

# **Private Sector Pension Plan Transfer Act**

SCHEDULE OF CHAPTER 12 OF THE ACTS OF 2023



© 2025 His Majesty the King in right of the Province of Nova Scotia  
Published by Authority of the Speaker of the House of Assembly  
Halifax

This page is intentionally blank.

## SCHEDULE OF CHAPTER 12 OF THE ACTS OF 2023

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

### **Table of Contents**

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

	Section
Short title.....	1
Interpretation.....	2
Act prevails.....	3
Supervision and management of Act.....	4
Transfer agreement.....	5
Consent of Superintendent.....	6
Prerequisites.....	7
Content and effect of transfer agreement.....	8
Transferring non-retired members and their survivors.....	9
Transferring retired members and their survivors.....	10
Group agreement.....	11
Obligations and liabilities of transferring employer.....	12
Effect of transfer agreement or group agreement.....	13
Recourse solely to Superannuation Fund.....	14
Collection, use and disclosure of personal information.....	15
No action lies.....	16
Regulations.....	17
Effective date.....	18

### **Short title**

**1** This Act may be cited as the *Private Sector Pension Plan Transfer Act*. 2023, c. 12, Sch., s. 1.

### **Interpretation**

**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*. 2023, c. 12, Sch., s. 2.

**Act prevails**

**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. 2023, c. 12, Sch., s. 3.

**Supervision and management of Act**

**4** The Minister of Finance and Treasury Board is responsible for the supervision and management of this Act and the regulations. 2023, c. 12, Sch., s. 4.

**Transfer agreement**

**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. 2023, c. 12, Sch., s. 5.

**Consent of Superintendent**

**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. 2023, c. 12, Sch., s. 6.

**Prerequisites**

**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. 2023, c. 12, Sch., s. 7.

#### **Content and effect of transfer agreement**

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. 2023, c. 12, Sch., s. 8.

#### **Transferring non-retired members and their survivors**

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. 2023, c. 12, Sch., s. 9.

### **Transferring retired members and their survivors**

**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. 2023, c. 12, Sch., s. 10.

#### **Group 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. 2023, c. 12, Sch., s. 11.

#### **Obligations and liabilities of transferring employer**

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. 2023, c. 12, Sch., s. 12.

#### **Effect of transfer agreement or group agreement**

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. 2023, c. 12, Sch., s. 13.

#### **Recourse solely to Superannuation Fund**

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. 2023, c. 12, Sch., s. 14.

#### **Collection, use and disclosure of personal information**

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. 2023, c. 12, Sch., s. 15.

#### **No action lies**

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. 2023, c. 12, Sch., s. 16.

#### **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*. 2023, c. 12, Sch., s. 17.

**Effective date**

**18** This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2023, c. 12, Sch., s. 18.

Proclaimed - February 4, 2025  
In force - February 4, 2025

---