



BILL NO. 136

Government Bill

*3rd Session, 61st General Assembly
Nova Scotia
60 Elizabeth II, 2011*

**An Act to Amend Chapter 282
of the Revised Statutes, 1989,
the Members' Retiring Allowances Act,
and to Amend Chapter 1 (1992 Supplement)
of the Revised Statutes, 1989,
the House of Assembly Act**

CHAPTER 39
ACTS OF 2011

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 15, 2011**

The Honourable Frank Corbett
Government House Leader

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

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**An Act to Amend Chapter 282
of the Revised Statutes, 1989,
the Members' Retiring Allowances Act,
and to Amend Chapter 1 (1992 Supplement)
of the Revised Statutes, 1989,
the House of Assembly Act**

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Members' Pension Review Implementation (2011) Act*.

2 Section 2 of Chapter 282 of the Revised Statutes, 1989, the *Members' Retiring Allowances Act*, as amended by Chapter 29 of the Acts of 1993, is further amended by

(a) adding “, as amended from time to time” immediately after “thereto” in the last line of clause (ga);

(b) adding immediately after clause (j) the following clauses:

(ja) “Registered Plan” means the Members' Retiring Allowances Plan;

(jb) “service”, in Part I, means “eligible service” within the meaning of the Income Tax Act (Canada);

(jc) “spouse” means either of two persons who

(i) are married to each other,

(ii) are married to each other by a marriage that is voidable and has not been annulled by a declaration of nullity,

(iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or, where they have ceased to cohabit, have cohabited within the twelve-month period immediately preceding the date of entitlement, or

(iv) neither of them being married, are cohabiting in a conjugal relationship of at least two years with each other;

(c) striking out the period at the end of clause (k) and substituting a semicolon; and

(d) adding immediately after clause (k) the following clauses:

(l) “Supplementary Plan” means the Members' Supplementary Retiring Allowances Plan;

(m) “totally and permanently disabled” has the same meaning as in the Income Tax Act (Canada).

3 Chapter 282 is further amended by renumbering Section 2A as Section 2D and adding immediately before that Section the following Sections:

2A There is a Members' Retiring Allowances Plan, the terms of which are prescribed by this Part.

2B (1) The Minister is the trustee of the Registered Plan.

(2) The Minister may appoint a person to be the administrator of the Registered Plan.

2C (1) No right of a person under the Registered Plan is capable of being assigned, charged, anticipated, given as security or surrendered.

(2) An assignment does not include

(a) an assignment pursuant to a decree, order or judgment of a competent tribunal or a written agreement in settlement of rights arising out of a marriage or other spousal relationship on or after the breakdown of their marriage or relationship; or

(b) an assignment by the legal representative of a deceased person on the distribution of the person's estate.

(3) A surrender does not include a reduction in benefits to avoid the revocation of the registration of the Registered Plan.

4 Subsection 2A(2) of Chapter 282, as enacted by Chapter 29 of the Acts of 1993 and renumbered as subsection 2D(2) by this Act, is further amended by striking out clause (b).

5 (1) Subsection 4(1) of Chapter 282 is amended by striking out clause (a) and substituting the following clauses:

(a) the amount equal to the contributions made by the members in that year, but not in excess of the employer's contributions recommended by the Registered Plan's actuary;

(aa) an amount equal to the employer's contributions recommended by the Registered Plan's actuary, less contributions made pursuant to clause (a); and

(2) Subsection 4(2) of Chapter 282, as amended by Chapter 29 of the Acts of 1993 and Chapter 2 of the Acts of 2010, is further amended by adding "as recommended by the Registered Plan's actuary" immediately after "made" in the last line.

6 Section 7 of Chapter 282 is amended by

(a) adding "(1)" immediately after the Section number;

(b) striking out "fifteen" in the second line and substituting "twenty"; and

(c) adding the following subsection:

(2) A member shall not be required to make contributions under this Act with respect to an allowance after the member has become entitled to the maximum amount payable for that allowance.

7 Subsection 9(2) of Chapter 282 is repealed.

8 Chapter 282 is further amended by adding immediately before Section 11 the following Section:

10A A member shall be credited with a period of service for the purpose of calculating the allowance payable to the member upon paying the required contributions.

9 (1) Clause 11(1)(b) of Chapter 282 is amended by adding “and permanently” immediately after “totally” in the last line.

(2) Subsection 11(3) of Chapter 282, as amended by Chapter 2 of the Acts of 2010, is further amended by

(a) striking out clause (a) and substituting the following clause:

(a) has ceased to be a member and has attained either

(i) the age of sixty years; or

(ii) the age of fifty-five years and the aggregate of the person’s age in years and years of service is equal to at least eighty;

and

(b) adding “and permanently” immediately after “totally” in the last line of clause (b).

10 (1) Subsection 12(1) of Chapter 282 is repealed and the following subsection substituted:

(1) The annual allowance payable to a person who has served as a member shall be paid to the person for life and is one fiftieth of the product of

(a) the average annual indemnity earned in the three years during which the person’s annual indemnity was the highest; and

(b) the number of years of the person’s service,

but in no case shall the annual allowance exceed seventy per cent of the person’s average annual indemnity earned in the three years during which the person’s annual indemnity was the highest.

(2) Subsection 12(2) of Chapter 282 is amended by striking out “one-twentieth” in the fifth line and substituting “one fiftieth”.

(3) Subsection 12(3) of Chapter 282, as amended by Chapter 2 of the Acts of 2010, is further amended by

(a) adding “annual” immediately after “average” in the third line of clause (a);

(b) adding “annual” immediately after “average” in the second line of clause (b); and

(c) striking out clause (c) and substituting the following clause:

(c) the further allowance shall be two per cent of the average annual salary calculated pursuant to clause (a) or (b) multiplied by the number of years of service after the first day of January, 1954, to a total maximum of seventy per cent of the average annual salary calculated pursuant to clause (a) or (b), in one or more of the positions mentioned in Section 8.

(4) Section 12 of Chapter 282, as amended by Chapter 2 of the Acts of 2010 and Chapter 3 of the Acts of 2010, is further amended by adding immediately after subsection (3) the following subsection:

(3A) Notwithstanding subsections (1) to (3), the aggregate of the allowances payable to a person pursuant to those subsections shall not exceed the defined benefit limit, pursuant to the Income Tax Act (Canada), for the year the allowances to that person commence multiplied by the person's years of service.

11 Chapter 282 is further amended by adding immediately after Section 12 the following Section:

12A A person who ceases to be a member and who has not attained the age of fifty-five years but has attained the age of fifty years is entitled to the allowance otherwise payable reduced by the greater of

- (a) one half of one per cent of the allowance for each month remaining until the member attains the age of fifty-five years; and
- (b) one quarter of one per cent of the allowance for each month remaining until the earlier of when
 - (i) the member attains the age of sixty years, and
 - (ii) the member attains the age of fifty-five years and the aggregate of the person's age in years and years of service is equal to eighty.

12 Subsection 13(1) of Chapter 282, as amended by Chapter 12 of the Acts of 2003, is further amended by

(a) striking out "fifty-five" in the third line of clause (b) and substituting "sixty";

(b) striking out clause (c) and substituting the following clause:

(c) a spouse, sixty-six and two-thirds per cent of the allowance that was being paid or sixty-six and two-thirds per cent of the allowance to which the person would be entitled, based on the person's years of service at the date of death, if the person were sixty years of age and ceased to be a member, as the case may be, shall be paid to the spouse for life.

and

(c) striking out "his dependants or the survivor for life" in the sixth and seventh lines of clause (e) and substituting "the person's dependants, if any, in equal shares,

until, in each case, the dependant's mental or physical disability ceases or the dependant dies, whichever first occurs".

13 (1) Clause 14(d) of Chapter 282 is amended by adding "and permanently" immediately after "totally" in the first line.

(2) Clause 14(e) of Chapter 282 is amended by adding ", subject to the limitation in the Income Tax Act (Canada)," immediately after "to" the second time it appears in the first line.

14 Section 19 of Chapter 282 is repealed.

15 Section 21A of Chapter 282 is repealed and the following Sections substituted:

21A (1) There is a Members' Supplementary Retiring Allowances Plan to which Sections 6 to 11, subsections (1) to (3) and (4) to (8) of Section 12 and Sections 13 to 21 apply with the following changes:

(a) a reference to the age of sixty years is to be read as the age of fifty-five years;

(b) a reference to one fiftieth is to be read as seven two-hundredths;

(c) a reference to two per cent is to be read as three and one-half per cent; and

(d) a person who ceases to be a member and who has not attained the age of fifty-five years but has attained the age of fifty years is entitled to the allowance otherwise payable reduced by one half of one per cent of the allowance for each month remaining until the member attains the age of fifty-five years.

(2) With respect to service before the coming into force of this Section, the following additional changes apply:

(a) notwithstanding clause (b) of subsection (1), a reference to one fiftieth is to be read as one twentieth;

(b) notwithstanding clause (c) of subsection (1) but subject to clause (c), a reference to two per cent is to be read as five per cent; and

(c) notwithstanding clause (c) of subsection (1), the further allowance provided for pursuant to clause (c) of subsection (3) of Section 12 shall be

(i) two and one-half per cent, or

(ii) where the person has paid an amount into the General Revenue Fund of the Province pursuant to subsection (2) of Section 9, five per cent,

of the average annual salary calculated pursuant to clause (a) or (b) of subsection (3) of Section 12 multiplied by the number of years of service after the first day of January, 1954, and before the first day of January,

1982, plus five percent of the average annual salary calculated pursuant to clause (a) or (b) of subsection (3) of Section 12 multiplied by the number of years service after the thirty-first day of December, 1981, and before the coming into force of this Section, to a total maximum of seventy-five per cent of the average annual salary, in one or more of the positions mentioned in Section 8.

(3) The annual allowances payable at any time pursuant to the Supplementary Plan are reduced by the annual allowances payable at the same time pursuant to the Registered Plan.

21AA (1) The Minister is the trustee of the Supplementary Plan.

(2) The Minister may appoint a person to be the administrator of the Supplementary Plan.

21AB (1) No right of a person under the Supplementary Plan is capable of being assigned, charged, anticipated, given as security or surrendered.

(2) An assignment does not include

(a) an assignment pursuant to a decree, order or judgment of a competent tribunal or a written agreement in settlement of rights arising out of a marriage or other spousal relationship on or after the breakdown of their marriage or relationship; or

(b) an assignment by the legal representative of a deceased person on the distribution of the person's estate.

16 Chapter 282 is further amended by adding immediately after Section 21D the following Section:

21E With respect to a person who was a member immediately before the coming into force of this Section, a reference in this Act to seventy per cent is to be read as seventy-five percent.

17 Chapter 282 is further amended by adding immediately after Section 21E the following Section:

21F (1) Subject to subsection (2), where, pursuant to this Act, the aggregate of all of the allowances being paid

(a) to a person who was sixty-five years of age or more on the third day of November, 2011; or

(b) to the surviving spouse of a person who would have been sixty-five years of age or more if the person had been alive on the third day of November, 2011,

is less than one thousand dollars per month, a supplementary allowance shall be paid in such an amount that the aggregate of all of the allowances being paid to or with respect to the person pursuant to this Act is the amount necessary to provide a total that is no less than one thousand dollars per month.

(2) Subsection (1) applies only to allowances that have never been divided pursuant to Section 24.

(3) The Minister shall review subsection (1) periodically as the Minister considers appropriate to ensure its fairness with respect to changing circumstances.

18 (1) Subsection 24(1) of Chapter 282, as recommended by the Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials for 1999 and amended by Chapter 29 of the Acts of 2000, is further amended by

- (a) striking out “or common-law partner”; and**
- (b) striking out “Pensions” and substituting “Pension”.**

(2) Subsection 24(2) of Chapter 282 is repealed.

19 Chapter 282 is further amended by adding immediately after Section 24 the following Section:

25 (1) The Governor in Council may make regulations

(a) prescribing for the purpose of Sections 4 and 21C a rate or rates of interest, the manner of calculating interest and the times at which interest shall be credited to the Account or Supplementary Account, as the case may be;

(b) prescribing the days on which payments of allowances shall be made, and providing that payment may be made in respect of any fractional period and that where a recipient dies payment may be made in respect of the full month in which the recipient dies;

(c) with respect to Part I, providing for the payment of an allowance at an actuarially reduced level to or in respect of a member who ceases to be a member before attaining the age of sixty years or the age of fifty-five years where the aggregate of the member’s age in years and years of service is equal to at least eighty;

(d) with respect to Part II, providing for the payment of an allowance at an actuarially reduced level to or in respect of a member who ceases to be a member before attaining the age of fifty-five years;

(e) providing for payment of the allowance of a recipient who is incapable of managing his or her affairs;

(f) providing for proofs of age, relationship and disability;

(g) prescribing for the purpose of Sections 6, 9, 10, 16 and 17 a rate or rates of interest, the manner of calculating interest and the times at which interest will be credited;

(h) respecting the excluding of any member from making contributions under Sections 6 and 8;

(i) recognizing institutions as educational institutions for the purpose of this Act;

(j) notwithstanding this Act, making any change to the Registered Plan necessary to comply with the Income Tax Act (Canada) and a corre-

sponding change to the Supplementary Plan in order to maintain the net effect of the two Plans;

(k) defining any word or expression used but not defined in this Act;

(l) respecting any matter or thing the Governor in Council considers necessary or advisable for the administration of this Act and to give effect to it.

(2) A regulation made pursuant to subsection (1) may, if it so provides, be made retroactive to a date not earlier than the first day of January, 2010.

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

20 Subsection 40(1) of Chapter 1 (1992 Supplement) of the Revised Statutes, 1989, the *House of Assembly Act*, as amended by Chapter 47 of the Acts of 2001, is further amended by striking out clauses (c) to (e) and substituting the following clauses:

(c) one twelfth of the person's number of months of service as a member of the House; and

(d) one twelfth of the annual indemnity and allowance for a member at the rate in force immediately before the person ceased to be a member,

21 Chapter 1 is further amended by adding immediately after Section 40 the following Section:

40A (1) A person who, pursuant to clause (a) or (b) of subsection (1) of Section 40, is entitled to receive a transition allowance may apply to the Speaker for approval to obtain retirement counselling, career counselling or career retraining services.

(2) Where

(a) the Speaker is satisfied that the person is able to obtain the counselling or retraining services within twelve months of the commencement of the payment of the person's transition allowance;

(b) the counselling or retraining services are provided by a service provider approved by the Speaker;

(c) the services are obtained within twelve months of the commencement of the payment of the person's transition allowance; and

(d) the Speaker is satisfied with the services provided,

the Speaker shall authorize payment for the counselling or retraining services to a maximum of seven thousand five hundred dollars.

22 For greater certainty, nothing in this Act reduces an allowance to which a person is entitled pursuant to the *Members' Retirement Allowances Act* with respect to service before the coming into force of this Act.

23 (1) This Act, except Sections 17, 20 and 21, has effect on and after the first day of the month in which ordinary polling day for the next general election occurs.

(2) Section 17 has effect on and after November 3, 2011.

(3) Notwithstanding subsection (1), this Act, except Sections 17, 20 and 21, applies with respect to any person who is a member of the House of Assembly immediately before the dissolution of the present Assembly

(a) on and after ordinary polling day for the next general election if that person is re-elected in the next general election; and

(b) on and after the first day of the month immediately following the month in which the day before ordinary polling day for the next general election occurs if that person is not re-elected in the next general election.

(4) In this Section, upon the coming into force of Chapter 5 of the Acts of 2011, the *Elections Act*, “ordinary polling day” means election day.
