



BILL NO. 48

Government Bill

*1st Session, 61st General Assembly
Nova Scotia
58 Elizabeth II, 2009*

An Act to Amend Chapter 340 of the Revised Statutes, 1989, the Pension Benefits Act

CHAPTER 25
ACTS OF 2009

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 5, 2009**

The Honourable Marilyn More
Minister of Labour and Workforce Development

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Amend Chapter 340
of the Revised Statutes, 1989,
the Pension Benefits Act**

Be it enacted by the Governor and Assembly as follows:

1 Section 2 of Chapter 340 of the Revised Statutes, 1989, the *Pension Benefits Act*, as amended by Chapter 29 of the Acts of 2000 and Chapter 21 of the Acts of 2002, is further amended by adding immediately after clause (ae) the following clauses:

(aea) “phased retirement benefit” means a pension benefit that is equal to a portion of the pension to which a person is entitled under subsection (1) of Section 41 or that the person is eligible to receive under subsection (1) of Section 49;

(aeb) “phased retirement period” means the period in respect of which a phased retirement benefit is to be paid;

2 Chapter 340 is further amended by adding immediately after Section 49 the following Section:

49A (1) A pension plan may provide for the payment of a phased retirement benefit.

(2) A phased retirement benefit may only be paid to a person from a pension plan if

(a) the person enters into a written agreement with an employer who contributes to the pension plan and the agreement evidences the person’s consent to its payment;

(b) where the person was receiving a joint and survivor pension from the pension plan before the phased retirement period, the person’s spouse or common-law partner, who would receive that joint and survivor pension on the death of the person, consents in writing to the cessation of the payment of the joint and survivor pension;

(c) the employer provides a copy of the agreement referred to in clause (a) to the administrator of the pension plan;

(d) the person accrues a pension benefit during the phased retirement period under circumstances to which subsection 8503(19) of the *Income Tax Regulations* (Canada) applies; and

(e) the pension plan has not been terminated.

(3) During a phased retirement period,

(a) the person continues to be a member;

(b) the administrator of the pension plan shall not pay the pension to which the person would otherwise be entitled under subsection (1) of Section 41 or that the person would otherwise be eligible to receive under subsection (1) of Section 49;

(c) Sections 68, 70 and 71 do not apply to an agreement or arrangement entered into for the payment of the phased retirement benefit;

(d) Section 47 does not apply to the calculation of the phased retirement benefit;

(e) Section 52 does not apply to the phased retirement benefit; and

(f) where, before the phased retirement period, a person was receiving a pension from the pension plan, the administrator of the pension plan shall not pay that pension and an election made under Section 54 is void.

(4) At the end of a phased retirement period,

(a) the pension benefit accrued during the phased retirement period is to be treated as vested without regard to conditions as to age, the period of membership in the pension plan or the period of employment;

(b) the pension to which the person is entitled under subsection (1) of Section 41 or that the person is eligible to receive under subsection (1) of Section 49 is, unless otherwise prescribed, to be calculated without regard to the amount of the phased retirement benefit received;

(c) for greater certainty, an election under Section 54 that is void under clause (3)(f) remains of no effect; and

(d) in the case of a phased retirement period that ends as a result of the death of a person,

(i) the person is deemed to have retired for purpose of the survivor benefit,

(ii) the person is deemed to have been entitled to the joint and survivor pension payable pursuant to Section 52, without regard to Section 54, in respect of the pension to which the person would otherwise be entitled under subsection (1) of Section 41 or that the person would otherwise be eligible to receive under subsection (1) of Section 49, and

(iii) subsections (3) to (5) of Section 56 apply.

3 (1) Subsection 61(1) of Chapter 340, as enacted by Chapter 29 of the Acts of 2000, is amended by

(a) adding “or any other benefit under a pension plan” immediately after “benefit” in the second line; and

(b) adding “or other benefit” immediately after “benefit” in the seventh last line.

(2) Subsection 61(2) of Chapter 340, as enacted by Chapter 29 of the Acts of 2000, is amended by adding “or other benefit” immediately after “benefit” in the fourth line.

4 Subsection 105(1) of Chapter 340, as amended by Chapter 29 of the Acts of 2000, Chapter 21 of the Acts of 2002 and Chapter 42 of the Acts of 2006, is further amended by adding immediately after clause (u) the following clause:

(ua) respecting phased retirement benefits;

5 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
