

VI. General

Section 14 – Commission Liability

14.1 Indemnity of Commission Members

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) or any of its members. 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 party normally responsible for the payment of the expenses of the Commission.

As appointees of the Lieutenant Governor in Council, Commission members who become liable to a third party as a result of actions taken in good faith in the course of discharging their duties as a Commission member 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, a Commission member 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 any Commission member that might result in a liability for which the member 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 Executive Secretary for the Commission. The Executive Secretary 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 member or whether the member should retain his or her own counsel; and
- In the event that the member retains his or her own counsel, whether an advance of funds should be made out of the Fund to the member on account of the member's legal expenses.

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

14.2 History

Approval Date:	November 30, 2007, March 15, 2006
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