

**SUSPENSION AND RESTORATION OF EARLY PENSION BENEFIT****13.01 Suspension.**

- (a) If an Employee commences to receive an Early Pension Benefit and later returns to work in the Hotel and Restaurant Industry prior to reaching his Regular Retirement Date, then the Employee's benefit shall be permanently suspended for one month for each month in which the Employee works forty (40) or more hours in the Hotel and Restaurant Industry.
- (b) For purposes of this Article XIII only, the term "Hotel and Restaurant Industry" shall mean all work, whether or not with an Employer or in a self-employed capacity, which is covered, or of the type that would be covered, by a Collective Bargaining Agreement. However, all work which is not in the same industry, the same trade or craft (including supervisory activities relating thereto), and the same geographic areas covered by the Plan at the time pension payments commence or would have commenced had the Employee not remained in or returned to work in the Hotel and Restaurant Industry shall not be treated as disqualifying employment under this Article.

**13.02 Notification.**

- (a) If a Pensioner returns to work in the Hotel and Restaurant Industry, prior to attaining his Regular Retirement Date, he must promptly notify the Trustees, in writing, of such employment. A Pensioner shall provide the Trustees with such information as they may request in order to establish the nature and extent of any employment after the date of commencement of his benefits. In addition, at least once each year a Pensioner shall be required to certify on a form acceptable to the Trustees that he is not and has not been employed at work which would cause a suspension of pension payments. Any pension payments otherwise due shall be withheld pending adequate response by the Pensioner to such request.
- (b) If the Trustees become aware that the Pensioner may be employed in the Hotel and Restaurant Industry, it may be presumed, unless and until the Pensioner provides evidence to the contrary, that he was employed for forty (40) or more hours for that month, and benefits may be suspended as provided hereunder.
- (c) A Pensioner whose pension has been suspended shall advise the Trustees in writing when disqualifying employment has ended. Benefit payments shall be held back until such notice is filed with the Trustees.
- (d) A Pensioner may request of the Trustees, in writing, a determination whether contemplated employment will be disqualifying and the Trustees shall provide the Participant with their determination within a reasonable time.
- (e) **Notice of Suspension.** The Trustees shall inform a Pensioner of any suspension of benefits by notice given by personal delivery or first class mail during the first calendar month in which his benefits are withheld. Such notice shall include a description of the specific reasons for the suspension, a description and a copy of the relevant plan provisions, reference of the applicable regulations of the U.S. Department of Labor, a statement of the procedure for securing a review of the suspension, and a description of the procedures with any necessary forms that must be filed before benefits can be resumed.
- (f) **Review.** A Pensioner shall be entitled to a review of a determination suspending his benefits or a determination that contemplated employment will be disqualifying. Such requests for review must be filed with the Trustees not later than 60 days following Pensioner's receipt of the applicable notice, and shall be governed by the Appeal Procedures set out in Article XIV of this Plan.
- (g) **Waiver of Suspension.** The Trustees may, upon their own motion or on request of a Pensioner, waive suspension of benefits subject to such limitations as the Trustees in their sole discretion may determine, including any limitations based on the Pensioner's previous record of benefit suspensions or noncompliance with reporting requirements under this Article.

**13.03 Restoration.** A Pensioner whose benefits are suspended shall be entitled to resume receiving a retirement benefit:

- (a) For any month the Pensioner works less than 40 hours in the Hotel and Restaurant Industry.
- (b) Benefit payments to a Pensioner shall be resumed beginning no later than the third month after the last calendar month for which his benefit was suspended, provided the Pensioner has complied with the notification requirements of this Plan. Subject to any offset under this Section 13.03, the initial payment upon resumption shall include all amounts payable after cessation of employment.
- (c) A Pensioner who returns to work in the Hotel and Restaurant Industry and subsequently retires before his Regular Retirement Date shall, upon such retirement, be entitled to receive the same pension as before his return to the Hotel and Restaurant Industry. Such Pensioner shall be entitled to receive any additional pension benefit accumulated during his

subsequent period(s) of work in Covered Employment as of the month following the month in which he attains his Regular Retirement Date. A Pensioner who returns to Covered Employment may continue working beyond his Regular Retirement Date and in such event will continue to accrue Pension Credit in accordance with the provisions of Article IV of this Plan. Any such Employee who begins receiving pension benefits after his Regular Retirement Date shall not accrue any additional Pension Credit after the date on which such pension benefits commence. Upon retirement after his Regular Retirement Date, an Employee's pension benefits shall be increased in the manner specified in Section 7.03 of this Plan.

- (d) If a Pensioner receives any pension payment to which he was not entitled under the provisions of this Article, the Trustees may recover the amount of such overpayment(s) by deducting the amount of the overpayment(s) from the Pensioner's future monthly payments until such overpayment is fully recovered. The amount of such offset shall be limited to 100% of the amount due to the Pensioner for the first payment upon resumption of benefits and 25% of the monthly Pension Benefit amount thereafter, until all overpayments are fully recovered. This provision shall not limit the right of the Trustees to recover an overpayment by means other than deduction from the pension.
- (e) In the event the Trustees intend to recover an overpayment as provided in paragraph (d) above, the Notice of Suspension provided to the Pensioner shall identify specifically the periods of employment, the overpayment amounts that are subject to offset, and the manner in which the Plan intends to offset such overpayment amount.