

MEMORANDUM OF AGREEMENT
BETWEEN
HER MAJESTY THE QUEEN IN THE RIGHT OF THE PROVINCE OF NOVA SCOTIA
REPRESENTED BY THE MINISTER OF FINANCE
AND
THE NOVA SCOTIA TEACHERS' UNION
A BODY CORPORATE ESTABLISHED PURSUANT TO THE TEACHING PROFESSION ACT,
BEING CHAPTER 462 REVISED STATUTES 1989

Whereas Sections 14 and 20 of Chapter 26 of the Acts of 1998, the *Teachers' Pension Act* provides that the Minister of Finance ("Minister") and the Nova Scotia Teachers' Union ("Union") may make regulations setting out the terms of the Teachers' Pension Plan ("Pension Plan");

And whereas the *Teacher's Pension Plan Regulations* ("Regulations") were made as of March 31, 1999, as Nova Scotia Regulation 88/99;

And whereas the By-laws of the Union, as amended by Resolution 2000-15, authorize the Executive of the Union to exercise on behalf of the Union the powers of the Union under the *Teachers' Pension Act*;

And whereas by resolution of the Executive of the Union dated February 24, 2012, the Executive approved the amendments to the Regulations (Sections 13, 16, 17 and 19) as set out in Schedule "A" attached hereto and authorized the President of the Union to sign the amendments to the Regulations on behalf of the Executive;

The Minister and the Union hereby make the amendments to the Regulations in the form and manner attached hereto as Schedule "A", effective on and after April 1, 2011.

Signed and sealed in the presence of:

Jean Collier
Witness

Jean Ling
Witness

) Maureen MacDonald
) Honourable Maureen MacDonald
) Minister of Finance

) June 11, 2012
) Date

) Alexis Allen
) Alexis Allen
) President, Nova Scotia Teachers' Union

) June 21, 2012
) Date

SCHEDULE “A”

**Amendment to the Teachers’ Pension Plan Regulations PENSION PLAN REGULATIONS
(Sections 13, 16, 17 and 19)
Made Pursuant to Sections 14 and 20
of the Acts of 1998, C. 26,
the *Teachers’ Pension Act***

**Amendments to the Regulations regarding the
Nova Scotia Teachers’ Pension Plan and Disability Pensions**

1. Subsection 13(1) of the Teachers’ Pension Plan Regulations made pursuant to Sections 14 and 20 of the *Teachers’ Pension Act* is repealed and the following substituted:

13(1) Despite any other provision of the Plan, no service or disability pension shall be payable in an amount that exceeds the maximum permitted for that pension by the *Income Tax Act* (Canada).

2. Subsection 16(1) of the Teachers’ Pension Plan Regulations is repealed and the following substituted:

16(1) The partial disability pension paid pursuant to Section 14 shall be calculated pursuant to the service pension calculation set out in Section 12, reduced by 0.25% for each month by which the date of the partial disability pension is effective precedes the earliest date on which

- (a) the member would attain 60 years of age;
- (b) the member would attain 30 years of pensionable service; or
- (c) the aggregate of the member’s age plus years of pensionable service, expressed in years and fractions of a year, would equal 80, all calculated as if the member had continued in employment and been credited with pensionable service on a full-time basis.

3. The Teachers’ Pension Plan Regulations are amended by adding immediately following subsection 16(1) thereof the following subsection:

16(1A) Notwithstanding subsection 16(1), the partial disability pension paid pursuant to Section 14 shall not exceed the amount calculated pursuant to the service pension calculation set out in Section 12, determined as if the bridge benefit under clause 12(1)(b) continued for the lifetime of the member, less the greater of

- (a) 17% of the amount so calculated; and
- (b) 0.25% for each month from the date the partial disability pension is effective to the earliest date at which the member would otherwise be eligible for an unreduced pension pursuant to subsection 9(1).

4. Subsection 16(2) of the Teachers’ Pension Plan Regulations is repealed and the following substituted:

16(2) Subject to subsection 16(3), a total disability pension shall be calculated as the greater of the following:

(a) the unreduced service pension that would be payable to the member under clause 12(1)(a) based on pensionable earnings and pensionable service to the date of commencement of the total disability pension,

and

(b) the lesser of the following:

(i) the Y.M.P.E. in the year of disability retirement; and

(ii) the unreduced service pension that would be payable to the member under clause 12(1)(a) at age 65 assuming the member continued in employment to age 65 at the same rate of pensionable earnings.

5. Subsections 16(3), (4), and (5) of the Teachers' Pension Plan Regulations are repealed and the following substituted:

16(3) Notwithstanding the foregoing, the total disability pension paid pursuant to subsections 15(1) and (2) shall not exceed 2% of the average of the member's best 5 years of annualized pensionable earnings multiplied by the member's number of years of pensionable service.

16(4) If the total disability pension calculated under subsection 16(2) is less than the cap under subsection 16(3), a bridge benefit equal to the difference shall be payable from commencement of the total disability pension until attainment of age 65.

16(5) For greater certainty:

(a) a member receiving a total disability pension calculated under subsection 16(2) or 16(3) is not eligible to receive the bridge benefit described in clause 12(1)(b);

(b) subject to subsections 19(4), (5) and (6), for purposes of determining benefits payable under Part VII on the death of a member in receipt of a total disability pension calculated under subsection 16(2) or 16(3), references to service pension in Part VII shall be deemed to include references to the total disability pension calculated under subsection 16(2) or 16(3);

(c) the benefits of a member in receipt of a partial disability pension calculated under subsection 16(1) shall be based on the integrated formula described in subsection 12(1), adjusted to reflect the reduction under subsection 16(1), and no portion of the disability benefit attributable to the bridge benefit described in clause 12(1)(b) shall be payable following the member's attainment of age 65.

6. Subsection 17(4) of the Teachers' Pension Plan Regulations is repealed and the following substituted:

17(4) (a) The Plan administrator in his/her sole discretion may require any information, in addition to the reports specified in subsection (3), to substantiate an application for disability pension.

17(4) (b) Members shall provide to the Plan administrator such medical reports and participate in such independent medical assessments as may be required in the absolute discretion of the administrator at least bi-annually, or more frequently as the Plan administrator may request. Such reports must be duly completed by a medical doctor licensed to practice in Canada, and must be provided up to the date the member attains age 65 as a condition for the continuation of a disability pension. The medical report shall be in the form and contain the information necessary, as determined by the Administrator. The report must provide a confirmation of whether the member is able to perform the regular duties of his employment, and shall include information to assist in the accommodation of the member in the workplace, as relevant.

17(4) (c) If a person fails to provide all the necessary information required by the Plan administrator under clause 3(a) or 4(b) on a timely basis and in the form and manner specified by the Plan administrator, payment of a disability pension may be delayed, suspended, or denied.

7. The Teachers' Pension Plan Regulations are amended by adding immediately after subsection 17(6) thereof the following subsection:

17(7) (a) Notwithstanding Section 14, a partial disability pension shall not be granted to any member who, at the date of application for a partial disability pension, is entitled to an unreduced service pension under Section 7 or subsection 9(1).

17(7) (b) Notwithstanding subsection 15(1), a total disability pension shall not be granted to any member who, at the date of application for a total disability pension, is entitled to an unreduced service pension under Section 7 or subsection 9(1).

8. Subsections 19(4), (5), and (6) of the Teachers' Pension Plan Regulations are repealed and the following substituted:

19(4) Where a pensioner in receipt of a total disability pension calculated under subsection 16(2) or 16(3) dies before reaching age 65, the amount of a survivor pension payable to a spouse, child or dependent shall be based on the amount of the service pension that would have been in payment at the time of the deceased pensioner's death if it had been calculated under subsection 12(1) at the date of retirement rather than under subsection 16(2) or 16(3), and on the date the deceased pensioner would have reached age 65, the amount of the survivor pension shall be adjusted to reflect the cessation of the portion of the bridge benefit that would have been provided under clause 12(1)(b) from the deceased pensioner's earned pension in respect of service on and after January 1, 1992.

19(5) Where a pensioner in receipt of a total disability pension calculated under subsection 16(2) or 16(3) dies on or after reaching age 65, the amount of a survivor pension payable to a spouse, child or dependent shall be based on the amount of the service pension that would have been in payment at the date of the death of the pensioner if it had been calculated under subsection 12(1) at the date of retirement rather than under subsection 16(2) or 16(3).

19(6) Notwithstanding the foregoing, survivor pensions in pay as of April 1, 2011, where the disabled member would have been over 65 years of age as at that date, shall not be recalculated or

adjusted except to the extent necessary to ensure compliance with the *Income Tax Act* (Canada), as described in subsection 18(1). For greater certainty, no survivor pension in pay as of April 1, 2011 to an individual beneficiary may exceed 66.667% of the total disability pension that would be payable to the applicable pensioner, if living, as would be calculated under subsection 16(2) or 16(3), and subsection 16(4), as applicable.

9. The Teachers' Pension Plan Regulations are further amended by adding immediately after subsection 19(6) thereof the following subsection:

19(7) Subsections 19(4), (5), and (6) apply *mutatis mutandis* to survivor pensions payable as a result of the death of a pensioner in receipt of a partial disability pension, except that the amount otherwise calculated under subsection 12(1) shall be reduced as set out in subsection 16(1) or (1A), as applicable.