

November 21, 2008

**BY FACSIMILE
424-0575**

Pension Review Panel
c/o Department of Labour and Workforce Development
Policy Division
PO Box 697
Halifax, NS B3J 2T8

Dear Panel Members:

Introduction

I am writing on behalf of the Nova Scotia Government and General Employees Union to respond to the Panel's position paper of October 17, 2008. We made a submission on July 11, 2008 in response to Panel's Discussion Paper of May 28, 2008. We also met with the Panel on July 14, 2008 to elaborate on our submission.

As we have earlier indicated, pension issues are very high on the priority list of NSGEU members. We receive inquiries every week from members who have concerns about their pensions. In recent years, pension issues usually rate in the top three priority issues for collective bargaining. In addition, ninety-two (92) percent of our members are covered by twelve defined benefit plans. Less than two (2) percent have no workplace pension plan coverage.

In this paper, we understand the Panel has provided tentative answers to initial questions originally posed in the Discussion Paper. **At the outset, we want to make it clear that the NSGEU fully supports the response provided by the Nova Scotia Federation of Labour to the position paper.** What we try to provide in our response is some additional comments which reflect the concerns of our members.

Funding

The minimum funding standard in the position paper is undoubtedly the most important recommendations of the Panel. We found this proposal also known as ABB or Accrued Benefit Basis to be complicated and unclear in its intent

and potential impacts. As outlined in the NSFL response, we are troubled that it may lead to automatic partial contribution holidays, it may effectively prevent plan improvements, it may undermine the possibility of guaranteed indexation, and it does eliminate grow-in funding obligations and partial wind-ups.

The NSGEU agrees that there needs to be a broad discussion of this new approach as soon as possible before the Panel prepares its final report. We need to understand more fully what it does, what impacts it would or could have, and what alternative approaches could be considered such as our proposal for a five-year amortization period if going concern valuations were only required for public sector pension plans. We also want to see a meeting for interested stakeholders with the Panel and the actuaries who developed this proposal.

We were disappointed that the Panel did not recommend that the Province request the federal government to raise the upper limit on plan surplus in the *Income Tax Act*. The present limit of ten percent of liabilities does not permit a sufficient cushion from the sometimes wild fluctuations in the value of equities which have contributed to a cycle of surplus and deficit in pension plans over time. In addition, we also wanted Nova Scotia funding requirements to ensure that actuarial surplus is not used for contribution holidays or the payment of employer contributions from surplus until the *Income Tax Act* limits have been reached. This will also require a defined benefit plan which has an actuarial surplus either on a going concern valuation or a solvency valuation to maintain a cushion to lessen the impact of cyclical declines in the values of plan assets.

Partial Wind-Ups and Grow-In Benefits

Still with funding, the NSEU is concerned about the elimination of partial wind-ups. The requirement that an employer fully fund the promised benefits on a full or partial plan wind-up is critical to ensuring that the *Pension Benefits Act* satisfies its main objective, namely, to safeguard employee entitlements to benefits promised under pension plans.

Similarly, we are concerned about the elimination of grow-in benefits. We believe that grow-in benefits should continue to be required and they should be funded. Where there is a plan termination, the grow-in benefits will relieve employees from the erosion of their pensions due to actuarial reductions and thereby mitigate the negative effect on employees of a wind-up or a closure.

Goals and Importance of Defined Benefit Plans

The NSGEU agrees with the Panel on the importance of a goal calling for maximizing the likelihood that pension promises will be met. But we also wanted to see goals calling for the establishment, extension and improvement of pension plans throughout the

Province, and for the promotion of defined benefit plans, which are widely acknowledged to provide better and more secure pensions.

To do so, we think that the Province should be encouraging the creation of defined benefit plans and their extension to as many employees as possible as the best way to provide Nova Scotians with security and dignity in their retirement. We support the promotion of DB plans by a separate agency or section of the Department of Labour and Workforce Development, and not by the office of the Superintendent of Pensions.

Types of Pension Plans

The NSGEU agrees that the *Pension Benefits Act* does not create a sufficiently clear framework for certain types of pension plans that should be recognized and regulated appropriately. We earlier urged the Panel to recommend a suitable regulatory framework that promotes joint governance of pension plans and that would allow for jointly sponsored plans, joint trusteeship and limited joint administration.

We also think the Act should also provide a mechanism for existing single employer-sponsored plans to make the transition to the partnership model. It should explicitly recognize the role of trade unions in such plans as well as their broader enforcement role in the existing framework of employer-sponsored plans, and the importance of collective bargaining to the operation of pension plans.

We are pleased to see the Panel's recommendation for joint trusteeship to be mandatory in the Adjustable Contribution Benefit (or ACB) Plan proposal but we are concerned about the extent to which they or other proposed types of plans could introduce defined contribution elements to defined benefit plans or undermine Defined Benefit plans altogether.

Province Wide Plan

The NSGEU welcomes the Panel's proposed initiative to allow for the establishment of plans available to all employers in the province administered by an independent agency which we think could be the Nova Scotia Pension Agency. We also like the idea of developing options for employers of any size who want to participate.

At the same time, we thought such a plan could permit employers of any type to choose among a menu of defined benefit plans and to make the appropriate contributions to those plans based on collective bargaining or on contracts of employment. The advantage of such a province wide plan would be to pool funding and pool investment risk with low administration costs to permit smaller employers to offer a defined benefit plan to their employees. We do not agree that they should offer defined contribution plan options.

Governance and Advisory Committees

Good pension plan governance is vital to safeguarding employee entitlements to the benefits promised under pension plans. Therefore, to further its main objective, the *Pension Benefits Act* should establish minimum governance requirements to supervise governance and promote good plan governance.

NSGEU therefore supports a requirement of having governance plans filed and accepted by the Superintendent. We also think the CAPSA principles and guidelines provide a useful foundation for a set of legally binding minimum governance requirements for all pension plans in Nova Scotia. Every pension plan should be required to adopt a governance policy which takes these guidelines into account.

The governance policies should be made available to all plan members and beneficiaries. The Act could require all plan documents to be posted in the workplace in the same manner as workplace health and safety policies must be posted under the *Occupational Health and Safety Act*. Copies of all plan documents should also be available on request to the administrator.

We also agree that where trade unions represent plan members and they decide to establish a Joint Trust, we feel that the Act should make such governance improvements mandatory. Where there are Advisory Committees, they should be composed of equal numbers of employee and employer representatives elected or appointed respectively by their respective groups as is the case with Occupational Health and Safety Committees. We agree that the parties to an Advisory Committee should conduct a governance review every five years for a possible move to joint trusteeship.

Role of Regulators

The NSGEU agrees that the existing dispute resolution scheme under the Act is ineffective. It contains steps that are effectively unnecessary, adding to the time and cost of the process. Proposed orders by the Superintendent should be appealable as of right. The Act must also be clarified to provide that the refusal of the Superintendent to make a proposed order when a complaint or request is made can also be appealed. The standing of unions to seek or challenge a proposed order and to appeal on behalf of members under the Act should also be confirmed.

We agree that the role and mandate of the pension regulator be reviewed and that the Panel ensure the Office of Superintendent be provided with the resources and mandate to fulfill its obligations.

In addition to establishing minimum governance standards for plan administrators, we think that the *Pension Benefits Act* should clarify the roles and responsibilities of pension plan “service providers” who perform work for pension plan administrators, including: actuaries, custodians, benefits administrators, lawyers, accountants, auditors, investment managers, and investment consultants.

Access to Information

The NSGEU believes that the current disclosure and reporting obligations on the plan administrator are inadequate – both for the Superintendent, for advisory committees and for plan members and their unions. Currently, the *Pension Benefits Act* requires some limited disclosure and reporting to plan members and advisory committees. However, the information that must be either disclosed or reported, and the frequency of reporting, is not sufficient for plan members, advisory committees or unions to understand the state of a pension plan.

The NSGEU agrees that Plan members should be entitled to know about the operation, administration and funding of their pension plan and that anything filed with the Superintendent should be provided to the advisory committee and to any trade union representing employees. The advisory committee and trade union should have convenient and easy access from the plan administrator to all of the documents that support this information such as plan valuations and plan documents as well as all correspondence to and from the Superintendent that relate to the plan.

In addition, just as the Occupational Health and Safety Act requires an employer to post health and safety policies in the workplace, an employer should be required to post the pension plan, any amendments, and the governance policy. If available, these documents should also be posted on an employer’s Local Area Network (LAN) that is accessed by employees for information.

Phased Retirement

The NSGEU agrees that phased retirement should be permitted. Because of the shortage of registered nurses and other health workers, there exists a form of phased retirement in which employees retire and the return to employment as casuals. In our view, all employees should have the option to receive their pension but continue working. This would permit them to exercise their seniority to work full time or regular part-time if they wished. They would still have the option of retiring and working as a casual. We do not favour a phasing-in of pension benefits by providing a reduced pension while employees continue to work.

Vesting and Locking-In

The NSGEU supports immediate vesting and locking-in. This means that all pension contributions and income earned by workers will be used for retirement income when it is needed.

Other

In our submission, the NSGEU urged the Panel make two additional recommendations: greater portability to pension benefits and coverage for part-time employees. Under the present system an employee leaving one pension plan can only take the value of that plan into a pension plan with a new employer if the new employer agrees. We suggest that the *Act* should permit employees to join the plan of the new employer by transferring the commuted value of their accrued pension rights to the new plan.

Many employees in the public sector work as regular part-time employees and in various categories of temporary and term employment. If a pension plan provides that all full-time employees are required to participate, we think it should also require all part-time and temporary employees to participate from the date that an equivalent full-time employee would be required to join the plan.

One further point is about retirees or retired members. We believe they should be given access to all information available to active members and they should be able to participate in the plan's governance process.

Still another point is the need to consider the role of workplace pensions in relation to the national public pension plans of CPP, OAS and GIS. We support a strengthening and expansion of these vital plans. At the same time, many of our members are concerned about how the integration with the Canada Pension Plan affects their workplace pension benefits.

Conclusion

The NSGEU is pleased to have this opportunity to provide comments on the Panel's position paper. We fully support the response of the Nova Scotia Federation of Labour. In general, while we agree with a number of the Panel's recommendations, we are very concerned about the intent and impacts of minimum funding proposal. We reiterate their recommendation for a meeting with the Panel and their actuarial advisors about this proposal.

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We are also concerned about the Panel's recommendations on the loss of partial wind-ups and grow-in benefits. We are disappointed with the lack of emphasis for DB Plans in the Goals for the Act, types of pension plans and province-wide plans. We call for additional points in the recommendations for governance, the role of regulators and access to information. We offer additional areas of concern to our members for their consideration.

We look forward to seeing the final report of the Panel and to participating in further discussions with Panel members. We appreciate their efforts in considering how to protect and strengthen workplace pensions for all working people.

Yours sincerely,

A handwritten signature in cursive script that reads "Joan Jessome".

Joan Jessome
President
Nova Scotia Government and General Employees Union

c. Rick Clarke, President, Nova Scotia Federation of Labour