

# Members' Retiring Allowances Act

CHAPTER 282 OF THE REVISED STATUTES, 1989

*as amended by*

recommendations of Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials for 1990 and 1991 noted; amended 1993, c. 29; recommendation of Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials for 1999; 2000, c. 29, s. 25; 2003, c. 12; 2010, c. 2, ss. 119-131; 2010, c. 3, ss. 9-11; 2010, c. 33, s. 34; 2011, c. 39; 2011, c. 41, s. 141; 2012, c. 4, Sch. B, s. 90; 2013, c. 24; 2014, c. 34, ss. 31-33; 2014, c. 36, ss. 5-8



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 2000, c. 29, s. 25; 2003, c. 12; 2010, c. 2, ss. 119-131;  
 2010, c. 3, ss. 9-11; 2010, c. 33, s. 34; 2011, c. 39; 2011, c. 41, s. 141;  
 2012, c. 4, Sch. B, s. 90; 2013, c. 24; 2014, c. 34, ss. 31-33;  
 2014, c. 36, ss. 5-8

## An Act to Provide for Retiring Allowances to Members of the House of Assembly

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### Short title

**1** This Act may be cited as the *Members' Retiring Allowances Act*. R.S., c. 282, s. 1.

### INTERPRETATION

#### Interpretation

**2** In this Act

(a) "Account" means the Members' Retiring Allowances Account, established under this Act;

(b) "allowance" means a member's retiring allowance payable under this Act;

(c) "annual allowance for expenses" means the annual allowance for expenses payable under the *House of Assembly Act* to a member;

(d) "annual indemnity", after January 1, 1969, means the annual indemnity payable under the *House of Assembly Act* to a member, and before January 1, 1969, means the sessional indemnity paid under the *House of Assembly Act* to a member in respect of a session of the House;

(e) "annual salary" means, with respect to the Leader of the Opposition, the leader of a recognized party, the Speaker and the Deputy Speaker, the salary payable to them, respectively, in each year under the *House of Assembly Act*, and, with respect to the Premier and the members of the Executive Council, the salary payable to them respectively in each year under the *Executive Council Act*;

(f) "dependant" of a member means a father, mother, brother, sister or child who at the date of death of the member is, by reason of mental or physical infirmity, dependent upon him for support;

(g) "House" means the House of Assembly;

(ga) "Income Tax Act (Canada)" means the *Income Tax Act* (Canada), including any regulations made pursuant thereto, as amended from time to time;

(h) "leader of a recognized party" means the leader of a recognized party as defined in the *House of Assembly Act*;

(i) "member" means a member of the House unless he is excluded from the requirements and benefits of this Act by order of the Governor in Council;

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

(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;

(k) "Supplementary Account" means the Members' Supplementary Retiring Allowances Account established under this Act;

(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). R.S., c. 282, s. 2; 1993, c. 29, s. 1; 2011, c. 39, s. 2; 2014, c. 34, s. 31.

**NOTE** - *The report dated November 29, 1990, made by the Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials has, pursuant to Section 55 of the House of Assembly Act, the same force and effect as if enacted by the Legislature and is in substitution for the provisions of the Members' Retiring Allowances Act and provides in part as follows:*

MRA R 90 - 4 That entitlements accumulate, and allowances be paid to former Members, spouses of former Members, children or dependents of former Members notwithstanding Federal income tax provisions respecting registered pension plans and that the entitlements earned and payments be made in such a manner to enable utilization of the provisions of the Income Tax Act (Canada) to continue to the fullest extent possible.

## PART I

### MEMBERS' RETIRING ALLOWANCES PLAN

#### **Plan**

**2A** There is a Members' Retiring Allowances Plan, the terms of which are prescribed by this Part. 2011, c. 39, s. 3.

#### **Trustee and administrator**

**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. 2011, c. 39, s. 3.

#### **No assignment or surrender**

**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. 2011, c. 39, s. 3.

#### **Administration of Part, restriction on allowance and modification of plan**

**2D (1)** This Part shall be administered in accordance with the Income Tax Act (Canada) and, where there is a conflict between this Part and the Income Tax Act (Canada), the Income Tax Act (Canada) prevails.

(2) For greater certainty, notwithstanding any other provision of this Act or the regulations, no allowance is payable

(a) in an amount that exceeds the maximum permitted for that allowance by the Income Tax Act (Canada);

(b) *repealed 2011, c. 39, s. 4.*

or

(c) to a surviving spouse in an amount that exceeds the maximum permitted for spousal pension benefits by the Income Tax Act (Canada).

(3) Notwithstanding anything in this Part or any report made by the Nova Scotia Commission of Inquiry on Remuneration of Elected Provincials pursuant to Section 45 of the *House of Assembly Act*, the members' retiring allowance plan established by this Part is modified to the extent necessary to comply with the requirements of the Income Tax Act (Canada) applicable to registered pension plans and funds. 1993, c. 29, s. 2; 2011, c. 39, ss. 3, 4.

#### MEMBERS' RETIRING ALLOWANCE ACCOUNT

##### **Members' Retiring Allowance Account**

**3** (1) There shall be established in the General Revenue Fund of the Province an account to be known as the Members' Retiring Allowance Account to which shall be credited the payments made by members under this Part and the amounts credited by the Minister pursuant to Section 4.

(2) All allowances payable under this Part shall be paid out of the General Revenue Fund of the Province and charged to the Account. R.S., c. 282, s. 3; 1993, c. 29, s. 3; 2010, c. 2, s. 119.

##### **Credit to Account**

**4** (1) The Minister shall credit to the Account in each fiscal year

(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

(b) an amount representing interest on the balance that is from time to time to the credit of the Account.

(2) If at any time the Account is insufficient to make all payments by this Part required to be made, the Minister shall credit to the Account an amount out of the General Revenue Fund of the Province sufficient to enable such payments

to be made as recommended by the Registered Plan's actuary. R.S., c. 282, s. 4; 1993, c. 29, s. 4; 2010, c. 2, s. 120; 2011, c. 39, s. 5.

#### **Account for each member**

**5** An account shall be kept in respect of each member in which shall be shown all payments made by him or to him or on his account. R.S., c. 282, s. 5.

### CONTRIBUTIONS

#### **Payment by member**

**6 (1)** Effective the first day of January, 1969, all members except a member excluded by order of the Governor in Council shall by reservation from their annual indemnities pay into the General Revenue Fund of the Province eight per cent of all amounts that are payable to them as annual indemnities.

**(2)** Effective the first day of January, 1982, each member, except a member excluded by order of the Governor in Council, shall by reservation from the member's annual allowance for expenses pay into the General Revenue Fund of the Province eight per cent of all amounts that are payable to the member as an annual allowance for expenses.

**(3)** Any person who on the first day of January, 1987, is a member may at any time within two years subsequent to the first day of January, 1987, or such longer periods as may be approved by the Minister of Finance and Treasury Board, pay into the General Revenue Fund of the Province an amount equal to eight per cent of the aggregate of all annual allowances for expenses paid to the member during the period from the first day of January, 1969, to the thirty-first day of December, 1981, together with interest thereon at such rate as is determined by the Governor in Council from the date of payment of the several allowances to the date of payment into the General Revenue Fund of the Province and in respect of such person who has made such contribution, subsection (2) of Section 12 shall be read, for the purpose of all payment of allowances subsequent to the later of the first day of January, 1987, or such date as the person elects to make such contribution, as if the date of the thirty-first day of December, 1981 is the thirty-first day of December, 1968.

**NOTE** - *The report dated November 24, 1989, made by the Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials has, pursuant to Section 55 of the House of Assembly Act, the same force and effect as if enacted by the Legislature and is in substitution for the provisions of the Members' Retiring Allowances Act and provides in part as follows:*

MRA R 89 - 2 As of January 1, 1990, there no longer be a time limitation within which payments may be made by a Member, former Member, a spouse, children or dependents of a former Member in respect of R-4 of the Report dated December 1, 1986, [subsection 6(3) of the Act] made by the Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials.



*Subsection 5(2) of Chapter 29 of the Acts of 1993 provides as follows:*

(2) For greater certainty, recommendation MRA R 89-2 of the report dated the twenty-fourth day of November, 1989, made by the Nova Scotia Commission of Inquiry on Remuneration of Elected Officials pursuant to Section 45 of the House of Assembly Act is amended in accordance with subsection (1).

(4) Any person who was a member prior to the first day of January, 1969, but who did not make contributions to the General Revenue Fund of the Province pursuant to this Act may

(a) if he was a member on the first day of January, 1969, at any time within two years subsequent to that day; or

(b) if he was not a member on the first day of January, 1969, but subsequently becomes a member, at any time within two years of his election as a member,

pay into the General Revenue Fund an amount equal to eight per cent of the aggregate of all annual indemnities paid to him prior to the first day of January, 1969, together with interest thereon at such rate as is determined by the Governor in Council from the date of payment of the several indemnities to the date of payment into the General Revenue Fund and shall thereupon be credited with the service prior to the first day of January, 1969. R.S., c. 282, s. 6; 1993, c. 29, s. 5; 2010, c. 2, s. 121; 2014, c. 34, s. 32; revision corrected.

**NOTE** - *The report dated November 24, 1989, made by the Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials has, pursuant to Section 55 of the House of Assembly Act, the same force and effect as if enacted by the Legislature and is in substitution for the provisions of the Members' Retiring Allowances Act and provides in part as follows:*

MRA R 89 - 9 Contribution payments required to be made into the Consolidated Fund [General Revenue Fund] pursuant to Sections 5, 6, and 6A [6, 8 and 9] of the Act for future service on or after January 1, 1990 shall be increased to the rate of ten percent (10%).

#### **Maximum period of required contribution**

7 (1) A member shall not be required to make contributions under this Act after he has contributed for twenty years.

(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. R.S., c. 282, s. 7; 2011, c. 39, s. 6.

#### **Additional payment by certain members**

8 (1) Effective the first day of January, 1969, a member who is Premier, a member of the Executive Council, Leader of the Opposition, leader of a recognized party, Speaker or Deputy Speaker, shall, in addition to the contribution made by him as a member, other than a member excluded by order of the Governor in Council, pay into the General Revenue Fund of the Province either

- (a) four per cent of his annual salary; or
- (b) an amount which when added to his contribution as a member is equal to the maximum amount allowed as a deduction for income tax purposes,

whichever is the lesser.

(2) Notwithstanding subsection (1), effective the first day of January, 1982, a member who is Premier, a member of the Executive Council, Leader of the Opposition, leader of a recognized party, Speaker or Deputy Speaker, shall, in addition to the contributions made as a member, other than a member excluded by order of the Governor in Council, pay into the General Revenue Fund of the Province eight per cent of such person's annual salary. R.S., c. 282, s. 8; 2010, c. 2, ss. 122, 123.

**NOTE** - *The report dated November 24, 1989, made by the Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials has, pursuant to Section 55 of the House of Assembly Act, the same force and effect as if enacted by the Legislature and is in substitution for the provisions of the Members' Retiring Allowances Act and provides in part as follows:*

MRA R 89 - 5 Subject to payment of applicable contribution by the Member pursuant to Sub-section 6(2) [8(2)] of the Act, the representation allowance paid to the Member who was Premier for the years 1982 to 1989, be included in the calculation of the average salary of that Member for purposes of determining the amount of the allowance to be paid pursuant to Sub-section 8(2) [12(3)] of the Act.

*See also note following Section 6.*

#### **Back-payment by certain members**

9 (1) Notwithstanding Section 8, a person who was a member and a Premier, a member of the Executive Council, Leader of the Opposition, Speaker or Deputy Speaker, between the first day of January, 1954, and the thirty-first day of December, 1968, both dates inclusive, may, prior to the thirty-first day of December, 1975, pay into the General Revenue Fund of the Province in a lump sum or in such instalments as the Minister of Finance and Treasury Board shall determine an amount equal to the amount that he would have paid had Section 8 been in force and effect between the first day of January, 1954, and the thirty-first day of December, 1968, both dates inclusive, together with interest on that amount at such rate as is determined by the Governor in Council.

(2) *repealed 2011, c. 39, s. 7.*

**NOTE** - *The report dated November 24, 1989, made by the Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials has, pursuant to Section 55 of the House of Assembly Act, the same force and effect as if enacted by the Legislature and is in substitution for the provisions of the Members' Retiring Allowances Act and provides in part as follows:*

MRA R 89 - 3 On or before January 1, 1990, any Member, former Member, surviving spouse, children or dependents of a former Member, whether in receipt of an additional allowance under Sub-section 8(2) [12(3)] of the Act or entitled to a deferred allowance in respect of Sub-section 8(2) [12(3)] of the Act, be permitted, to the extent that the Member, former Member, surviving spouse, children or dependents of the former Member has not already done so, to make the payment as is provided pursuant to 6A(1A) [9(2)] of the Act and in respect of such person who has made such contribution, Sub-section 8(2) [12(3)] shall be read, for the purpose of payment of allowances subsequent to the later of January 1, 1990, or such date as the person elects to make such contribution, as if the contribution had been made pursuant to 6A(1A) [9(2)].

(3) *repealed 1993, c. 29, s. 6.*

(4) *repealed 1993, c. 29, s. 6.*

R.S., c. 282, s. 9; 1993, c. 29, s. 6; 2010, c. 2, s. 124; 2011, c. 39, s. 7; 2014, c. 34, s. 33.

**NOTE** - *See note following Section 6.*

#### **Repayment of amount withdrawn**

**10** A person who has been paid an amount pursuant to clause (a) of subsection (1) of Section 16 or clause (a) of subsection (3) of Section 16 may, upon becoming a member, pay the amount into the General Revenue Fund of the Province, together with interest thereon at such rate as is determined by the Governor in Council. R.S., c. 282, s. 10; 2010, c. 2, s. 125.

### ALLOWANCES

#### **Credit for period of service**

**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. 2011, c. 39, s. 8.

#### **Entitlement to allowance**

**11 (1)** An allowance shall be paid in accordance with this Act to or in respect of a member who has made payments into the General Revenue Fund of the Province pursuant to Section 6, 8 or 9, and has served as a member in sessions of more than two General Assemblies or for ten years and upwards and

- (a) has ceased to be a member and has attained the age of fifty-five years;
- (b) has ceased to be a member and is totally and permanently disabled; or
- (c) has died.

**(2)** Subsection (1) does not apply to a person who is a member on the first day of January, 1982, or becomes a member subsequent to that date.

**(3)** An allowance shall be paid in accordance with this Act to or in respect of a person who is a member on the first day of January, 1982, or becomes a member subsequent to that date, who has made payments into the General Revenue Fund of the Province pursuant to Section 6, 8, 9 or 10, who has served as a member for at least five years during two or more General Assemblies and who

- (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;
- (b) has ceased to be a member and is totally and permanently disabled; or
- (c) has died.

**(3A)** Subsection (3) does not apply to a person who is a member on the first day of November, 2013, or becomes a member subsequent to that date.

**(3B)** An allowance shall be paid in accordance with this Act to or in respect of a person who is a member on the first day of November, 2013, or becomes a member subsequent to that date, who has made payments into the General Revenue Fund of the Province pursuant to Section 6, 8, 9 or 10, who has served as a member for at least two years and who

- (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;
- (b) has ceased to be a member and is totally and permanently disabled; or
- (c) has died.

**(4)** In computing the number of years of service for the purpose of Sections 12, 13 and 14, the period during which any member who

- (a) is a member;
- (b) becomes a member; or
- (c) was formerly a member and who is in receipt of an allowance or may be entitled to an allowance under this Act,

from the first day of August, 1976, who actively served in Her Majesty's armed forces, including the armed forces of Canada, Britain or other Commonwealth countries, during either World War II, which commenced on the tenth day of September, 1939, and terminated on the thirtieth day of September, 1947, or who actively served in Korea during the Korean Conflict, which commenced on the thir-

tieth day of June, 1950, and terminated on the first day of January, 1954, shall be entitled to count such service as service for purposes of this Act, upon the member paying into the General Revenue Fund of the Province the member's contribution rate in effect on the first day of August, 1976, with simple interest at the rate of four per cent *per annum*, from the date of his last being a contributor to the General Revenue Fund of the Province pursuant to this Act, to the date of election to contribute, the cost of such contributions and simple interest thereon shall be based on the member's annual salary or indemnity on the date of his last becoming a contributor and shall be payable in a lump sum, or, in such instalments as the Minister approves.

(5) Subsection (4) does not apply to a member who has received or who will receive credit under another Act or pension plan for the service covered by subsection (4). R.S., c. 282, s. 11; 2010, c. 2, s. 126; 2011, c. 39, s. 9; 2014, c. 36, s. 5.

#### **Duration and amount of allowance**

12 (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) Notwithstanding subsection (1), an additional annual allowance is payable for life to a person to whom an annual allowance is payable pursuant to subsection (1) and the additional annual allowance shall be one fiftieth of the total obtained by multiplying the average annual allowance for expenses

- (a) during the last three years of service; or
- (b) where the number of years of service after the thirty-first day of December, 1981, is less than three years, during the actual years of service after that date,

by the number of years of service after the thirty-first day of December, 1981, but in no case shall the additional annual allowance exceed seventy-five per cent of the average annual allowance for expenses during the last three years of service.

(3) When a person to whom Section 8 or 9 applies becomes eligible to receive an allowance as a member under Section 11, he shall be paid, in addition to his member's allowance, a further allowance calculated in accordance with the following provisions:

- (a) where the period of service in one or more of the positions mentioned in Section 8 exceeds three years, the average annual salary earned in the three years at the highest rate of remuneration shall be used for purposes of calculating the further allowance;

(b) where the period of service mentioned in clause (a) is less than three years, the average annual salary for the actual years of service shall be used for purposes of calculating the further allowance;

(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.

**NOTE** - *The report dated November 24, 1989, made by the Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials has, pursuant to Section 55 of the House of Assembly Act, the same force and effect as if enacted by the Legislature and is in substitution for the provisions of the Members' Retiring Allowances Act and provides in part as follows:*

MRA R 89 - 6 For purposes of determining the amount of any allowances paid pursuant to the Act on or after January 1, 1990, the amount of the deferred retiring allowance, including portions of the allowance provided pursuant to Sub-section [8(2) [12(3)]] of the Act, to which any Member or former Member was entitled during and including January 1, 1976 to December 31, 1986, or any part thereof, be determined as if Schedule "B" of Order in Council no. 75-342 applied to it.

*See also notes following subsections 8(2) and 9(2).*

**(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.

**(4)** An allowance under this Act or any predecessor to this Act being paid to a member or to a surviving spouse or dependant of a member on the thirty-first day of December, 2010, inclusive of any cost of living adjustments made by that date, shall be adjusted annually, commencing the first day of January, 2011, in the same manner and by the same percentage as are superannuation allowances payable under the *Public Service Superannuation Act*.

**(5)** An allowance under this Act or any predecessor to this Act that commences to be paid to a member or to a surviving spouse or dependant of a member after the thirty-first day of December, 2010, shall be adjusted annually in the same manner and by the same percentage as are superannuation allowances under the *Public Service Superannuation Act* that commence to be paid after the thirty-first day of December, 2010.

**(6)** Sections 69 to 72 and 74 of the *Public Service Superannuation Act* apply *mutatis mutandis* to subsections (4) and (5).

(7) From and after the first day of January, 2011, no allowance under this Act shall commence or continue to be credited with any cost of living adjustment during the period prior to which the allowance commences to be paid.

(8) Any allowance under this Act or any predecessor to this Act being paid on the thirty-first day of December, 2010, or that commences to be paid after the thirty-first day of December, 2010, shall be adjusted for cost of living in accordance only with subsections (4) to (6) and, notwithstanding any prior enactment or regulation, or any contract, agreement, order or representation relating to, fixing or in any manner referencing a cost of living adjustment applicable to any allowance under this Act or any predecessor to this Act, the amount of any such cost of living adjustment shall be determined solely in accordance with subsections (4) to (6), and no person shall have or maintain any cause of action or claim against the Province, the Minister or any other person arising from or in relation to any such prior enactment, regulation, contract, agreement, order or representation. R.S., c. 282, s. 12; 2010, c. 2, s. 127; 2010, c. 3, s. 9; 2011, c. 39, s. 10; 2012, c. 4, Sch. B, s. 90.

#### **Reduced allowance**

**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. 2011, c. 39, s. 11.

#### **Allowance to spouse and dependants**

- 13 (1)** Where a person
- (a) is in receipt of an allowance pursuant to subsection (1) or (3) of Section 11; or
  - (b) would be entitled to an allowance pursuant to subsection (1) or (3) of Section 11 if he were sixty years of age,

and dies leaving him surviving

- (c) a spouse, sixty-six and two-thirds per cent of the allowance to which he would have been entitled on attaining the age of fifty-five years and ceasing to be a member or sixty-six and two-thirds per cent of the allowance that was being paid, as the case may be, shall be paid to his spouse for life-[:]

(d) children under the age of eighteen years, or twenty-five years in the case of a child who is attending on a full-time basis an educational institution recognized as such by regulation made by the Governor in Council, and who annually submits evidence of such attendance in a form satisfactory to the Minister, ten per cent of the allowance he would have been entitled to or that was being paid shall be paid in respect of each child who has not attained the age of eighteen years, or twenty-five years in the case of a child who is attending on a full-time basis an educational institution recognized as such by regulation made by the Governor in Council, and who annually submits evidence of such attendance in a form satisfactory to the Minister and until he attains that age, not exceeding in the whole thirty-three and one-third per cent of the allowance in respect of all such children, provided that if he leaves no spouse surviving or his spouse dies, sixty-six and two-thirds per cent of the allowance he would have been entitled to or that was being paid shall be paid in respect of the said children in substitution for the ten per cent in respect of each child;

(e) no spouse or children under eighteen years of age or twenty-five years of age in the case of children who are attending on a full-time basis an educational institution, fifty per cent of the allowance to which he would have been entitled or that was being paid shall be paid to 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.

(2) Section 15 does not apply to an allowance paid pursuant to this Section.

(3) Any reference in subsection (1) to "sixty-six and two-thirds per cent" shall, for a person who first becomes a member on or after the sixth day of April, 2010, be deemed to be sixty per cent.

(4) The reference in subsection (1) to "thirty-three and one-third per cent" shall, for a person who first becomes a member on or after the sixth day of April, 2010, be deemed to be forty per cent. R.S., c. 282, s. 13; 2003, c. 12, s. 1; 2010, c. 3, s. 10; 2011, c. 39, s. 12.

#### **Member for less than five years**

14 (1) Where a person

- (a) is a member;
- (b) has made payments into the General Revenue Fund of the Province pursuant to Section 6, 8, 9 or 10;
- (c) has served as a member at all or part of two General Assemblies but for less than five years; and



(d) while he is a member becomes totally and permanently disabled and ceases to be a member or dies,

there shall be paid

(e) to the person or, if he is deceased, to, subject to the limitation in the Income Tax Act (Canada), the spouse, children or dependants of the person who would be entitled if he had served five years and upwards, an allowance calculated in accordance with Section 12 or 13 as if the member had served five years, provided that there shall be deducted from such allowance in each year for the number of years that he has served less than five years an amount equal to the deductions that would have been made in such year if he had continued to serve as a member and receive the same annual indemnity as he was receiving at the time of his death or total disability; or

(f) a refund of the contributions paid by the member, at the option of the member or, if deceased, his spouse or, where there is no spouse, his personal representative, in accordance with Section 16.

(2) Subsection (1) does not apply to a person who is a member on the first day of November, 2013, or becomes a member subsequent to that date.

(3) Where a person

(a) is a member;

(b) has made payments into the General Revenue Fund of the Province pursuant to Section 6, 8, 9 or 10;

(c) has served as a member for less than two years; and

(d) while a member becomes totally and permanently disabled and ceases to be a member or dies,

there shall be paid

(e) to the person or, if deceased, to, subject to the limitation in the *Income Tax Act* (Canada), the spouse, children or dependants of the person who would be entitled if the person had served two years and upwards, an allowance calculated in accordance with Section 12 or 13 as if the person had served two years, provided that there shall be deducted from such allowance in each year for the time that the person has served less than two years an amount equal to the deductions that would have been made in such year if the person had continued to serve as a member and receive the same annual indemnity as the person was receiving at the time of the person's death or total disability; or

(f) a refund of the contributions paid by the person, at the option of the person or, if deceased, the person's spouse or, where there is no spouse, the person's personal representative, in accord-

ance with Section 16. R.S., c. 282, s. 14; 2010, c. 2, s. 128; 2011, c. 39, s. 13; 2014, c. 36, s. 6.

**Date of termination of allowance on death**

**14A** Notwithstanding any other provision of this Act, where a person who has been granted an allowance dies, the allowance shall be paid to the last day of the month in which the person dies. 1993, c. 29, s. 9.

**Discontinuance of allowance while member**

**15** An allowance shall be discontinued while the person to whom it is payable is a member. R.S., c. 282, s. 15.

**NOTE** - *The report dated November 24, 1989, made by the Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials has, pursuant to Section 55 of the House of Assembly Act, the same force and effect as if enacted by the Legislature and is in substitution for the provisions of the Members' Retiring Allowances Act and provides in part as follows:*

MRA R 89 - 4 On or after January 1, 1990, a Member, otherwise entitled to an allowance pursuant to the Act, shall be entitled to be paid such allowance or allowances commencing on the first day of the month immediately following his 71st birthday, notwithstanding Section 11 [15] of the Act. Further, any person who is a Member on January 1, 1990, and is 71 years of age or older, shall be entitled to a lump sum payment equal to the amount of allowance or allowances to which he would have been entitled if this recommendation had been in effect at the time of his 71st birthday.

*The report dated November 29, 1990, made by the Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials has, pursuant to Section 55 of the House of Assembly Act, the same force and effect as if enacted by the Legislature and is in substitution for the provisions of the Members' Retiring Allowances Act and provides in part as follows:*

MRA R 90 - 1 Any allowance payable under the Act commence on the later of either (i) the first day of the month following the date on which the Member has died or ceased to be a Member; or (ii) the date when the allowance otherwise commences pursuant to the Act.

WITHDRAWALS

**Payment under certain circumstances**

**16 (1)** The amount paid by a person under this Act with interest at a rate fixed by the regulations shall

(a) be paid to the person on his application after he has ceased to be a member;

(b) be paid to his personal representatives in the case of his death before he has served ten years or where having served ten years and upwards he is not survived by a spouse, child or dependant to whom an allowance is payable under Section 13;

(c) be paid to the person upon his expulsion from the House.

(2) Subsection (1) does not apply to a person who is a member on the first day of January, 1982, or becomes a member subsequent to that date.

(3) The amount paid by a person under this Act who is a member on the first day of January, 1982, or becomes a member subsequent to that date, with interest at a rate fixed by the regulations shall

(a) be paid to the person on his application after he has ceased to be a member;

(b) be paid to the spouse of a deceased member or, where there is no spouse, the personal representative of the member where an allowance is payable pursuant to Section 14 and the spouse or personal representative, as the case may be, elects a refund of the member's contributions;

(c) be paid to his personal representative in the case of his death where he is not survived by a spouse, child or dependant to whom an allowance is payable pursuant to Section 13 or 14; or

(d) be paid to the person upon his expulsion from the House.

(3A) Where a person is convicted of an indictable offence that is punishable by imprisonment for a maximum of more than five years, and the offence occurred in whole or in part while the person was a member of the House and regardless of whether the offence occurred before or after the coming into force of this subsection, any amounts paid by that person under this Act, with interest at a rate fixed by the regulations, shall be paid to the person upon such conviction.

(4) Where an amount has been paid to a person pursuant to clause (a) or (c) of subsection (1), clause (a) or (d) of subsection (3) or subsection (3A), the time in respect of which that amount was paid into the Account shall not thereafter be taken into account in computing an allowance under this Act unless, in the case of an amount paid pursuant to clause (a) of subsection (1) or clause (a) of subsection (3), the person has paid an amount pursuant to Section 10.

(5) From any amount payable to a person pursuant to subsection (3A) shall be deducted the amount of any allowance paid under this Act to the person.

(6) From any amount payable to a person pursuant to clause (d) of subsection (3) or subsection (3A) may be deducted by the Minister all sums ordered by a court of competent jurisdiction to be owing to the Province in connection with the conviction referred to in subsection (3A).

(7) Nothing in this Section affects any entitlement of a person who is a former spouse of a member or former member at the time the member is

expelled from the House or the member or former member is convicted as set out in subsection (3A).

(8) Any amount referred to in this Section to be payable to the member or former member shall have deducted from it an actuarially determined sum required to fund the entitlement of a former spouse described in subsection (7).

(9) For the purpose of subsection (4), the determination of the amount paid by a person in respect of subsection (3A) is deemed to include any sums deducted pursuant to subsection (5), (6) or (8). R.S., c. 282, s. 16; 2013, c. 24, s. 1.

#### **Deduction from payment**

**16A** Where, in the opinion of the Minister, a debt is due by a member or former member to Her Majesty in right of the Province and regardless whether the debt was incurred before or after the coming into force of this Section, the Minister may deduct from any amount under this Act to the credit of a member or former member, or any pension income entitlement under this Act in favour of a member or former member, sums necessary to make good the debt. 2013, c. 24, s. 2.

### GENERAL

#### **Refund of balance of contributions**

**17** Where an allowance has ceased to be paid pursuant to this Act because there are not persons entitled to receive the same, the amount of the allowance paid pursuant to this Act to the member and a spouse, children and dependants of the member shall be totalled and, if the total allowance paid is less than the total contributions made by the member plus interest thereon calculated at a rate and in the manner prescribed by regulation, then the difference between the allowance paid and the contributions made and the interest thereon shall be paid to the estate of the member. 1993, c. 29, s. 10.

#### **Date of becoming or ceasing to be member**

**18** For the purposes of this Act

(a) a person does not cease to be a member by reason only of the dissolution of the House;

(b) a person who, immediately before a dissolution of the House, was a member ceases to be a member if he is not elected as a member at the general election next following the dissolution, and he is deemed to have ceased to be a member on the day on which that general election was held;

(c) a person becomes a member on the polling day on which he is elected as a member. R.S., c. 282, s. 18.

**19** *repealed 2011, c. 39, s. 14.*

**Reduction of deemed service**

**20 (1)** Where pursuant to regulations made pursuant to clauses (j) and (k) of Section 15 of Chapter 181 of the Revised Statutes, 1967, as enacted by Chapter 43 of the Acts of 1980, service in an elected public office was deemed to be service as a member for the purpose of this Act and a member elected to count as service as a member in excess of two and one-half years of such deemed service, the deemed service is reduced to two and one-half years and any payment made by the member in respect of the deemed service in excess of two and one-half years shall be refunded to the member upon application together with interest thereon at the rate of four per cent *per annum* compounded half-yearly from the date the payment was received by the Minister.

**(2)** Subsection (1) does not apply in respect of a member who dies before the first day of June, 1983. R.S., c. 282, s. 20.

**Implementation of recommendations**

**21 (1)** Notwithstanding anything contained in this Act, the Governor in Council may implement recommendations R-19, R-22 and R-23, or any of them in the Report of the Commission of Inquiry on Remuneration of Elected Provincial Officials dated the twenty-third day of June, 1982, and may make regulations for this purpose.

**(2)** Regulations made pursuant to subsection (1) may be retroactive to the extent necessary to give effect to the recommendations. R.S., c. 282, s. 21.

## PART II

MEMBERS' SUPPLEMENTARY  
RETIRING ALLOWANCES PLAN**Supplementary Plan**

**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. 2011, c. 39, s. 15.

#### **Trustee and administrator**

**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. 2011, c. 39, s. 15.

#### **No assignment or surrender**

**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. 2011, c. 39, s. 15.

#### **Members' Supplementary Retiring Allowance Account**

**21B (1)** There shall be established in the General Revenue Fund of the Province an account to be known as the Members' Supplementary Retiring Allowance Account to which shall be credited the payments made by members under this Part and the amounts credited by the Minister pursuant to Section 21C.

**(2)** All allowances payable under this Part shall be paid out of the General Revenue Fund of the Province and charged to the Supplementary Account. 1993, c. 29, s. 12; 2010, c. 2, s. 129.

#### **Credits to Supplementary Account**

**21C (1)** The Minister shall credit to the Supplementary Account in each fiscal year

(a) an amount equal to the contributions made by members in that year pursuant to this Part; and

(b) an amount representing interest on the balance that is from time to time to the credit of the Supplementary Account.

**(2)** If at any time the Supplementary Account is insufficient to make all payments by this Part required to be made, the Minister shall credit to the Supplementary Account an amount out of the General Revenue Fund of the Province sufficient to enable such payments to be made. 1993, c. 29, s. 12; 2010, c. 2, s. 130.

#### **Member's account**

**21D** An account shall be kept in respect of each member in which shall be shown all payments made by or to the member or on the member's account. 1993, c. 29, s. 12.

#### **Effect of reference**

**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. 2011, c. 39, s. 16.

#### **Supplemental allowance**

**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. 2011, c. 39, s. 17.

### PART III

#### GENERAL

#### **Tabling of report**

**22** The Minister shall, as soon as possible after the end of each fiscal year, lay before the House a report on the administration of this Act during the preceding fiscal year and shall include therein a statement of the amounts received by way of contributions and interest, the amounts paid by way of allowances, the number of contributors, the number of persons receiving allowances, and such other information as the Governor in Council prescribes. R.S., c. 282, s. 22.

#### **Allowances earned or payable after next general election**

**22A (1)** Effective the date of the next general election, an allowance earned after that election under the Registered Plan or the Supplementary Plan by a member or former member who participates in and has contributed to the *Canada Pension Plan* must be integrated with the pension benefits earned under the *Canada Pension Plan* and must, notwithstanding Sections 12, 14 and 21A, be calculated as prescribed by the regulations.

(2) Effective the date of the next general election, a survivor allowance payable under the Registered Plan or the Supplementary Plan to a spousal, child or dependant survivor of a member or former member who participated in and contributed to the *Canada Pension Plan* must be integrated with the pension benefits earned under the *Canada Pension Plan* and must, notwithstanding Sections 12, 14 and 21A, be calculated as prescribed by the regulations.

(3) For greater certainty, subsections (1) and (2) do not apply to an allowance or survivor allowance in pay before the next general election.

(4) For the purpose of subsection (1), a person who is not exempt from participation in the *Canada Pension Plan* is deemed to be entitled to commencement of a pension under the *Canada Pension Plan* at age sixty-five, regardless of whether the person applies for and receives a pension under the *Canada Pension Plan* at that time. 2014, c. 36, s. 7.



**Reduction of remuneration while receiving allowance**

**23** While a former member is in receipt of an allowance, any salary or remuneration of the former member from Her Majesty in right of the Province, a crown corporation within the meaning of the *Finance Act*, a government agency within the meaning of the *Auditor General Act*, or any agency, corporation, commission or body designated by the Governor in Council for the purpose of this subsection shall be reduced by the amount of the allowance. 1993, c. 29, s. 13; 2010, c. 2, s. 131; 2010, c. 33, s. 34.

**Effect of marriage breakdown**

**24 (1)** Upon marriage breakdown, Section 74 of the *Pension Benefits Act* applies *mutatis mutandis* to the retiring allowance entitlement to the credit of or being paid to a member or former member or spouse thereof, as if that Section of the *Pension Benefits Act* were set out herein *mutatis mutandis*.

**(2)** *repealed 2011, c. 39, s. 18.*

Recommendation of Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials for 1999; 2000, c. 29, s. 25; 2011, c. 39, s. 18; 2011, c. 41, s. 141.

**Regulations**

**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;

(ia) integrating benefits earned under the Registered Plan and the Supplementary Plan with benefits earned under the *Canada Pension Plan*;

(j) notwithstanding this Act, making any change to the Registered Plan necessary to comply with the Income Tax Act (Canada) and a corresponding 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*. 2011, c. 39, s. 19; 2014, c. 36, s. 8.

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