

VI. General

Section 14 – Commission Liability

14.1 Indemnity of the Commission

The Legislation governing the Liquor Board Superannuation Plan (the Plan) does not specifically authorize the payment of any indemnity for liability incurred by the Liquor Board Superannuation Commission (the Commission). Any entitlement to an indemnity can only arise through the operation of the common law and the law relating to trustees generally. In that event, the indemnity is properly characterized as an expense that may be charged to the party normally responsible for the payment of the expenses of the Commission.

Should the Minister in his or her capacity as the Commission or the person to whom the duties of the Commission have been delegated (the Delegate) become liable to a third party as a result of actions taken in good faith in the course of discharging the duties of the Commission, the Minister and/or the Delegate may look to the Government of Saskatchewan for indemnity.

In addition, *The Trustees Act* provides that a trustee may be indemnified out of the assets of the fund if the trustee incurs a liability while acting in good faith in the discharge of his or her duties as a trustee.

The *Liquor Board Superannuation Act* (the Act) provides for the establishment of the Liquor Board Superannuation Fund and, although it does not constitute the Commission as trustee of the Fund, it does impose certain duties on the Commission that are consistent with those of a trustee, particularly the investment powers under section 42.

To that extent, the Commission may look to the assets of the Fund for indemnity in the event that liability is incurred by the member in the course of the good faith discharge of these trust obligations.

In the event that a claim is made against the Commission that might result in a liability for which the Commission would intend to seek an indemnity from either the Fund or the Government of Saskatchewan, the member must bring the claim to the attention of The Public Employees Benefits Agency (PEBA) as provider of Executive Secretary services.

PEBA will consult with legal counsel for the Commission to determine:

- If the claim is one for which indemnity is available, and if so, from whom;
- Whether legal counsel will be provided for the Commission or whether the Commission should retain its own counsel; and
- In the event that the Commission retains its own counsel, whether an advance of funds should be made out of the Fund to the Commission on account of the Commission's legal expenses.

The Commission must provide PEBA with any information that PEBA may require for the purpose of administering this provision, and PEBA may share that information with legal counsel for the Commission.

14.2 History

Approval Date:	November 30, 2007, March 15, 2006, and September 24, 2019
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