



# **BILL NO. 55**

*Government Bill*

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*2nd Session, 60th General Assembly  
Nova Scotia  
56 Elizabeth II, 2007*

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## **An Act to Amend Chapter 377 of the Revised Statutes, 1989, the Public Service Superannuation Act**

CHAPTER 51  
ACTS OF 2007

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR  
DECEMBER 13, 2007**

The Honourable Angus MacIsaac  
*Acting Minister of Finance*

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

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**An Act to Amend Chapter 377  
of the Revised Statutes, 1989,  
the Public Service Superannuation Act**

Be it enacted by the Governor and Assembly as follows:

**1 Section 2 of Chapter 377 of the Revised Statutes, 1989, the *Public Service Superannuation Act*, as amended by Chapter 39 of the Acts of 1993, Chapter 3 of the Acts of 1997, Chapter 13 of the Acts of 1998 and Chapter 5 of the Acts of 2002, is further amended by**

**(a) adding “except as designated by the Governor in Council” immediately after “employee” in subclause (d)(v);**

**(b) adding immediately after clause (g) the following clause:**

(ga) “pension plan” means the public service superannuation plan established by this Act;

**(c) adding “, including any performance-based pay or bonus except where expressly excluded under an employment contract,” immediately after “employment” in the second line of clause (j); and**

**(d) striking out clause (k) and substituting the following clauses:**

(k) “school board” means a school board as defined in the *Education Act*;

(ka) “spouse” means either of two persons of the same or opposite sex 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, if they have ceased to cohabit, have cohabited within the year immediately preceding the date of entitlement, or

(iv) are not married to each other and have cohabited in a conjugal relationship for three consecutive years immediately preceding the relevant time and are cohabiting in a conjugal relationship at the relevant time;

(kb) “Superannuation Fund” means the public service superannuation fund established by this Act;

**2 Subsection 3A(2) of Chapter 377, as enacted by Chapter 39 of the Acts of 1993, is amended by adding “from the Superannuation Fund” immediately after “payable” in the third line.**

**3 (1) Subsection 5(2) of Chapter 377 is amended by**

(a) adding “, subject to the *Income Tax Act* (Canada),” immediately after “may” in the seventh last line;

(b) striking out “in a lump sum, or in such instalments as the Minister approves, the” in the sixth and seventh last lines and substituting “the employee”; and

(c) adding “, or from the date of withdrawal of the employee’s contributions, as applicable” immediately after “Fund” in the second last line.

**(2) Section 5 of Chapter 377 is further amended by adding immediately after subsection (2) the following subsection:**

(3) Any employee who has been paid the commuted value of the employee’s deferred superannuation allowance may, subject to the *Income Tax Act* (Canada), pay into the Superannuation Fund the commuted value received by the employee with interest thereon at a rate or rates determined by the Governor in Council, from the date of payment of the commuted value to the employee, and thereupon shall be credited with the service.

**4 Clause 6(1)(d) of Chapter 377 is amended by striking out “personal representatives” in the fourth line and substituting “estate or designated beneficiary”.**

**5 Chapter 377 is further amended by adding immediately after Section 6A the following Section:**

6B (1) Where an employee has two spouses (within the meaning of this Act) at the time of the employee’s death, then, for the purpose of Section 6, 6A, 17, 17A or 18 any payment to be made to the surviving spouse of the employee shall be apportioned between the two spouses in accordance with the period of time each cohabited with the employee in a conjugal relationship while the employee was in the public service.

(2) Notwithstanding subsection (1), the person to whom an employee was married at the time of the employee’s death is deemed to be the sole surviving spouse of the employee for the purpose of this Act unless another person notifies the Minister in writing, within twelve months of the employee’s death, that the person claims to be a spouse of the deceased employee.

(3) To be eligible for an apportionment pursuant to subsection (1), a surviving spouse shall provide evidence satisfactory to the Minister to enable the Minister to make the apportionment referred to in subsection (1).

(4) The Minister has no obligation to make payment to any person claiming to be a surviving spouse of a deceased employee unless that person notifies the Minister of the claim in writing within twelve months of the employee’s death.

(5) Where the two surviving spouses of an employee submit conflicting evidence to the Minister, the Minister may determine to make no payments to the spouses until such time as one or both spouses obtains a court order, at the sole cost of the spouse or spouses, apportioning any entitlement between them.

(6) For greater certainty,

(a) the total of the amounts payable pursuant to Section 6, 6A, 17, 17A or 18 cannot exceed the amount payable out of the Superannuation Fund if the employee died leaving one surviving spouse; and

(b) in the case of any delay in payments resulting from the submission of conflicting evidence to the Minister, the Minister has no obligation to pay interest to either spouse.

**6 (1) Subsection 7(1) of Chapter 377 is amended by striking out “personal representative” in the second last line and substituting “estate or designated beneficiary”.**

**(2) Subsection 7(2) of Chapter 377 is amended by striking out “personal representative” in the seventh line and substituting “estate or designated beneficiary”.**

**7 (1) Subsection 9(1) of Chapter 377, as amended by Chapter 3 of the Acts of 2004 and Chapter 9 of the Acts of 2007, is further amended by striking out “and provided that, in the case of an employee in the public service on the third day of May, 1958, no deduction shall be made in respect of such portion of the employee's salary as exceeds six thousand dollars unless the employee within ninety days after that date or within sixty days after the employee's salary exceeds six thousand dollars, whichever is the later, directs the Minister to make deductions from all of the salary” in the tenth last to third last lines.**

**(2) Section 9 of Chapter 377, as amended by Chapter 3 of the Acts of 2004 and Chapter 9 of the Acts of 2007, is further amended by adding immediately after subsection (1) the following subsections:**

(1A) In subsection (1), “Minister” means the employer of an employee contributing to the pension plan.

(1B) In subsection (1), the reference to payment of a like amount applies to all contributions made by an employee to the Superannuation Fund under this Act, but only to the extent that a matching employer contribution has not previously been made, and subject to any limitations on employer contributions expressly set out in this Act, such that

(a) the Minister must match all such contributions by an employee of the Province or a school board by payment from the Consolidated Fund of the Province; and

(b) each employer with employees contributing to the pension plan must match all such contributions by its employees.

**8 (1) Subsections 13(1) and (2) of Chapter 377 are repealed and the following subsections substituted:**

(1) In this Section, “service” means a period or periods for which an employee has made contributions to the Superannuation Fund and has not withdrawn them, prorated for part-time employees.

(2) The annual superannuation allowance payable to an employee is based on the following formula:

total of 130.5 highest bi-weekly salaries, or portions thereof, upon which employee made contributions	X	2%	X	number of years and full months of employee's service not exceeding 35 years
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where the months are expressed as a fraction of a year.

(2A) Where an employee is entitled to an annual superannuation allowance calculated pursuant to subsection (2) and the employee has less than five years of service, the formula in subsection (2) shall be adjusted to reflect the actual number of bi-weekly salaries received and the employee's service.

(2B) Where an employee has attained thirty-five years of service and employee contributions have ceased in accordance with Section 11, for the purpose of the formula in subsection (2) there shall be included in determining the employee's 130.5 highest bi-weekly salaries any bi-weekly salaries, or portions thereof, earned by the employee after completing thirty-five years of service upon which the employee would have made contributions had the salaries been earned prior to thirty-five years of service.

**(2) Subsection 13(5) of Chapter 377 is amended by adding "full" immediately after "and" in the second line.**

**9 Subsection 16(7) of Chapter 377, as amended by Chapter 39 of the Acts of 1993, is further amended by**

**(a) striking out "commuted" in the third last line; and**

**(b) striking out "commuted" in the second last line and substituting "actuarial equivalent of the".**

**10 (1) Subsection 17(1) of Chapter 377, as amended by Chapter 39 of the Acts of 1993 and Chapter 13 of the Acts of 1998, is further amended by**

**(a) striking out "spouse whom the employee had married prior to" in the second line of clause (a) and substituting "person who had become the employee's spouse before the employee's";**

**(b) striking out "marriage contracted" in the thirteenth last line of clause (b) and substituting "relationship entered into";**

**(c) adding ", or a lesser amount if there are more than three qualifying children," immediately after "allowance" in the twelfth last line of clause (b);**

**(d) adding ", or a lesser amount if there are more than three qualifying children," immediately after "child" in the last line of clause (b); and**

**(e) striking out "spouse whom the employee had married prior to" in the second line of clause (c) and substituting "person who had become the employee's spouse before the employee's".**

**(2) Subsection 17(3) of Chapter 377 is amended by striking out “person” in the last line and substituting “employee or the employee’s designated beneficiary”.**

**(3) Subsection 17(5) of Chapter 377 is amended by**

**(a) striking out “an employee marries after retirement, a surviving spouse or child” in the first and second lines and substituting “a person becomes a spouse of an employee after the employee’s retirement and survives the employee, the spouse, a child of the spouse or a child of the spouse and the employee”; and**

**(b) striking out “employee married the spouse” in the fourth line and substituting “person became the spouse of the employee”.**

**(4) Subsection 17(5A) of Chapter 377 is repealed.**

**11 Subsection 18(1) of Chapter 377 is repealed.**

**12 Clause 25(e) of Chapter 377 is amended by**

**(a) striking out “The Nova Scotia Liquor Commission” in the first and second lines and substituting “the Nova Scotia Liquor Corporation”; and**

**(b) striking out “Commission” in the third line and substituting “Corporation”.**

**13 (1) Clause 27(1)(b) of Chapter 377, as amended by Chapter 13 of the Acts of 1998, is further amended by**

**(a) striking out “or” at the end of subclause (i);**

**(b) adding “or” at the end of subclause (ii); and**

**(c) adding immediately after subclause (ii) the following subclause:**

**(iii) cohabitation as spouses by an employee and another person for any continuous period that immediately precedes the marriage of the employee and that person,**

**(2) Clause 27(4)(a) of Chapter 377 is amended by**

**(a) striking out “or” at the end of subclause (i);**

**(b) adding “or” at the end of subclause (ii);**

**(c) adding immediately after subclause (ii) the following subclause:**

**(iii) the date on which the employee becomes entitled to an immediate allowance under clause (b) of subsection (6A) of Section 16 or Section 18,**

**and**

**(d) striking out “earlier” in the last line and substituting “earliest”.**

**14 (1) Clauses 38(a) and (b) of Chapter 377 are repealed and the following clauses substituted:**

(a) “employee” means a member of the pension plan but does not include a person to whom the *Provincial Court Act* applies;

(b) “pension plan” means the public service superannuation plan established by this Act;

**(2) Clause 38(a) of Chapter 377, as enacted by subsection (1), is amended by striking out “but does not include a person to whom the *Provincial Court Act* applies”.**

**15 Section 41 of Chapter 377, as enacted by Chapter 3 of the Acts of 2004, is amended by striking out “to whom Section 39 applies” in the third line.**

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

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