), must be

commenced not later than one year from the furnishing of a reasonably sufficient proof of a loss or claim under the plan.

- 3.2 All claims for benefits shall be accompanied by such forms as are required by the plan administrator, specifically:
- (a) claimant application form signed by the member; and
  - (b) a medical form signed by a licensed physician, nurse practitioner, or registered midwife, or in special circumstances, a notarized statement signed by the member; and
  - (c) the school board verification of sick leave form signed by an official of the employing school board or local association or the Federation.
- 3.3 The plan administrator is empowered to secure from the employing school board or local president or the Federation, information in regard to accumulated sick leave, number of days' absence or other information which the plan administrator may require in connection with the payment of benefits.
- 3.4 A member applying for benefits under the plan may be required to submit to an independent medical examination by a licensed physician selected by the plan administrator.
- 3.5 The plan administrator shall select only licensed physicians who have agreed to provide information regarding a member's illness to that member's physician at the time it is provided to the plan administrator.
- 3.6 A member in receipt of benefits will be required to provide, at periodic intervals, medical evidence of continuing disability.
- 3.7 A member in receipt of benefits for more than three months will be required to provide supporting medical evidence indicating that the member is receiving ongoing care and treatment by a licensed specialist physician for that disability, or a registered psychologist as directed by a licensed physician except where the plan administrator is aware that the disability is terminal.
- 3.8 Expenses incurred by a member in obtaining medical certificates or other requested information under this regulation shall be borne by the member, except that the costs of an independent medical examination required under regulation 3.4 shall be borne by the plan.
- 3.9 Receipt of benefits for an illness which is caused by drug or alcohol abuse shall be contingent upon the claimant's enrolment and ongoing participation in a substance withdrawal program recognized by an addiction medicine specialist.

- 3.10 Where a claim is the result of a work-related injury or illness, the member must file a Workers' Compensation Board claim prior to payment of benefits pursuant to the plan.
4. Leave of absence
- 4.1 A member on a leave of absence who becomes disabled while on leave and qualifies for benefits under the plan shall be eligible for benefits as follows:
- (a) if the member is on leave with pay, benefits shall commence on the date they would normally have commenced if the member had not been on leave;
  - (b) if the member is on leave without pay, for a period not exceeding 36 months, the qualifying period shall commence on the date the leave is scheduled to expire.
- 4.2 For the purposes of these regulations, the phrase "sick leave" shall mean paid leave of absence provided by the employer for reasons of illness or accident.
5. Death of a claimant
- 5.1 In the event of the death of a claimant, the full benefit for the month in which the death occurs shall be paid to the claimant's beneficiary or estate.
6. Administration
- 6.1 The Federation shall appoint an Income Security Committee to operate the plan in accordance with the terms of these regulations and to submit reports to the Federation respecting member contributions, benefits, and the financial and claims experience of the plan.
- 6.2 The plan shall be administered by a plan administrator and their assistants who shall be employed by the Federation.
- 6.3 The Income Security Committee shall review and rule upon any issue of interpretation or application of the regulations in any claim where a member questions the decision of the plan administrator.
- 6.4 In the event a claimant disputes the decision of the plan administrator regarding eligibility for benefits, the claimant shall have six months from the date of notification of the decision being disputed to appeal that decision to the Income Security Committee. The decision of the Committee shall be final and binding.
7. Financing of the plan
- 7.1 The plan shall be financed from the Salary Indemnity Fund (hereinafter called the "fund"). The revenue of the fund shall include:
- (a) the allocation of a portion of the membership fee of each eligible member;

- (b) the premiums paid by the employees of the Federation participating in the plan pursuant to regulation 1.1(b);
  - (c) the allocation of the full amount of the savings of the Employment Insurance premium reduction accruing to each eligible member from the acceptance of the short-term section of the plan as a EI Wage Loss Replacement Plan;
  - (d) the investment income from all monies allocated to the fund.
- 7.2 The fee allocation shall be fixed annually by resolution of the Annual General Meeting.
- 7.3 The fee allocation or premium is waived for each member in receipt of benefits from the plan.
- 7.4 A member who has been granted permission to withdraw from the long-term section of the plan, pursuant to regulation 1.3, will be assessed a fee for participation in the short-term section of the plan only.
- 7.5 Reserves, determined by annual actuarial study, shall be established in order to support the objective that the plan operates on a fully funded basis.
- 7.6 The assets of the fund shall be segregated from Federation assets and shall be used solely for the provision of benefits and for the expenses incurred in the administration of the fund and the plan.
- 7.7 Insufficient actuarial reserves may result in benefits being suspended and/or reduced by decision of the Executive Committee, until the Unfunded Liability is fully amortized.
- 7.8 Reserves and operational monies of the fund shall be invested as provided for under by-law 5 of the BCTF Constitution and By-Laws.
- 7.9 All monies payable under this plan to or by members shall be payable in Canadian currency.
8. Amendments
- 8.1 The plan shall be amended only by special resolution of an Annual General Meeting of the Federation.

## **SALARY INDEMNITY PLAN—SHORT-TERM**

9. Definition of disability
  - 9.1 To qualify for benefits under this section of the plan a member must be prevented, by illness or injury, from performing their normal employment duties.
10. Qualifying period
  - 10.1 Subject to the other provisions of the plan, a member who becomes disabled through illness or injury shall be eligible for benefits on the first working day following the termination of sick leave. Such a member shall be referred to as a claimant hereinafter.
  - 10.2 A member who voluntarily terminates employment while having sick leave days to their credit shall not be entitled to benefits.
11. Benefits
  - 11.1 Benefits shall consist of:
    - (a) an amount paid on a daily or monthly basis to each eligible claimant during the benefit period; plus
    - (b) an amount equal to the contribution to the Teachers' Pension Plan or other B.C. public sector pension plan required of the claimant by the applicable *Public Sector Pension Plan Act*, which amount shall be paid directly to the Teachers' or public sector pension plan by the plan on behalf of the claimant.
  - 11.2 Benefits shall be based on the gross annual salary of the claimant applicable on the last day of work or of sick leave. No adjustment of benefit attributable to increased salary shall be paid except when a claim is closed in one school year and subsequently reopened in the following school year. Then a salary increase, due to a salary grid increase prior to the reapplication, will be recognised. No adjustment of benefits attributable to increases in percentage of contract will be paid until the claimant has returned to work at the new percentage of contract for 20 consecutive working days.
  - 11.3 The gross annual salary of the claimant applicable on the last day of work or sick leave shall not be adjusted due to salary increases negotiated retroactively.
  - 11.4 The benefit shall be 50% of salary with the basic benefit never less than Employment Insurance benefits. Notwithstanding 7.7, the basic benefit shall never be less than the benefit which would have been provided by the Employment Insurance Corporation.
  - 11.5 A benefit month is composed of 20 benefit days.

- 11.6 A claimant who is eligible for benefits for part of a month shall be entitled to 20 days of benefits less the number of days for which salary was received for the month, with that number of days determined by the ratio of the monthly salary received to the claimant's regular monthly salary.
- 11.7 If while in receipt of benefits from this plan the claimant is entitled to claim benefits from Workers' Compensation for the same accident or illness, or Employment Insurance (maternity/parental), the benefits from this plan shall be reduced by the amount of benefits from the Workers' Compensation or Employment Insurance (maternity/parental) plan.
- 11.8 The benefit shall be offset by the amount of a retirement pension received under a registered pension plan if the retirement income from same would be considered earnings under section 35 of the *Employment Insurance Regulation*, or for a retirement pension from the Teachers' Pension Plan (BC).
12. Successive claims
- 12.1 When a claimant resumes employment, following a period of short-term benefits in respect of one accident or illness, other than for approved accommodation employment purposes, and again suffers a disability that is related to the preceding accident or illness, that claimant shall:
- (a) if the resumption is for a period of less than 90 consecutive calendar days, be entitled to benefits of not more than the balance of the 120 day maximum benefit period, or
  - (b) if the resumption is for a period of 90 but less than 180 consecutive calendar days, be entitled to whatever number of benefit days remain of the original maximum of 120 benefit days and, in any event, not less than 75 benefit days, or
  - (c) if the resumption is for 180 consecutive calendar days or more, be considered to have a new disability.
- 12.2 If a claimant returns to work at a reduced salary, and within 180 consecutive calendar days again suffers a disability that is related to the preceding disability, and subsequently establishes a claim for benefits from the plan, the benefit shall be based on the salary used to determine the initial benefit.
- 12.3 Periods of absence from employment for an accident or illness unrelated to the original claim and the months of July and August shall not constitute a break in the resumption of employment.
- 12.4 No additional period of return to work other than that required by the regulations on eligibility is required for qualification for receipt of benefits in respect of a different accident or illness.



13. Duration of benefits

- 13.1 Except as noted in 12.1(b), 14.3, or 15.3, and provided all other requirements are met, the maximum number of work days for which benefits shall be paid in respect of any one claim shall be 120.
- 13.2 No benefits shall be paid in respect of July and August. However, in the event that a provincial resource teacher, a teacher in a year-round school, or an adult educator with a contract for services during July and August makes a claim, the plan administrator, with the Income Security Committee, has the authority to grant benefits during July and August.
- 13.3 When a claimant in receipt of benefits subsequently becomes eligible for sick leave from the employing school board, payments of benefits shall be suspended. On the day following the termination of resumed sick leave, the claimant shall, provided all other requirements are met, be eligible to resume receipt of benefits.

14. Accommodation (teaching) employment

- 14.1 For a claimant to remain eligible to receive benefits, any return to normal employment duties on a part-time basis must be recommended by a physician and approved by the plan administrator. The plan administrator's decision is subject to review by the Income Security Committee.
- 14.2 The claimant must have worked 20 or more days, exclusive of sick leave, to qualify for accommodation (teaching) employment benefits, and the benefits shall be based on the gross annual salary of the claimant's last day of work.
- 14.3 The claimant shall continue to receive benefits from the plan as calculated in regulation 11.6.

15. Accommodation (non-teaching) employment

- 15.1 For a claimant to remain eligible to receive benefits, any remunerative employment other than the claimant's normal employment duties must be recommended by a physician and approved by the plan administrator. The plan administrator's decision is subject to review by the Income Security Committee.
- 15.2 The claimant shall continue to receive benefits from the plan but the benefit will be reduced by an amount equal to 50 per cent of the amount earned in employment.
- 15.3 Days or partial days spent in accommodation (non-teaching) employment shall be assessed as part of the claimant's benefit period. Where questions arise, the length of the entitlement period shall be determined by resolution of the Income Security Committee.
- 15.4 The claimant is responsible for reporting all employment in the manner established by the plan administrator.

15.5 The benefit of a claimant engaged in remunerative employment for other than approved accommodation purposes shall be reduced by the full amount earned from that employment.

16. Adjudication of claims

16.1 Claims shall be adjudicated by the plan administrator and assistants.

## **SALARY INDEMNITY PLAN—LONG-TERM**

17. Definition of disability

17.1 To qualify for benefits under this section of the plan a claimant must:

- (a) continually for a period of up to 12 months commencing at the expiration of the qualifying period, be suffering from a disability that prevents the claimant from performing their normal employment duties;
- (b) subsequently, be suffering from a disability that prevents the claimant from performing the duties of any gainful employment.

17.2 Gainful employment means work which the claimant is medically able to perform

- (a) for which the claimant has the requisite qualifications by reason of education, training, or experience
- (b) which will provide a gross income of at least 60% of the pre-disability full-time equivalent gross employment income within five years of starting the new employment, this income to be adjusted annually to reflect the cost of living allowance the claimant would have received since the date of disability.

17.3 During a period of total disability, the claimant must be under the ongoing care and attendance of the appropriate specialist for that disability.

17.4 For the purposes of this section of the plan, "disability" means either a physical or mental illness or injury.

18. Qualifying period

18.1 Subject to the other provisions of the plan, a claimant who is not an employee of the Federation, and who becomes disabled through injury or illness shall be eligible for benefits immediately following the termination of sick leave and Salary Indemnity Plan short-term benefits, when no fewer than 120 days of benefits have been paid for that claim.

18.2 Subject to the other provisions of the plan, a claimant who is an employee of the Federation participating in the plan pursuant to regulation 1.1(b) and who becomes

disabled through injury or illness shall be eligible for benefits or as set out in a collective agreement with the Federation immediately following the termination of sick leave benefits.

19. Benefits

- 19.1 Subject to regulation 7.7, the benefit shall be 65% of the first \$40,000 of gross annual salary, 50% of the next \$40,000 of gross annual salary, and 40% of the balance.
- 19.2 Gross annual salary shall be the annual salary of the claimant applicable on the last day of work or sick leave. No adjustment of benefit attributable to increased salary shall be paid until the claimant has returned to work or sick leave for 20 consecutive working days.
- 19.3 The gross annual salary applicable on the last day of work or sick leave shall be adjusted due to salary increases negotiated retroactively.
- 19.4 The benefit payable in a month shall be reduced by the sum of:
- (a) the initial (basic) amount of monthly disability or retirement pension paid to the claimant in the month from the Canada Pension Plan, excluding all allowances for dependent children and any cost of living adjustments.
  - (b) the sum of monthly wage loss and disability benefits paid to the claimant in the month from Workers' Compensation, which are related to the current disability claim.
  - (c) the amount of monthly disability benefits paid to the claimant in the month from any plan or program or under any law of any government, within or without Canada, excluding any cost of living adjustments to that benefit or any benefit a claimant was receiving prior to the date the claimant was first absent from work as a result of total disability.
  - (d) the amount of monthly retirement pension received from any registered pension plan.
  - (e) the amount of the Accommodation Employment Offset (Offset).

The Offset is intended to ensure that total income from accommodation employment and the Salary Indemnity Plan does not exceed the employment income before the disability occurred. "Net Employment Income" in a month, whether before or after the disability has occurred, is equal to the gross employment income in that month, minus the deductions under the *Income Tax Act*, the *Canada Pension Plan Act*, the *Employment Insurance Act* and the *Teachers' Pension Plan Act*.

If the total of Net Employment Income from accommodation employment (as described in Regulation 23) and the gross benefit from the Salary Indemnity Plan is greater than the Net Employment Income before

the disability occurred, the benefit from the Salary Indemnity Plan shall be reduced.

After the reduction, the Net Employment Income from the accommodation employment plus the net benefit from the Salary Indemnity Plan will be equal to the Net Employment Income before the disability occurred. This reduction is referred to as the Offset.

- 19.5 The net benefit shall be paid in monthly instalments, including July and August.
- 19.6 The net benefit may be increased annually, effective July 1, at the discretion of the Federation, to a maximum increase of five per cent, except that:
- (a) a claimant who as of July 1 has been in receipt of benefits for less than 12 months shall have the indexation increase prorated on the basis of the number of complete months of benefits paid prior to July 1; and
  - (b) a claimant who as of July 1 has been in receipt of benefits for less than 12 months due to successive claims, and whose benefit has not changed, shall have the indexation increase prorated on the basis of the number of complete months of benefits paid prior to July 1; and
  - (c) a claimant who as of July 1 has been in receipt of benefits for less than 12 months due to successive claims, and whose benefit was increased due to increased salary, shall have the indexation increase prorated on the basis of the number of complete months of benefits paid from the most recent recommencement of benefits to July 1.
- 19.7 Supplementary indexing payments may be approved by the Federation following the annual review of the financial experience of the plan.
- 19.8 A member in receipt of benefits for more than twelve months may be required to provide proof of acceptance or denial of Canada Pension Plan benefits. A member who has been requested by the Plan Administrator to re-apply for, or to appeal a declination of Canada Pension Plan benefits, shall provide proof of acceptance or denial of such re-application or appeal. If the member fails to provide proof of the required application, re-application or appeal, as the case may be, the benefit shall be reduced by an amount equivalent to Canada Pension Plan disability benefits.

**Note: The period of time during which a claimant is in receipt of SIP: Long-term benefits is credited as pensionable service in the Teachers' Pension Plan, without contribution.**

20. Successive disabilities

- 20.1 When a claimant resumes employment, following a period of long-term benefit payments, for other than rehabilitative purposes, and within 180 consecutive calendar days again suffers a total disability that is related to the preceding disability, the disability shall be deemed a continuation of the preceding one, and that claimant shall;

- (a) if the resumption is for a period of less than 90 consecutive calendar days, be entitled to whatever benefits the claimant remains eligible to receive, or
  - (b) if the resumption is for a period of 90 but less than 180 consecutive calendar days, be entitled to whatever benefit days the claimant remains eligible to receive and, in any event, not less than 75 benefit days.
- 20.2 When a claimant resumes employment, following a period of long-term benefit payments, for other than rehabilitative purposes, for 180 consecutive calendar days or more, any disability incurred by that claimant, whether related to the preceding disability or not, shall be considered a new disability.
- 20.3 When a claimant returns to their normal employment duties at a reduced salary, following a period of long-term benefit payment, and within 180 consecutive calendar days suffers from a disability that is related to the preceding disability and re-establishes a claim for benefits from the plan, the benefits shall be based on the salary used to determine the initial benefit.
- 20.4 When a claimant who has received benefits under the plan returns to work for any period and suffers a disability that is unrelated to the previous disability, the subsequent disability shall be considered a new disability and the claimant shall be entitled to benefits pursuant to the provisions of the plan.
21. Duration of benefits
- 21.1 Benefits shall continue as long as a claimant remains disabled in accordance with the terms of the definition of disability, and shall cease on the earliest of:
- (a) the date the claimant recovers except in cases of approved accommodation employment or retraining where the benefits may be extended to the end of the school term in which an approved accommodation return to normal employment duties is completed, or three months following completion of an approved retraining program, or
  - (b) the earlier of
    - i. the attainment of 35 years of Contributory Service (minimum 55)
    - ii. the later of:
      - (1) the end of the month in which the claimant's age and Contributory Service equals "90" with the Pension Corporation (BC), and
      - (2) the end of the month in which the claimant attains age 61, or
    - iii. the end of the month in which the claimant attains age 65, or
  - (c) the end of the month in which death occurs.

**Note: The claimant's benefit will continue until the greater of the duration of benefits in place at the time the claimant commenced the receipt of benefits or the duration of benefits pursuant to this regulation.**

22. Benefit exclusions

22.1 No benefits shall be payable for, or on account of;

- (a) intentionally self-inflicted injuries or illnesses, or
- (b) illness or injury incurred while in the service of the armed forces of any country.

22.2 Benefits may be suspended due to refusal to participate in a medical or vocational assessment requested or approved by the independent external agency or plan administrator.

23. Accommodation employment

23.1 For a claimant to remain eligible to receive benefits, any remunerative employment must be recommended by a physician and approved by the plan administrator. The plan administrator's decision is subject to review by the Income Security Committee.

23.2 Any of the following may be eligible for consideration as accommodation employment:

- (a) a return to normal employment duties on a part-time basis;
- (b) any gainful occupation that is of a less demanding nature than the normal employment duties;
- (c) a formal vocational training program.

23.3 The claimant is responsible for reporting involvement in approved accommodation employment in the manner established by the plan administrator.

23.4 Any request by the claimant for an accommodation extension of benefits beyond that outlined in regulation 21.1 must be presented to the Income Security Committee for decision. The Income Security Committee's decision shall be final and binding.

24. Adjudication of claims

24.1 The medical adjudication of claims shall be conducted by an independent external agency selected by the Federation.

24.2 In the event a claimant disputes the decision of the external agency and/or the plan administrator regarding the medical acceptability of a claim, the dispute shall be finally and conclusively determined by a Medical Review Committee. The Medical Review Committee shall be composed of three physicians; one designated by the

claimant, one by the Income Security Committee, and a third agreed to by the first two. The third physician shall act as a chairperson of the Committee.

24.3 Any referral of a dispute to a Medical Review Committee must be commenced not later than one year after the claimant has been advised of the decision which is the subject of the dispute. To commence the referral to a Medical Review Committee, a claimant must:

- (a) advise the plan administrator in writing that they are referring the matter to a Medical Review Committee; and
- (b) provide the plan administrator with a written statement signed by a physician that they agree to act as the claimant's designated physician for the Medical Review Committee.

The Salary Indemnity Plan shall apply for a doctor to represent the plan within 15 days of the above notification, and advise the claimant of its designated physician as soon as reasonably possible thereafter. If the designated physicians cannot agree upon a chairperson within 30 calendar days after the date the plan advises the claimant of the name of its nominee, the appointment shall be made by the Dean of Medicine at the University of British Columbia, or their delegate.

24.4 The Medical Review Committee shall

- (a) conduct such examinations and review such materials as it deems necessary;
- (c) ensure that the claimant is aware of all information considered by it, and has a fair opportunity to respond to it;
- (d) consider the real substance of the dispute between the parties within the terms of the plan, and issue a decision which resolves the dispute.

The decision of the Medical Review Committee shall be final and binding upon the claimants, the plan and the external agency.

24.5 Costs incurred by the Medical Review Committee in adjudicating any claim shall be borne equally by the claimant and the plan if the appeal is denied. If the appeal is granted, the costs incurred shall be borne entirely by the plan.

24.6 The provisions of the *Commercial Arbitration Act*, R.S.B.C. 1996, c55, as amended from time to time, shall govern the Medical Review Committee proceedings, and the provisions of this Article 24 shall be deemed to be a submission to arbitration within the provisions of the *Commercial Arbitration Act*.

25. Subrogation

The Plan and the British Columbia Teachers' Federation shall have full rights of subrogation with respect to the full amount of any long-term benefits paid or payable to a claimant where the disability of the claimant is caused or contributed to by the action of any third party. The terms of subrogation in relation to the claimant are set out in Schedule A of the Plan, and form part of the plan.

A claimant may be required, as a condition precedent to receipt of long-term benefits, to execute an agreement substantially in the terms of Schedule A.



## **SCHEDULE A (Proportional recovery of benefits)**

### BC Teachers' Federation Salary Indemnity Plan—Long-term

#### Subrogation Agreement

In consideration of the payment to me of long-term disability benefits by the British Columbia Teachers' Federation Salary Indemnity Plan ("the Plan") I, \_\_\_\_\_ agree as follows: (name)

1. I agree that the British Columbia Teachers' Federation is fully subrogated, to the extent of the gross benefits I am entitled to under the Salary Indemnity Plan—long-term disability benefits, in respect of any claim that I may have against any person who may be found to have legal responsibility to me in respect of my disability (the tort-feasor). I specifically agree that the British Columbia Teachers' Federation:
  - (a) is entitled to recover the proportion of such benefits set out in paragraph 7 below in the event I am entitled to compensation for loss of income (whether or not included in an "all inclusive" settlement or judgment) as a result of a claim, cause of action, settlement or judgment in respect of the tort-feasor; and
  - (b) is authorized by me to commence action in my name against the tort-feasor in the event I do not do so.
2. I agree to fully cooperate with the British Columbia Teachers' Federation, its employees and agents, to provide full details of my injury or disability including the names of any tort-feasors and witnesses, and to provide copies of all documentation which the British Columbia Teachers' Federation may request in relation to its subrogated claim.
3. I agree that I will not conclude any settlement with the tort-feasor or the tort-feasors' insurer without consent of the British Columbia Teachers' Federation.
4. I agree that if I commence legal action against any tort-feasor for damages which I have sustained and for which I have received or may receive any benefits from the British Columbia Teachers' Federation, I will advise the British Columbia Teachers' Federation immediately, will not conclude any settlement without the British Columbia Teachers' Federation consent, and will instruct my solicitor accordingly.
5. I agree to repay to the British Columbia Teachers' Federation the proportion of benefits set out in Paragraph 7 in the event that I recover compensation for loss of income as a result of a settlement, judgment or award, and will instruct my solicitor to pay the appropriate sums directly to the British Columbia Teachers' Federation before any monies from the settlement or judgment are disbursed to me.
6. I agree to release the British Columbia Teachers Federation from obligation under the Salary Indemnity Plan Long-term Disability Plan, to the extent that my recovery as a result of a settlement, judgment or award in respect of the tort-feasor includes compensation for future loss of wages and/or loss of ability to earn income.

7. The proportion of benefits repayable under paragraph 5 of this agreement is calculated according to the formula

$$\frac{A - L}{B} = \frac{C}{D}$$

where:

- A is the total amount of recovery from the tort-feasor pursuant to the settlement, judgment or award which may be reasonably allocated to loss of wage;
- L is the net legal cost attributable to recovery of A, which is the percentage of the overall net legal cost of the action against the tort-feasor which A constitutes in relation to the total amount recovered against the tort-feasor; “net” means net of taxable costs and disbursements and any other costs and disbursements recovered by me other than taxable costs and disbursements;
- B is the total claim for recovery of lost wages against the tort-feasor; or the total amount which could reasonably be claimed for recovery of lost wages given the evidence and circumstances at the time the settlement, judgment or award is made, whichever is less;
- C is the amount of benefits to be repaid under Paragraph 1 and 5, and shall not exceed the net benefits paid to date; and
- D is the gross amount payable to date without deduction for Canada Pension Plan disability benefits, Workers’ Compensation benefits or Employment Insurance maternity benefits.

8. The portion of benefits released under paragraph 6 of this agreement is calculated according to the formula

$$\frac{A - L}{B} = \frac{C}{D}$$

where:

- A is the total amount of recovery from the tort-feasor pursuant to the settlement, judgment or award which may be reasonably allocated to future loss of wages and or loss of ability to earn income;
- L is the net legal cost attributable to recovery of A, which is the percentage of the overall net legal cost of the action against the tort-feasor which A constitutes in relation to the total amount recovered against the tort-feasor; “net” means net of taxable costs and disbursements and any other costs and disbursements recovered by me other than taxable costs and disbursements;
- B is the total claim for recovery of lost wages against the tort-feasor, or the total amount which could reasonably be claimed for recovery of lost wages given the evidence and circumstances at the time the settlement, judgment or award is made, whichever is less;
- C is the amount of benefits to be released under Paragraph 1 and 6, and shall not exceed the net benefits payable; and

D is the total amount of gross benefits payable without deduction for Canada Pension Plan disability benefits, Workers' Compensation benefit or Employment Insurance maternity benefits.

9. All matters and differences in relation to this agreement shall be referred to the arbitration of a single arbitrator to be chosen by the parties. The award and determination of such arbitrator shall be final and binding upon the parties hereto. The provision of the *Commercial Arbitration Act*, R.S.B.C. 1996, c. 55, as amended from time to time, shall govern the arbitration proceedings, and the provisions of this paragraph shall be deemed to be a submission within the provisions of the *Commercial Arbitration Act*.

Dated at \_\_\_\_\_, British Columbia, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

\_\_\_\_\_  
On behalf of: BCTF Salary Indemnity Plan

\_\_\_\_\_  
Witness