

# Teachers' Pension Act

CHAPTER 26 OF THE ACTS OF 1998

*as amended by*

2004, c. 3, s. 47; 2014, c. 34, s. 66



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CHAPTER 26 OF THE ACTS OF 1998  
amended 2004, c. 3, s. 47; 2014, c. 34, s. 66

**An Act to Provide a Pension System  
for the Teachers of Nova Scotia**

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(The table of contents is not part of the statute)

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**Short title**

**1** This Act may be cited as the *Teachers' Pension Act*. 1998, c. 26, s. 1.

**Interpretation**

**2** In this Act,

(a) “Appeals Committee” means the Teachers' Pension Plan Appeals Committee established pursuant to this Act;

(b) “former Act” means Chapter 461 of the Revised Statutes, 1989, the *Teachers' Pension Act*;

(c) "Fund" means the Nova Scotia Teachers' Pension Fund established pursuant to the former Act;

(d) "Minister" means the Minister of Finance and Treasury Board;

(e) "Pension Plan" means the pension plan set out in the regulations made pursuant to this Act;

(f) "Trustee" means the Trustee of the Fund;

(g) "Union" means the Nova Scotia Teachers' Union. 1998, c. 26, s. 2; 2014, c. 34, s. 66.

### **Supervision and management of Act**

**3** The Minister has the general supervision and management of this Act. 1998, c. 26, s. 3.

### **Pension Plan**

**4** The pension plan established pursuant to the former Act is hereby continued as the Pension Plan. 1998, c. 26, s. 4.

### **Terms and governance of Plan**

**5** The terms of the Pension Plan and the governance arrangements for the Pension Plan shall be set out in the regulations and in such other documents as may be created or adopted pursuant to this Act or the regulations. 1998, c. 26, s. 5.

### **Fund**

**6 (1)** The Fund established pursuant to the former Act is hereby continued.

**(2)** The Minister is the Trustee of the Fund.

**(3)** Notwithstanding subsection(2) but subject to subsection 10(2), the Minister and the Union may enter into an agreement whereby the Minister may appoint another person as the Trustee and the Minister shall transfer the responsibilities of Trustee to such person and the Minister is no longer the Trustee. 1998, c. 26, s. 6.

### **Credits to and charges upon Fund**

**7 (1)** All contributions and amounts payable under this Act and the regulations and all interest and other earnings from Fund investments shall be credited to and payable into the Fund.

**(2)** All pension payments, refunds, transfers, investment management expenses and other expenses of administration of the Pension Plan of any kind including, but not limited to, the cost of actuarial valuations and audits required to be done under this Act, and other amounts payable pursuant to this Act and the regulations, shall be a charge upon and payable out of the Fund. 1998, c. 26, s. 7.

**Agreement**

**8** Subject to subsections 6(2) and (3) and subsections 11(1) and (2), the Minister and the Union may enter into an agreement establishing the roles and responsibilities of the Minister and the Union with respect to the governance and administration of the Pension Plan and such agreements are binding on the Minister and the Union for the duration specified in the agreements. 1998, c. 26, s. 8.

**Contributions**

**9 (1)** Pension Plan members, the Minister and other participating employers shall make contributions to the Fund as provided for in the Pension Plan.

**(2)** The Minister shall make special payments into the Fund in the amounts and at the times set out in the schedule contained in the regulations. 1998, c. 26, s. 9.

**Insufficiency of Fund**

**10 (1)** Where at any time before the appointment of a Trustee pursuant to subsection 6(3) the Fund is insufficient to make all payments required to be made by this Act, the Minister shall pay into the Fund an amount out of the Consolidated Fund of the Province sufficient to enable such payments to be made.

**(2)** Upon the appointment of a Trustee pursuant to subsection 6(3),

- (a) subsection (1) ceases to have effect;
- (b) the Minister is only responsible for making those payments to the Fund that the Minister is required to make pursuant to this Act and the regulations; and
- (c) the Minister is not liable to make any supplementary payments for the purpose of meeting any underfunding in the Pension Plan. 1998, c. 26, s. 10.

**Administration of Pension Plan**

**11 (1)** The Minister is responsible for the day-to-day administration of the Pension Plan.

**(2)** Notwithstanding subsection (1), the Minister and the Union may enter into an agreement whereby the Minister and the Union appoint another person as Pension Plan administrator and the Minister thereby ceases to be the Pension Plan administrator and has no legal responsibility for the administration of the Pension Plan.

**(3)** The Pension Plan shall be administered in accordance with the *Income Tax Act* (Canada) and, where there is conflict between this Act and the *Income Tax Act* (Canada), that Act prevails. 1998, c. 26, s. 11.

**Audit**

**12 (1)** The accounts and the investments of the Fund shall be audited annually by the Auditor General or such other auditor as the Governor in Council may from time to time appoint.

**(2)** Where a change is made in the trusteeship of the Fund pursuant to subsection 6(3) and in the administration of the Pension Plan pursuant to subsection 11(2) such that the *Auditor General Act* no longer applies, the Trustee shall annually appoint an auditor who shall audit the accounts of the Fund and report to the Trustee. 1998, c. 26, s. 12.

**Annual actuarial examination**

**13 (1)** The Pension Plan and the Fund shall be examined annually by an actuary who shall prepare and deliver an actuarial valuation report to the Minister and the Union and make such recommendations to the Minister and the Union as the actuary considers advisable for the proper administration of the Pension Plan.

**(2)** The assumptions used by the actuary in the valuations referred to in subsection (1) shall be set from time to time by the Minister and the Union. 1998, c. 26, s. 13.

**Amendments to Pension Plan**

**14 (1)** The Minister and the Union may enter into an agreement to amend the Pension Plan, except that no amendment shall be made that would

(a) result in the revocation of registration of the Pension Plan under the *Income Tax Act* (Canada);

(b) increase the current cost of the benefits under the Pension Plan to a level greater than the total current contributions being made, unless specific provision is otherwise made to fund those benefits; or

(c) increase the liabilities of the Pension Plan unless specific provision is otherwise made to fund the increase.

**(2)** Amendments to the Pension Plan made pursuant to subsection (1) apply on and after the effective date of the amendment unless otherwise specified.

**(3)** The Minister and the Union may enter into an agreement to amend the schedule of special payments payable to the Fund by the Province contained in the regulations, but no such agreement is effective until approved by the Governor in Council.

**(4)** The exercise by the Minister and the Union of the authority contained in this Section is regulations within the meaning of the *Regulations Act*. 1998, c. 26, s. 14.

**Teachers' Pension Plan Appeal Committee**

**15 (1)** There is hereby established an appeals body to be known as the Teachers' Pension Plan Appeals Committee.

**(2)** The Appeals Committee consists of

- (a)** one person appointed by the Minister;
- (b)** one person appointed by the Union; and
- (c)** the Chair, who shall be appointed jointly by the Minister and the Union, except that the Chair shall not be a member, a pensioner or a person with any financial interest in benefits under the Pension Plan, or an employee of the Province or the Union, and shall not have served in a consultative role to the Province or the Union within the twelve months preceding the appointment.

**(3)** The Chair is a voting member of the Appeals Committee.

**(4)** Appeals Committee members, including the Chair, shall be appointed for a term of two years and may be re-appointed.

**(5)** Appeals Committee members may be removed by their appointing authority at the absolute discretion of the appointing authority. 1998, c. 26, s. 15.

**Function and procedures of Appeals Committee**

**16 (1)** The Appeals Committee shall hear and decide upon appeals made by Pension Plan members, pensioners or any other persons claiming a benefit under the Pension Plan of decisions of the Pension Plan administrator involving the application or interpretation of the Pension Plan provisions.

**(2)** The Appeals Committee shall hear such evidence as it considers necessary and shall make a decision based on the evidence and this Act and the regulations.

**(3)** The Minister and the Union may enter into an agreement regarding procedures related to the conduct of the business of the Appeals Committee.

**(4)** Decisions of the Appeals Committee are binding on the Pension Plan administrator and the appellant, subject to the requirement to maintain continuous registration of the Pension Plan under the terms of the *Income Tax Act* (Canada). 1998, c. 26, s. 16.

**Retired teachers**

**17** The Minister shall pay from the Consolidated Fund of the Province the pensions of teachers who retired and were granted pensions under the *Nova Sco-*

*tia Teachers' Pension Act, 1928*, and the pensions of widows and children of such teachers payable under the *Nova Scotia Teachers' Pension Act, 1928*. 1998, c. 26, s. 17.

#### **Regulations respecting early retirement program**

**18 (1)** Notwithstanding anything contained in this Act or the regulations, the Governor in Council may make regulations respecting an early retirement program for members of the Pension Plan if the funding for such a program is in addition to any contributions otherwise required to be made under this Act or the regulations.

**(2)** The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 1998, c. 26, s. 18.

#### **Continuation of certain regulations**

**19** For greater certainty, the regulations of the Governor in Council, referred to as the *Nova Scotia Teachers' Early Retirement Program (1994-1998) Regulations*, continue in effect and all of the rights, obligations and duties created by those regulations continue unchanged. 1998, c. 26, s. 19.

#### **General regulations**

- 20 (1)** The Minister and the Union may make regulations
- (a) setting out the terms of the Pension Plan;
  - (b) defining any word or expression used but not defined in this Act;
  - (c) deemed necessary or advisable to carry out effectively the intent and purpose of this Act.

**(2)** The exercise by the Minister and the Union of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 1998, c. 26, s. 20.

#### **Interpretation of Sections 20B to 20E**

**20A** In Sections 20B to 20E, “employee” means a person to whom this Act applies. 2004, c. 3, s. 47.

#### **Entitlement to supplementary pension**

**20B** Subject to Section 20D, where an employee retires or has retired pursuant to the terms of the Pension Plan and the pension calculated under the terms of the Pension Plan without reference to the maximum pension rules of the *Income Tax Act* (Canada) is greater than the maximum retirement benefit prescribed by the *Income Tax Act* (Canada), the employee is entitled to a supplementary pension equal to the difference between the two, on the same terms and conditions as the pension payable pursuant to the rules of the Pension Plan and the *Income Tax Act* (Canada). 2004, c. 3, s. 47.

**Payment of supplementary pension from Consolidated Fund**

**20C** The supplementary pension payable pursuant to Section 20B shall be paid from the Consolidated Fund of the Province. 2004, c. 3, s. 47.

**Contributions to Pension Plan by employer**

**20D** Notwithstanding anything contained in this Act or the Pension Plan, the contributions to the Pension Plan made by the employer in respect of an employee to whom Section 20B applies shall be made only on those salaries up to a level equal to the salaries upon which the maximum pension payable pursuant to the *Income Tax Act* (Canada) is calculated. 2004, c. 3, s. 47.

**Regulations respecting supplementary pensions**

**20E (1)** The Governor in Council may make regulations

- (a) respecting the payment of supplementary pensions pursuant to Sections 20B to 20D;
- (b) defining any word or expression used but not defined in Sections 20A to 20D;
- (c) deemed necessary or advisable to carry out effectively the intent and purpose of Sections 20A to 20D.

**(2)** The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

**(3)** A regulation made pursuant to this Section may, if it so provides, be made retroactive in its operation to a date not earlier than January 1, 2000. 2004, c. 3, s. 47.

**Repeal**

**21** The former Act is repealed. 1998, c. 26, s. 21.

**Proclamation**

**22** Section 21 comes into force on such day as the Governor in Council orders and declares by proclamation. 1998, c. 26, s. 22.

Proclaimed - March 30, 1999  
In force - March 31, 1999

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