



BILL NO. 339

Government Bill

*1st Session, 64th General Assembly
Nova Scotia
2 Charles III, 2023*

An Act Respecting Certain Financial Measures

CHAPTER 12
ACTS OF 2023

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 9, 2023**

The Honourable Allan MacMaster
Minister of Finance and Treasury Board

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

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An Act Respecting Certain Financial Measures

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Financial Measures (Fall 2023) Act*.

PART I

GAS DISTRIBUTION SYSTEM MUNICIPAL TAXATION ACT

2 Section 14 of Chapter 27 of the Acts of 2004, the *Gas Distribution System Municipal Taxation Act*, is amended by striking out “twenty” in the first line and substituting “twenty-five”.

PART II

INCOME TAX ACT

3 (1) Clause 49A(1)(d) of Chapter 217 of the Revised Statutes, 1989, the *Income Tax Act*, as enacted by Chapter 33 of the Acts of 2014 and amended by Chapter 35 of the Acts of 2022, is further amended by striking out everything after “that” in the fourth line and adding the following subclauses:

(i) is qualified property as defined in subsection 127(9) of the Federal Act, or

(ii) meets the criteria, set out in the regulations made under this Act, to be qualified property.

(2) Subsection 49A(14) of Chapter 217, as enacted by Chapter 33 of the Acts of 2014, is amended by adding immediately after clause (b) the following clause:

(ba) prescribing criteria for determining when property is considered qualified property pursuant to subclause 49A(1)(d)(ii);

PART III

PRIVATE SECTOR PENSION PLAN TRANSFER ACT

4 The Schedule, the *Private Sector Pension Plan Transfer Act*, comes into force as provided in that Schedule.

PART IV

PUBLIC SERVICE SUPERANNUATION ACT

5 Section 55 of Schedule B of Chapter 4 of the Acts of 2012, as amended by Chapter 4 of the Acts of 2018, is further amended by adding immediately after subsection (4) the following subsection:

(4A) An employee may not acquire pensionable service unless the service is fully paid for in accordance with this Act and the plan text, or as the Trustee otherwise determines.

6 Subsection 87(1) of Schedule B of Chapter 4, as amended by Chapter 4 of the Acts of 2018, is further amended by adding immediately after clause (e) the following clause:

(ea) prescribing terms and conditions respecting the suspension, termination or reinstatement of an employer's participation in the Pension Plan, including, without limiting the generality of the foregoing,

(i) the payment of contributions and the crediting of pensionable service if an employer's participation in the Pension Plan has been suspended, terminated or reinstated, and

(ii) the reconciliation of a member's entitlement to a superannuation allowance or other benefit under the Pension Plan if the participation of the member's employer has been suspended, terminated or reinstated;

7 Schedule B of Chapter 4 is further amended by adding immediately after Section 87 the following heading and Sections:

PRIVATE-SECTOR EMPLOYERS

87A In Sections 87B to 87D, "private-sector employer", "transfer", "transfer agreement" and "transferring employer" have the same meaning as in the *Private Sector Pension Plan Transfer Act*.

87B (1) Notwithstanding any requirements under the *Private Sector Pension Plan Transfer Act*, the Trustee may, without entering into a transfer agreement, prescribe a private-sector employer as an employer under the plan text if there is no transfer, in whole or in part, of the assets and liabilities from any pension plan to the Pension Plan.

(2) Where the Trustee prescribes a private-sector employer as an employer under subsection (1), the employees of the employer are entitled to participate in the Pension Plan in accordance with the Pension Plan and the employees' terms of employment.

87C (1) Where a private-sector employer receives money from an employee under an arrangement that the employer will pay the money into the Superannuation Fund as the employee's contribution under the Pension Plan, the private-sector employer is deemed to hold the money in trust for the employee until the private-sector employer pays the money into the Superannuation Fund.

(2) For the purpose of subsection (1), money withheld by a private-sector employer, whether by payroll deduction or otherwise, from money payable to an employee is deemed to be money received by the private-sector employer from the employee.

(3) A private-sector employer is deemed to hold in trust for the beneficiaries of the Pension Plan an amount of money equal to employer contributions due and not paid into the Superannuation Fund.

(4) The Trustee has a lien and charge upon the assets of a private-sector employer in an amount equal to the amount that is deemed to be held in trust under subsections (1) and (3).

(5) Subsections (1) and (3) apply regardless of whether the money received or the contributions due and not paid have been kept separate and apart from other money or property of the employer.

(6) In the event of a liquidation, assignment or bankruptcy of a private-sector employer, an amount equal to the amount that is deemed to be held in trust under subsections (1) and (3) is deemed to be separate and form no part of the estate in liquidation, assignment or bankruptcy, regardless of whether that amount has been kept separate and apart from the private-sector employer's own money or from the assets of the estate.

87D Where a transferring employer ceases participation in the Pension Plan within 10 years of the effective date of the transfer to the Pension Plan, the transferring employer shall pay to the Trustee an amount determined by the formula

$$\frac{A \times (10 - B)}{10}$$

where

A is the difference, if any, between

(a) the liability associated with the benefits payable to the members of the Pension Plan that are employees of the transferring employer, determined as if the Pension Plan was being terminated; and

(b) the market value of the pro-rated portion of the investment assets of the Pension Plan attributable to the members of the Pension Plan that are employees of the transferring employer; and

B is the number of years or fraction of years since the effective date of the transferring employer's transfer to the Pension Plan.

PART V

SALES TAX ACT

8 Chapter 31 of the Acts of 1996, the *Sales Tax Act*, is amended by adding immediately after Section 12ZA the following Part:

PART IVD

PURPOSE-BUILT RENTAL HOUSING REBATE PROGRAM

12ZAA In this Part,

(a) “federal Minister” means the minister of the Government of Canada who is responsible for the administration and enforcement of Part IX of the *Excise Tax Act* (Canada);

(b) “tax” means a tax imposed under subsection 165(2) of the *Excise Tax Act* (Canada).

12ZAB Effective September 14, 2023, the federal Minister may, on behalf of His Majesty in right of the Province, in respect of a residential unit, pay or credit a rebate of tax in accordance with subsections 256.2(3.1), (3.2) and (9.1) of the *Excise Tax Act* (Canada).

12ZAC Notwithstanding Section 12ZAB, the rebate is only effective with respect to purpose-built rental housing for which the construction, last substantial renovation or the construction or alteration necessary to effect the conversion of real property for use as a residential complex begins after September 13, 2023, and before 2031 and is substantially completed before 2036.

9 Section 12ZB of Chapter 31 is repealed.

PART VI

EFFECTIVE DATE

10 Part IV comes into force on such day as the Governor in Council orders and declares by proclamation.

SCHEDULE

**An Act to Facilitate the Transfer of Pension Plans
of Private Sector Employers
to the Public Service Superannuation Plan**

1 This Act may be cited as the *Private Sector Pension Plan Transfer Act*.

2 In this Act,

- (a) “Administrator” means the Administrator as defined in the *Public Service Superannuation Act*;
- (b) “designated plan” means a pension plan that is the subject of a transfer agreement;
- (c) “group agreement” means an agreement made under Section 11;
- (d) “personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*;
- (e) “plan text” means the plan text as defined in the *Public Service Superannuation Act*;
- (f) “post-transfer employee” means, in respect of a transferring employer, a person who
 - (i) commences employment with the transferring employer on or after the transfer date,

- (ii) under the person's terms of employment, is entitled or required to participate in a pension plan with the transferring employer, and
- (iii) is entitled under the transfer agreement to participate in the Superannuation Plan and satisfies the requirements of the Superannuation Plan and plan text for membership in the Superannuation Plan;
- (g) "private-sector employer" means an employer that is not
 - (i) the Province,
 - (ii) an entity prescribed in the plan text as of the date of the coming into force of this Act,
 - (iii) an authority as defined in the *Municipal and Other Authorities Pension Plan Transfer Act*, or
 - (iv) a university as defined in the *University Pension Plan Transfer Act*;
- (h) "superannuation allowance" means a superannuation allowance as defined in the *Public Service Superannuation Act*;
- (i) "Superannuation Fund" means the Superannuation Fund as defined in the *Public Service Superannuation Act*;
- (j) "Superannuation Plan" means the Pension Plan as defined in the *Public Service Superannuation Act*;
- (k) "Superintendent" means the Superintendent of Pensions;
- (l) "survivor" means
 - (i) in respect of a transferring retired member, a person who, under the designated plan, is or may become entitled to a pension or any other payment out of the pension fund of the designated plan in relation to the retired member, or
 - (ii) in respect of a transferring non-retired member, a person who, under the Superannuation Plan, is or may become entitled to a survivor allowance in relation to the transferring non-retired member;
- (m) "survivor allowance" means a survivor allowance as defined in the *Public Service Superannuation Act*;
- (n) "transfer" means the transfer to the Superannuation Fund of the assets and liabilities of a designated plan under a transfer agreement;
- (o) "transfer agreement" means an agreement made under Section 5;
- (p) "transfer date" means the effective date of a transfer as prescribed by the transfer agreement;
- (q) "transferring active member" means, in respect of a designated plan, a person
 - (i) who is employed by the transferring employer immediately before the transfer date,
 - (ii) who is included, or eligible to be included, in the designated plan immediately before the transfer date, and
 - (iii) for whom a proportionate share of the designated plan's assets and liabilities is included in a transfer;
- (r) "transferring employer" means a private-sector employer who enters into or intends to enter into a transfer agreement;
- (s) "transferring former member" means, in respect of a designated plan, a person
 - (i) who, before the transfer date, has ceased to be employed by the transferring employer,
 - (ii) who is entitled to a deferred pension under the designated plan, and
 - (iii) for whom a proportionate share of the designated plan's assets and liabilities is included in a transfer,
 but does not include any person who prior to the transfer date elected to transfer an amount equal to the commuted value of the person's deferred pension out of the designated plan in accordance with the *Pension Benefits Act*;
- (t) "transferring member" means, in respect of a designated plan, a transferring non-retired member or transferring retired member;

- (u) “transferring non-retired member” means a transferring active member or transferring former member;
- (v) “transferring retired member” means, in respect of a designated plan, a person
 - (i) who is in receipt of a pension under the designated plan immediately before the transfer date, and
 - (ii) for whom a proportionate share of the designated plan’s assets and liabilities is included in the transfer,
 and, for greater certainty, includes the survivor of a retired member of the designated plan who died before the transfer date;
- (w) “Trustee” means the Trustee as defined in the *Public Service Superannuation Act*.

3 Where there is a conflict between this Act or the regulations and any other enactment or any contract, agreement, plan, order or representation respecting a designated plan, this Act and the regulations prevail.

4 The Minister of Finance and Treasury Board is responsible for the supervision and management of this Act and the regulations.

- 5** Subject to Section 6, the Trustee may enter into an agreement with a transferring employer to
- (a) authorize the transfer, in whole or in part, of the assets and liabilities of a designated plan of the transferring employer from the designated plan to the Superannuation Plan;
 - (b) allow the transferring members of the designated plan, the survivors of the transferring members, the post-transfer employees of the transferring employer and the survivors of the post-transfer employees to participate in the Superannuation Plan in accordance with the Superannuation Plan and any modifications thereto made by the agreement; and
 - (c) set out the Trustee’s terms and conditions for suspending, reinstating or terminating a transferring employer’s participation in the Superannuation Plan.

6 (1) A transferring employer may not make any transfer without the prior written consent of the Superintendent.

(2) The Superintendent may refuse to consent to a transfer agreement that, in the Superintendent’s opinion, does not meet the requirements of this Act and the regulations or does not adequately protect the interests of the members, former members, retired members and other persons entitled to benefits under the designated plan.

- 7 (1)** Before entering into a transfer agreement, a transferring employer shall
- (a) make reasonable efforts to notify the active members, former members, retired members and other persons entitled to benefits under the designated plan about the proposed transfer and explain to them the implications of the proposed transfer, subject to such conditions and in such form as may be prescribed;
 - (b) provide the Superintendent with a copy of the information provided under clause (a) at the same time that the transferring employer sends the information to active members, former members, retired members and other persons entitled to benefits under the designated plan;
 - (c) cause a vote of the active members, former members, retired members and other persons entitled to benefits under the designated plan who are included in the proposed transfer to be held and obtain support for the proposed transfer, which, unless different criteria are prescribed, must be determined by
 - (i) no more than one third of those active members voting against the transfer, and
 - (ii) no more than one third of all those retired members, former members and other persons entitled to benefits under the designated plan voting against the transfer; and
 - (d) provide the Superintendent with all other information required by the regulations.

(2) When determining whether to enter into a transfer agreement, a transferring employer shall act in accordance with the obligations of the administrator of the designated plan under Section 33 of the *Pension Benefits Act*, irrespective of whether the transferring employer is the administrator of the designated plan.

(3) A transferring employer may not enter into a transfer agreement in relation to a partial transfer unless the transferring employer has determined that the transfer will not reduce the pension benefits, ancillary benefits and other benefits of any persons entitled to such benefits under the designated plan who will continue to be so entitled under the designated plan after the transfer date.

- 8 (1) A transfer agreement for a transferring employer must
- (a) confirm that the transferring employer has complied with Section 7;
 - (b) provide for the transferring employer to be prescribed by the plan text as an employer within the meaning of the *Public Service Superannuation Act*;
 - (c) extend the application of the Superannuation Plan to
 - (i) the transferring members of the designated plan, including any transferring members who will have accrued pensionable service under both the designated plan and the Superannuation Plan before the transfer date, and
 - (ii) the survivors of the transferring members to the extent necessary to give effect to the transfer;
 - (d) provide for the determination of the pensionable service and eligible service accrued by a transferring member of the designated plan, in respect of the employment of the transferring member by the transferring employer before the transfer, for the purpose of the Superannuation Plan; and
 - (e) satisfy such requirements as may be prescribed by the regulations.

- (2) A transfer agreement may
- (a) impose obligations or liabilities on, or continue obligations or liabilities of, the transferring employer, in its capacity as the employer or former employer of the transferring members of the designated plan or as the administrator of the designated plan, in respect of the designated plan on and after the transfer date;
 - (b) require the transferring employer, the transferring non-retired members of the designated plan or the post-transfer employees of the transferring employer to make payments to the Superannuation Fund in addition to those required to be made under the Superannuation Plan by an employer or by employees; and
 - (c) provide for any other matter or thing the parties consider necessary or advisable to effectively carry out the transfer.

(3) Where, in accordance with a transfer agreement, a transferring employer becomes an employer within the meaning of the *Public Service Superannuation Act*, Section 82 of that Act does not apply to the transferring members of the designated plan, the survivors of the transferring members, the post-transfer employees of the transferring employer or the survivors of the post-transfer employees.

(4) For the purpose of subsection 46(1) of the *Public Service Superannuation Act*, the terms of the Superannuation Plan include the terms set out in this Act, the regulations, the plan text and any transfer agreement entered into under subsection (1).

(5) As of the transfer date, each of the transferring members ceases to be a member of, and to accrue benefits under, the designated plan and the *Pension Benefits Act* ceases to apply to

- (a) that portion of the designated plan and its pension fund that is the subject of the transfer agreement; and
- (b) the transferring members of the designated plan and the survivors of the transferring members.

9 (1) For greater certainty and irrespective of any rights or entitlements earned or vested under a designated plan, on and after the transfer date,

- (a) the amount of an annual superannuation allowance to which a transferring non-retired member of a designated plan is entitled upon retiring must be determined in accordance with the *Public Service Superannuation Act* and the plan text and is payable in accordance with the terms and limitations prescribed by that Act and the plan text, provided that the amount of deferred allowance to be paid to any transferring former member is the same amount as was to be paid to such transferring former member immediately prior to the transfer date, subject to any adjustments otherwise applicable under that Act and the plan text; and

(b) the amount of an annual survivor allowance to which the survivor of a transferring non-retired member of the designated plan is entitled upon the death of the transferring non-retired member must be determined in accordance with the *Public Service Superannuation Act* and the plan text and is payable in accordance with the terms and limitations prescribed by that Act and the plan text.

(2) For the purpose of the Superannuation Plan, the pensionable service and eligible service accrued by a transferring non-retired member of the designated plan must be determined in accordance with the transfer agreement.

(3) On and after the transfer date, for the purpose of the Superannuation Plan,

(a) each transferring non-retired member of the designated plan is deemed to have commenced employment on the date of the transferring non-retired member's hire by the transferring employer and is deemed to have been a member of the Superannuation Plan from the date the transferring non-retired member commenced being a member of the designated plan; and

(b) each transferring former member of the designated plan is deemed to have ceased employment on the date transferring former member's employment with the transferring employer ceased and is deemed to have become a former member of the Superannuation Plan from the date the transferring former member commenced being a former member of the designated plan.

10 (1) On and after the transfer date, irrespective of any rights or entitlements earned or vested under a designated plan,

(a) every transferring retired member of the designated plan is deemed to be a retiree within the meaning of the *Public Service Superannuation Act*;

(b) subject to clauses (c) and (d), the amount and form of a superannuation allowance payable to the transferring retired member must be determined in accordance with the designated plan as it read immediately before the transfer date and is payable in accordance with the terms and limitations prescribed by the designated plan;

(c) the date and timing of superannuation allowances to all transferring retired members must be in accordance with the Superannuation Plan; and

(d) the amount of a superannuation allowance payable under clause (b) must be adjusted for cost of living in accordance with the Superannuation Plan, and not in accordance with the designated plan.

(2) On and after the transfer date, irrespective of any rights or entitlements earned or vested under a designated plan,

(a) every survivor of a transferring retired member of the designated plan is deemed to be the survivor of a retiree within the meaning of the *Public Service Superannuation Act*;

(b) the amount of a survivor allowance payable to the survivor of a transferring retired member must be determined in accordance with the designated plan as it read immediately before the transfer date and, subject to clause (c), is payable in accordance with the terms and limitations prescribed by the designated plan;

(c) the date and timing of allowance payments to all survivors of transferring retired members must be made in accordance with the Superannuation Plan; and

(d) the amount of a survivor allowance payable under clause (b) must be adjusted for cost of living in accordance with the Superannuation Plan, and not in accordance with the designated plan.

(3) For the purpose of the Superannuation Plan, the pensionable service and eligible service accrued by a transferring retired member of the designated plan must be determined in accordance with the transfer agreement.

11 (1) A transferring employer may enter into an agreement respecting a transfer with

(a) a trade union or other employees' association that represents transferring non-retired members of the designated plan; or

(b) an association that represents transferring retired members of the designated plan.

(2) A group agreement may impose obligations or liabilities on, or continue obligations or liabilities of,

- (a) the transferring employer in its capacity as
 - (i) the employer or former employer of the transferring members of the designated plan and post-transfer employees, or
 - (ii) the administrator of the designated plan; and
- (b) the transferring non-retired members of the designated plan,

in respect of the designated plan on and after the transfer date.

(3) A group agreement may impose obligations or liabilities on, or continue obligations or liabilities of,

- (a) the transferring employer in its capacity as
 - (i) the employer or former employer of the transferring members of the designated plan and post-transfer employees, or
 - (ii) the administrator of the designated plan;
- (b) the transferring non-retired members of the designated plan; and
- (c) the post-transfer employees of the transferring employer,

in respect of the Superannuation Plan on and after the transfer date.

12 (1) Subject to the transfer agreement and any applicable group agreement, on and after the transfer date, a transferring employer has no further or continuing obligations or liabilities in respect of the designated plan, or that portion of the designated plan that is the subject of the transfer agreement, in its capacity as

- (a) the employer or former employer of the transferring members of the designated plan who transfer to the Superannuation Plan; or
- (b) the administrator of the designated plan.

(2) Subject to the transfer agreement and any applicable group agreement, on and after the transfer date, the transferring employer

- (a) is responsible for making only those payments to the Superannuation Fund that the transferring employer is required to make under the transfer agreement or under the Superannuation Plan as an employer; and
- (b) for greater certainty, is not liable to make any supplementary payments for the purpose of meeting any underfunding in the Superannuation Plan.

13 Neither a transfer agreement nor a group agreement is, for the purpose of the *Pension Benefits Act*, a pension plan or an amendment to a pension plan.

14 Subject to the transfer agreement and any applicable group agreement, on and after the transfer date, a transferring member or the survivor of a transferring member has recourse solely to the Superannuation Fund for any benefit or other payment under the designated plan or the Superannuation Plan, provided that such benefit or other payment was not excluded from the transfer.

15 (1) For the purpose of facilitating the transfer and administering the Superannuation Plan on and after the transfer date, where the Trustee and a transferring employer have entered into, or are contemplating entering into, a transfer agreement,

- (a) the transferring employer may disclose to the Trustee
 - (i) personal information collected before the transfer date by the transferring employer in relation to the transferring members and the survivors of the transferring members, and
 - (ii) personal information collected on and after the transfer date by the transferring employer in relation to
 - (A) the transferring members of the designated plan and the survivors of the transferring members, and
 - (B) the post-transfer employees of the employer and the survivors of the post-transfer employees; and

(b) the Trustee may collect and use the personal information disclosed to the Trustee by the transferring employer under clause (a),

regardless of whether the collection, use or disclosure occurs before or after the coming into force of this Act.

(2) Where the Trustee and a transferring employer have entered into, or are contemplating entering into, a transfer agreement, the transferring employer may transfer to the Trustee any record, including a record that contains personal information, in the transferring employer's possession that relates to the designated plan and is required by the Trustee to facilitate the transfer or the administration of the Superannuation Fund following the transfer.

(3) No action, grievance or claim lies against a transferring employer, the trustee or administrator of a designated plan, the Trustee, the Administrator, the Crown in right of the Province or any other person in relation to the collection, use or disclosure of personal information in accordance with subsection (1), regardless of whether the collection, use or disclosure occurs before or after the coming into force of this Act.

16 (1) Subject to the transfer agreement and any applicable group agreement, no action, grievance or claim by a transferring member of a designated plan or the survivor of a transferring member lies against the transferring employer for any act or omission of the transferring employer in relation to the designated plan before the transfer date.

(2) No action, grievance or claim lies against a transferring employer, the trustee or administrator of a designated plan, a trade union or other employees' organization, the Trustee, the Administrator, the Crown in right of the Province or any other person for any act or omission that results in the breach of any other enactment or any contract, agreement, plan, order or representation respecting a designated plan, provided that the act or omission is authorized by this Act or the regulations.

17 (1) The Governor in Council may make regulations

(a) prescribing any matter that, under this Act, is permitted or required to be prescribed or to be otherwise done by regulation or in accordance with the regulations;

(b) prescribing criteria that must be complied with before any transfer may occur;

(c) prescribing requirements respecting the Superintendent's consent to a transfer;

(d) prescribing any information that must be provided to the Superintendent in relation to a transfer;

(e) prescribing the information that must be provided to active members, former members, retired members and other persons entitled to benefits under a designated plan that is the subject of a proposed transfer;

(f) prescribing a voting threshold other than as set out in clause 7(1)(c);

(g) prescribing conditions or requirements for a vote under clause 7(1)(c);

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

(i) further defining any word or expression defined in this Act;

(j) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

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

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