

Proposed Amendments to Nova Scotia Pension Benefits Act Largely Mirror Ontario's Recent Reforms

December 2, 2011 by [Jonathan Marin](#)

On November 15, 2011 Nova Scotia introduced [Bill 96, An Act Respecting Pension Benefits](#), for first reading. If passed, the current Nova Scotia *Pension Benefits Act* would be repealed and replaced in its entirety by Bill 96.

Bill 96 introduces significant changes to Nova Scotia's pension regime. Many of these changes closely mirror the amendments recently made to the Ontario *Pension Benefits Act* by [Bill 236](#) and [Bill 120](#), including:

- defining "retired members", thereby creating rights for a new group of plan participants;
- introducing immediate vesting;
- permitting plans to offer phased retirement options;
- permitting prescribed employers to use letters of credit to fund solvency deficiencies;
- allowing for the use of jointly sponsored pension plans and target benefit plans;
- allowing employer contribution holidays when the plan is in surplus, unless prohibited by the plan or the funding documents for the plan;
- clarifying the requirements with respect to asset transfers between pension plans;
- providing that surplus may be paid to an employer when it has reached an agreement with two-thirds of the plan members (or a union on behalf of such members) and a prescribed number of former members, retired members and others or by court order; and
- permitting the payment of "reasonable" plan administration expenses from the plan fund unless such payment is prohibited or the payment of fees and expenses is otherwise provided for in the plan or funding documents for the plan.

While these reforms will bring Nova Scotia's pension regime closely in line with Ontario's, certain differences will continue to exist between Ontario's and Nova Scotia's pension legislation. Most notably, partial plan wind ups will continue to be permitted in Nova Scotia, whereas they are to be phased out in Ontario after a transition period.

Further, Nova Scotia is not following Ontario's expansion of grow-in rights to all plan members whose employment is involuntarily terminated (except where there has been wilful misconduct, disobedience or wilful neglect). Nova Scotia will continue to require grow-in rights to be provided on the partial or full wind-up of a plan, however, in Nova Scotia's pension regime there is no requirement to pre-fund such benefits and the full amount of all pensions, deferred pensions, ancillary benefits and other benefits must be paid prior to grow-in benefits in the event of full or partial wind-up.

We expect Nova Scotia to amend the regulations to their pension legislation in order to clarify the "prescribed requirements" for many of the amendments discussed above. Since Nova Scotia followed Ontario's amendments to its pension legislation, they may very well continue to look to Ontario's reforms for guidance in this regard. We look forward to reviewing Nova Scotia's regulations in the future and will keep you informed as to the progress of pension reform in Nova Scotia.