

University Pension Plan Transfer Act

CHAPTER 12 OF THE ACTS OF 2015



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**An Act to Facilitate the Transfer
of University Pension Plans
to the Public Service Superannuation Plan**

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Short title

1 This Act may be cited as the *University Pension Plan Transfer Act*.
2015, c. 12, s. 1.

Interpretation

2 In this Act,

(a) “Administrator” has the same meaning as in the *Public Service Superannuation Act*;

(b) “designated plan” means a pension plan that is the subject of a transfer agreement;

(c) “employee group agreement” means an agreement made under subsection 8(1);

(d) “member” means, in respect of a designated plan, a transferring member or retired member;

(e) “personal information” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*;

(f) “plan regulations” has the same meaning as in the *Public Service Superannuation Act*;

- (g) “post-transfer employee” means, in respect of a transferring university, a person who
- (i) commences employment with the transferring university on or after the transfer date, and
 - (ii) under the person’s terms of employment, is entitled or required to participate in a pension plan on a co-funded basis with the transferring university;
- (h) “retired member” means, in respect of a designated plan, a person who, immediately before the transfer date, is in receipt of a pension under the designated plan;
- (i) “superannuation allowance” has the same meaning as in the *Public Service Superannuation Act*;
- (j) “Superannuation Fund” has the same meaning as in the *Public Service Superannuation Act*;
- (k) “Superannuation Plan” means the Pension Plan as defined by the *Public Service Superannuation Act*;
- (l) “survivor” means
- (i) in respect of a retired member of a designated plan, a person who, under the designated plan, is or may become entitled to
 - (A) a pension, or
 - (B) any other payment out of the pension fund of the designated plan,in relation to the retired member, and
 - (ii) in respect of a transferring member of a designated plan, a person who, under the Superannuation plan, is or may become entitled to a survivor allowance in relation to the transferring member;
- (m) “survivor allowance” has the same meaning as in the *Public Service Superannuation Act*;
- (n) “transfer” means the transfer of assets and liabilities of a designated plan under a transfer agreement;
- (o) “transfer agreement” means an agreement made under subsection 5(1);
- (p) “transfer date” means the effective date of a transfer as prescribed by the transfer agreement;
- (q) “transferring member” means, in respect of a designated plan,
- (i) a person who
 - (A) is employed by the transferring university immediately before the transfer date, and
 - (B) is included, or eligible to be included, in the designated plan immediately before the transfer date, or
 - (ii) a person who

(A) has ceased to be employed by the transferring university before the transfer date, and

(B) is entitled to a deferred pension under the designated plan,

but does not include any person who

(iii) has ceased to be employed by the transferring university, and

(iv) has 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*;

(r) "transferring university" means a university that enters into a transfer agreement;

(s) "Trustee" has the same meaning as in the *Public Service Superannuation Act*;

(t) "university" means a designated university as defined by the *University Foundations Act* or any other educational institution prescribed by the regulations. 2015, c. 12, s. 2.

Conflict

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. 2015, c. 12, 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. 2015, c. 12, s. 4.

Transfer agreement

5 (1) The Trustee may enter into an agreement with a university to

(a) authorize the transfer, in whole or in part, of the assets and liabilities of a designated plan from the designated plan to the Superannuation Plan; and

(b) allow the members of the designated plan, the survivors of the members, the post-transfer employees of the transferring university and the survivors of the post-transfer employees to participate in the Superannuation Plan.

(2) A transfer agreement must

(a) provide for the transferring university to be prescribed by the plan regulations as an employer within the meaning of the *Public Service Superannuation Act*; and

(b) modify the application of the Superannuation Plan to the members of the designated plan and the survivors of the members, to the extent necessary to give effect to the transfer.

(3) A transfer agreement may

(a) where the designated plan allows for cost-of-living adjustments to be made in respect of a pension being paid under the designated plan, either

(i) allow a retired member of the designated plan to elect, in accordance with the transfer agreement, cost-of-living adjustments applicable to any superannuation allowance payable after the transfer date to be made in accordance with either

(A) the designated plan as it read immediately before the transfer date, or

(B) the *Public Service Superannuation Act*,

(ii) where a retired member dies before making the election described in subclause (i), allow the survivor of the retired member to elect, in accordance with the transfer agreement, cost-of-living adjustments applicable to any survivor allowance payable after the transfer date to be made in accordance with either

(A) the designated plan as it read immediately before the transfer date, or

(B) the *Public Service Superannuation Act*,
or

(iii) provide for cost-of-living adjustments to be made to any superannuation allowance or survivor allowance payable after the transfer date if no election described in subclause (i) or (ii) is made in accordance with the transfer agreement,

or provide for cost-of-living adjustments to be made to any superannuation allowance or survivor allowance payable after the transfer date without providing for elections as described in subclauses (i) and (ii);

(b) impose obligations or liabilities on, or continue obligations or liabilities of, the transferring university, in its capacity as the employer or former employer of the 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;

(c) require the transferring university, the transferring members or the post-transfer employees 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;

(d) provide for the determination of the pensionable service and eligible service accrued by a member of the designated plan, in respect of the employment of the member by the transferring university before the transfer, for the purpose of the Superannuation Plan; and

(e) provide for any other matter or thing the parties consider necessary or advisable to effectively carry out the transfer.

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

(5) 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 and any transfer agreement entered into under subsection (1).

(6) As of the transfer date, the *Pension Benefits Act* ceases to apply to the designated plan and its pension fund. 2015, c. 12, s. 5.

Transferring members and their survivors

6 (1) For greater certainty, on and after the transfer date,

(a) the amount of an annual superannuation allowance to which a transferring member of a designated plan is entitled upon retiring must be determined in accordance with the plan regulations and is payable in accordance with the terms and limitations prescribed by the plan regulations; and

(b) the amount of an annual survivor allowance to which the survivor of a transferring member of the designated plan is entitled upon the death of the transferring member must be determined in accordance with the plan regulations and is payable in accordance with the terms and limitations prescribed by the plan regulations.

(2) For the purpose of the Superannuation Plan, the pensionable service and eligible service accrued by a transferring member of the designated plan must be determined in accordance with the transfer agreement. 2015, c. 12, s. 6.

Retired members and their survivors

7 (1) On and after the transfer date,

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

(b) the amount and form of a superannuation allowance payable to the 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; and

(c) the amount of a superannuation allowance payable under clause (b) must be adjusted for cost of living in accordance with

(i) the election made by the retired member under the transfer agreement, or

(ii) where no election is made or the transfer agreement does not provide for the making of an election, in accordance with the transfer agreement.

- (2) On and after the transfer date,
- (a) every survivor of a 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 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; and
 - (c) the amount of a survivor allowance payable under clause (b) must be adjusted for cost of living in accordance with
 - (i) where the retired member has made an election under the transfer agreement, the election made by the retired member,
 - (ii) where the retired member has died before making an election and the survivor of the retired member has made an election under the transfer agreement, the election made by the survivor of the retired member, or
 - (iii) where no election has been made, in accordance with the transfer agreement.

(3) For the purpose of the Superannuation Plan, the pensionable service and eligible service accrued by a retired member of the designated plan must be determined in accordance with the transfer agreement. 2015, c. 12, s. 7.

Employee group agreement

8 (1) A transferring university may enter into an agreement respecting a transfer with a trade union or other employees' association that represents transferring members of a designated plan.

(2) An employee group agreement may impose obligations or liabilities on, or continue obligations or liabilities of, the transferring university in its capacity as

- (a) the employer or former employer of the members of the designated plan and post-transfer employees; or
- (b) the administrator of the designated plan,

the transferring members or the post-transfer employees in respect of the designated plan or the Superannuation Plan on and after the transfer date. 2015, c. 12, s. 8.

Obligations and liabilities of transferring university

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

- (a) the employer or former employer of the members of the designated plan; or
- (b) the administrator of the designated plan.

(2) Subject to the transfer agreement, on and after the transfer date, the transferring university

(a) is responsible for making only those payments to the Superannuation Fund that the transferring university is required to make 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. 2015, c. 12, s. 9.

Effect of transfer agreement or employee group agreement

10 Neither a transfer agreement nor an employee group agreement is, for the purpose of the *Pension Benefits Act*, a pension plan or an amendment to a pension plan. 2015, c. 12, s. 10.

Recourse solely to Superannuation Fund

11 On and after the transfer date, a member or the survivor of a member shall have recourse solely to the Superannuation Fund for any benefit or other payment under a designated plan or the Superannuation Plan. 2015, c. 12, s. 11.

Collection, use and disclosure of personal information

12 (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 university have entered into, or are contemplating entering into, a transfer agreement,

(a) the transferring university may disclose to the Trustee personal information

(i) collected before the transfer date by the transferring university in relation to members and survivors of members of the designated plan, and

(ii) collected on and after the transfer date by the transferring university in relation to

(A) members and survivors of members of the designated plan, and

(B) post-transfer employees and survivors of post-transfer employees; and

(b) the Trustee may collect and use the personal information disclosed to the Trustee by the transferring university 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 university have entered into, or are contemplating entering into, a transfer agreement, the transferring university may transfer to the Trustee any record, including a record that contains personal information, in the transferring university's possession that relates to the designated plan.

(3) No action, grievance or claim lies against a transferring university, the Trustee, the Administrator, Her Majesty 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. 2015, c. 12, s. 12.

No action lies

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

(2) No action, grievance or claim lies against a transferring university, a trade union, the Trustee, the Administrator, Her Majesty 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, if the act or omission is authorized by this Act or the regulations. 2015, c. 12, s. 13.

Regulations

14 (1) The Governor in Council may make regulations

(a) prescribing educational institutions for the purpose of the definition of “university”;

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

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

(d) 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*. 2015, c. 12, s. 14