

The Public Employees Pension Plan Act

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Chapter P-36.2 of the *Statutes of Saskatchewan, 1996* (effective July 1, 1997) as amended by the *Statutes of Saskatchewan, 2000, c.4; 2001, c.50 and 51; 2002, c.8; 2004, c.24; 2006, c.C-1.1; 2007, c.35 and 39; 2008, c.16; 2010, c.E-9.22; 2012, c.14; 2014, c.E-13.1, c.S-32.21 and c.23; and 2018, c.31.*

NOTE:

This consolidation is not official and is subject to House amendments and Law Clerk and Parliamentary Counsel changes to Separate Chapters that may be incorporated up until the publication of the annual bound volume. Amendments have been incorporated for convenience of reference and the official Statutes and Regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the official Statutes and Regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER P-36.2

An Act respecting Pensions for Public Employees

Short title

1 This Act may be cited as *The Public Employees Pension Plan Act*.

Interpretation

2 In this Act:

- (a) **“allocated investment earnings”** means, with respect to the contributions made by or on behalf of a member, the amount calculated by the board, having regard to changes in the value of the assets of the fund and the revenue and other earnings accruing from the investment of the assets of the fund, and allocated for the purpose of determining the amount standing to the credit of a member;
- (b) **“annuity fund”** means the Public Employees Annuity Fund continued by section 5 of *The Saskatchewan Pension Annuity Fund Act*;
- (c) **“board”** means the Public Employees Pension Board continued by section 3;
- (d) **“fund”** means the Public Employees Pension Fund continued by section 8;
- (e) **“member”** means a person who is a member of the plan pursuant to subsection 10(2);
- (f) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (g) **“normal date of retirement”** means the first day of the month that follows the day on which a member attains the age of 65 years;
- (h) **“participating employer”** means an employer designated pursuant to clause 10(1)(a) as a participating employer;
- (i) **“pension benefit”** means a periodic payment provided by an amount standing to the credit of a member in the plan;
- (j) **“plan”** means the Public Employees Pension Plan continued by section 7;
- (k) **“prescribed”** means prescribed in the regulations;
- (l) **“salary”** means the regular remuneration received by a member for services rendered, whether as periodic payments, commissions or bonuses and whether paid as earned or on a deferred basis, but does not include remuneration received by a member with respect to overtime;

- (m) “**spouse**” means:
- (i) a person who is married to a member; or
 - (ii) if a member is not married, a person who is a spouse or common-law partner within the meaning of the *Income Tax Act* (Canada) for the purpose of receiving payments from a pension plan that is registered pursuant to that Act.

1996, c.P-36.2, s.2; 2001, c.50, s.13; 2004, c.24, s.3.

Board

- 3(1)** The Public Employees Pension Board is continued.
- (2) The board shall administer this Act.
- (3) A person who was a member of the board immediately before the coming into force of this section ceases to be a member of the board on the coming into force of this section unless the person is reappointed pursuant to subsection (4) or (5).
- (4) The board consists of:
- (a) the following persons who are appointed on behalf of employers:
 - (i) one person appointed by the Public Service Commission;
 - (ii) one person appointed by SaskEnergy, SaskPower and SaskTel;
 - (iii) one person appointed by the Saskatchewan Polytechnic and the Saskatchewan Liquor and Gaming Authority;
 - (iv) one person appointed by the Saskatchewan Crop Insurance Corporation, the Workers’ Compensation Board and the Saskatchewan Cancer Agency;
 - (b) the following persons who are appointed on behalf of employees:
 - (i) one person appointed by the Saskatchewan Government and General Employees’ Union;
 - (ii) one person appointed by Unifor;
 - (iii) one person appointed by the International Brotherhood of Electrical Workers Local 2067;
 - (iv) one person appointed by the Canadian Union of Public Employees Local 600; and
 - (c) a chairperson appointed by the members of the board who are appointed pursuant to clauses (a) and (b).

- (5) If no appointment of a member pursuant to subclause (4)(a)(ii), (iii) or (iv) is made within 60 days after the coming into force of this section or within 60 days after the occurrence of a vacancy, the Lieutenant Governor in Council shall appoint the member.
- (6) Subject to subsections (7), (8) and (9), a member of the board other than the chairperson:
- (a) holds office for a period of four years; and
 - (b) is eligible for reappointment, but is not eligible to hold office for more than two consecutive terms.
- (7) The term of office of one-half of the first members of the board to be appointed pursuant to clauses (4)(a) and (b) after the coming into force of this section is two years.
- (8) If the entities that appoint members of the board are unable to agree amongst themselves which members of the board are to serve a two-year term pursuant to subsection (7), the board shall, at its first meeting after the coming into force of this section, select by lot the members whose term of office is to be two years, alternating between members appointed on behalf of employers and members appointed on behalf of employees.
- (9) If a member of the board other than the chairperson ceases to hold office before the expiry of the member's term, the person appointed to replace that member holds office for the remainder of the term of the member being replaced.
- (10) At the first meeting of the board held after the coming into force of this section and in each subsequent year at the first meeting held after June 30, the board shall elect from its members a vice-chairperson to serve a term of one year.
- (11) The chairperson may call meetings of the board whenever the chairperson considers it necessary to do so for the proper administration of this Act.

2004, c.24, s.4; 2006, c.C-1.1, s.28; 2007, c.35,
s.3; 2014, c.S-32.21, s.34; 2018, c31, s.3.

Quorum

- 4(1) Subject to subsection (2), four members of the board, together with either the chairperson or vice-chairperson, constitute a quorum.
- (2) At least two of the members constituting a quorum must be members appointed on behalf of employees.

1996, c.P-36.2, s.4; 2004, c.24, s.5.

Majority and restriction on liability

4.1(1) Subject to subsection (2), a decision or any other action taken at a meeting of the board constitutes a decision or action of the board if it is voted for or approved by a majority of the members of the board present at the meeting.

(2) No member of the board is liable with respect to a decision or an action taken at a meeting of the board if:

- (a) in the case of a member who was present at the meeting, the member:
 - (i) did not vote for or otherwise approve the decision or action taken at the meeting; and
 - (ii) requests that his or her dissent be entered into the minutes of the meeting; or
- (b) the member was not present at the meeting at which the decision was approved or the action taken.

2014, c.23, s.3.

Powers of the board

5(1) The board may:

- (a) enter into contracts for the provision of administrative services and delegate to a person with whom a contract has been entered any powers and duties that the board may, from time to time, direct;
- (b) set the term of office for the chairperson and determine the remuneration of the chairperson;
- (c) employ any staff and acquire any goods, services, accommodation and facilities that the board may require in connection with the administration of the plan;
- (d) invest all or any part of the moneys standing to the credit of the fund in any securities authorized for investment of moneys pursuant to *The Pension Benefits Act, 1992*;
- (e) dispose of any securities in which any part of the fund has been invested in any manner and on any terms that the board considers expedient;
- (f) enter into any agreement, engage the services of or retain any technical, professional or other adviser, specialist or consultant or do any other things that the board considers necessary for the purposes of managing, investing or disposing of all or any part of the assets of the fund;
- (g) provide prescribed pension benefits that may be purchased by members with amounts standing to their credit in the fund;
- (h) charge a fee for any service provided by the board;
- (i) establish policies for:
 - (i) the investment of the assets of the fund;
 - (ii) the calculation and allocation of revenues accruing to the fund;
 - (iii) the calculation of the amounts in the fund standing to the credit of members; and

- (iv) the application and interpretation of this Act with respect to:
 - (A) a person whose participation in the plan is subject to the laws of another jurisdiction; and
 - (B) the amount standing to the credit of a member where the amount is subject to the laws of another jurisdiction;
 - (j) borrow money for the purposes of the plan, if:
 - (i) the borrowing is for a term not exceeding 90 days;
 - (ii) the borrowing is not part of a series of loans or other transactions and repayments; and
 - (iii) no asset of the plan is used as security for the borrowed money except where the borrowing is necessary to avoid a distressed sale of assets to provide for the current payment of benefits.
- (2) For the purposes of subclause (1)(i)(iv), “**jurisdiction**” means any jurisdiction in Canada, including Canada, other than Saskatchewan.

2018, c.31, s.4.

Decision of board final

6 The board may determine any question as to the application, interpretation or intent of a provision of this Act or of the regulations, and the decision of the board is final.

1996, c.P-36.2, s.6.

Plan continued

7(1) The Public Employees (Government Contributory) Superannuation Plan established by section 38 of *The Superannuation (Supplementary Provisions) Act* is continued as the Public Employees Pension Plan.

(2) The primary purpose of the plan is to provide lifetime retirement benefits to members.

(3) The board shall administer this Act as a pension plan, and shall cause it to be registered and maintain its registration as a pension plan pursuant to the *Income Tax Act* (Canada).

(4) Where any provision of this Act is inconsistent with a provision of *The Pension Benefits Act, 1992*, the provision of this Act prevails.

1996, c.P-36.2, s.7.

Fund continued

8(1) The Public Employees (Government Contributory) Superannuation Fund established by section 41 of *The Superannuation (Supplementary Provisions) Act* is continued as the Public Employees Pension Fund.

(2) The board is the trustee of the fund and shall cause the assets of the fund to be invested in accordance with the requirements for the investment of pension funds pursuant to *The Pension Benefits Act, 1992* and the *Income Tax Act* (Canada).

- (3) The fund consists of:
- (a) moneys in the Public Employees (Government Contributory) Superannuation Fund on the day before this Act comes into force;
 - (b) contributions made by members;
 - (c) contributions made by participating employers with respect to the contributions made by members;
 - (d) amounts transferred into the fund pursuant to sections 15, 16 and 18.2; and
 - (e) any revenues earned or accruing from the investment of assets of the fund.
- (4) The following amounts are payable out of the fund:
- (a) the amount with which a member is entitled to purchase a prescribed pension benefit;
 - (a.1) payments pursuant to prescribed pension benefits purchased by members from amounts standing to their credit in the fund;
 - (b) an amount that is permitted or required to be transferred out of the fund;
 - (c) refunds of contributions and, where appropriate, allocated investment earnings;
 - (d) the costs incurred by the board:
 - (i) for the administration of the plan; and
 - (ii) with respect to managing, investing or disposing of all or any part of the assets of the fund.

1996, c.P-36.2, s.8; 2004, c.24, s.7.

Specialty funds

- 9(1)** Subject to the approval of the Lieutenant Governor in Council, the board may:
- (a) establish one or more specialty funds by allocating part of the assets of the fund to the amounts standing to the credit of members who elect to participate in a specialty fund; and
 - (b) designate one of the specialty funds as the default fund in which members who have not made an election with respect to participation in a specialty fund shall participate.
- (2) The board may:
- (a) calculate the amounts in a specialty fund standing to the credit of members who participate in the specialty fund, having regard to the value of the assets allocated to the specialty fund pursuant to subsection (1) and the revenue and other earnings accruing from the investment of the assets allocated to the specialty fund;
 - (b) designate categories of members who may participate in a specialty fund;

- (c) designate categories of investments in which the assets allocated with respect to members who have elected to participate in a specialty fund will be invested;
- (d) permit members to elect to participate in one or more specialty funds; and
- (e) establish different investment policies for assets allocated to each specialty fund.

1996, c.P-36.2, s.9; 2004, c.24, s.8; 2014, c.23, s.5.

Membership

- 10(1)** The Lieutenant Governor in Council may, by regulation, designate:
- (a) employers as participating employers; and
 - (b) employees or categories of employees of a participating employer that are entitled to be members of the plan.
- (2) The following persons are members of the plan:
- (a) any persons who have an amount standing to their credit in the fund;
 - (b) any persons who are entitled to be members of the plan pursuant to clause (1)(b) and:
 - (i) are permanent employees of the participating employer; or
 - (ii) are non-permanent employees of the participating employer and elect to participate in the plan.
- (3) A participating employer shall:
- (a) designate each employee who is eligible for membership as either a permanent or non-permanent employee;
 - (b) provide each employee with particulars of the plan on or before the day on which the employee becomes entitled to be a member;
 - (c) require each non-permanent employee to make an election in writing with respect to participation in the plan;
 - (d) notify the board of any change with respect to the employment of a member within 15 days after the change is made; and
 - (e) inform all employees about any amendments to the plan.
- (4) Except as provided in the regulations, no provision of *The Superannuation (Supplementary Provisions) Act* and no provision of a superannuation Act within the meaning of that Act applies to a member of the plan.

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PUBLIC EMPLOYEES PENSION PLAN

(5) If an employer is designated as a participating employer pursuant to subsection (1) and that employer is an employer that participates in a pension plan that contains a defined contribution provision within the meaning of *The Pension Benefits Act, 1992*, the Lieutenant Governor in Council may, by regulation:

(a) terminate the membership with respect to the defined contribution provision of:

(i) employees who become members of the plan pursuant to subsection (1); and

(ii) other prescribed members of the pension plan whose employment has terminated;

(b) transfer the amount with respect to the defined contribution provision standing to the credit of each person mentioned in clause (a) to the fund; and

(c) if the defined contribution provision from which an amount is transferred pursuant to clause (b) permitted members to make an election with respect to the investment of the amount that is transferred, provide for the manner in which that election applies to the participation of the member in the plan.

1996, c.P-36.2, s.10; 2014, c.23, s.6.

Members' contributions generally

11(1) A member who is employed by a participating employer shall contribute to the plan in accordance with this section.

(2) A member's employer shall reserve the member's contributions, including voluntary contributions pursuant to section 12, from the member's salary.

(3) A member shall contribute an amount equal to:

(a) the amount specified in an agreement that provides for the amount of contributions, where the member is employed pursuant to such an agreement; or

(b) 5% of the member's salary.

1996, c.P-36.2, s.11.

Voluntary contributions

12 Subject to subsection 13(4), a member may elect to make voluntary contributions to the plan, in accordance with the regulations, in addition to the amount mentioned in subsection 11(3).

1996, c.P-36.2, s.12.

Contributions not permitted

13(1) No contributions may be made by a member after the date on which, pursuant to the *Income Tax Act* (Canada), retirement benefits must commence to be paid to the member.

(2) With respect to a leave of absence:

(a) where the total of all periods of leave taken on or after January 1, 1991, other than leave taken because of sickness or disability, would exceed five years, no contributions may be made by a member for any period of leave that exceeds the total of five years' leave, other than leave taken because of sickness or disability; and

(b) where periods of leave mentioned in clause (a) are taken for the purposes of parenting and the total of the periods of parenting leave would exceed three years, no contributions may be made by the member for any period of parenting leave that exceeds the total of three years' parenting leave.

(3) Subsection (2) does not apply to a member described in subsection 14(4).

(4) No contributions may be made by a member where the amount of contributions in a year, when added to the amount required to be contributed in the year by the employer, exceeds the maximum amount that the employee is permitted to contribute to the plan pursuant to the *Income Tax Act* (Canada).

(5) Every contribution that contravenes this section must be refunded to the member and the employer of the member in the same proportion as the contributions were made by each of them.

1996, c.P-36.2, s.13; 2000, c.4, s.3; 2008, c.16, s.3.

Members' contributions in particular cases

14(1) A member who commences a leave of absence and is not employed by another participating employer may make contributions as if the member's salary continued at the rate at which it was being paid when the leave commenced.

(2) A member who has not attained the normal date of retirement and is in receipt of benefits pursuant to a disability income plan for employees of the member's employer shall make contributions as if the member's salary were the amount with respect to which the disability benefit is calculated.

(3) Contributions pursuant to subsection (1) or (2) shall be made in the manner and at the times prescribed in the regulations.

(4) Where a member is granted leave of absence without pay for the purpose of working in an official capacity with a trade union that, at the time the leave is granted, is the recognized collective bargaining agent on behalf of employees of the member's employer:

(a) the member shall continue to make contributions in accordance with section 11; and

(b) the trade union shall contribute to the plan with respect to the member for the period of the leave of absence the amount set out in subsection 17(1), and section 17 applies to the trade union, with any necessary modification, as if the trade union were the member's employer.

1996, c.P-36.2, s.14; 2007, c.35, s.4.

Transfers of contributions from registered pension plans

15 A member who, before becoming a member, has made contributions pursuant to a pension plan that is registered as a pension plan pursuant to the *Income Tax Act* (Canada):

- (a) may elect to transfer to the plan an amount from that pension plan; and
- (b) is deemed to have made contributions to the plan for the period to which the administrator of that pension plan and the member's participating employer have agreed with respect to the amount transferred.

2000, c.4, s.4.

Transfers from RRSPs

16 Subject to any terms or conditions prescribed in the regulations, a member may elect to transfer into the plan the proceeds of a retirement savings plan that is registered pursuant to the *Income Tax Act* (Canada).

2007, c.35, s.5.

Employers' contributions

17(1) The employer of a member mentioned in subsection 11(1), 14(1) or 14(2) shall contribute to the plan with respect to the member an amount equal to:

- (a) the amount specified in an agreement that provides for the amount of contributions, where the member is employed pursuant to such an agreement; or
- (b) the member's contributions, excluding any voluntary contributions made pursuant to section 12.

(2) A member's employer shall remit the contributions mentioned in subsection (1), together with the member's contributions mentioned in subsection 11(2) and section 12, to the board or to any other agency that the board may designate not later than the fifteenth day after the day on which the member's salary is paid.

(3) If any contributions have not been remitted within the period mentioned in subsection (2), the employer shall pay, in addition to the contributions, the amount, determined by the board, that is required to ensure that the amount standing to the credit of the member is not less than it would have been if the contributions had been remitted within the period mentioned in subsection (2).

1996, c.P-36.2, s.17; 2000, c.4, s.5; 2004, c.24, s.9.

Vesting and locking in

18(1) Subject to subsections (2) and (3), the amount standing to the credit of a member is permanently vested and locked in the plan on his or her enrolment in the plan.

(2) The amount standing to the credit of a member whose employment with a participating employer has terminated may be transferred, on any terms and conditions imposed by the board, to any pension plan or fund or retirement savings plan or fund that does not permit contributions to be withdrawn:

(a) before the time at which the amount standing to the credit of the member could have been used to provide a pension benefit to the member pursuant to this Act; and

(b) for any purpose other than to provide a pension benefit to the member.

(3) Contributions that were not locked in before the coming into force of this Act, together with interest that, as of December 31, 1997, was allocated on those contributions, are deemed to be locked in on and after January 1, 1998.

(4) **Repealed.** 2018, c31, s.5.

(5) **Repealed.** 2018, c31, s.5.

(6) All amounts transferred to the fund pursuant section 15 or 16 or pursuant to a reciprocal agreement, together with allocated investment earnings on those amounts, are deemed to be locked in.

(7) Contributions that are locked in may only be used to provide a pension benefit for the member in accordance with this Act or a lump sum payment pursuant to section 19.1.

1996, c.P-36.2, s.18; 2000, c.4, s.6; 2004, c.24, s.10; 2018, c31, s.5.

Unlocking of voluntary contributions

18.1(1) Notwithstanding section 18, a member who terminates employment with a participating employer and who does not commence employment with another participating employer is entitled to:

(a) a refund of voluntary contributions made on or after January 1, 2001 by the member, together with allocated investment earnings on those contributions; or

(b) a transfer of voluntary contributions made on or after January 1, 2001 by the member, together with allocated investment earnings on those contributions, to a retirement savings plan that is registered pursuant to the *Income Tax Act* (Canada).

(2) Subsection (1) does not apply with respect to voluntary contributions that are locked in when the contribution is made.

2000, c.4, s.7; 2004, c.24, s.11; 2018, c31, s.6.

Transfers by former members

18.2(1) In this section, “**external plan**” means a pension plan or fund or a retirement savings plan or fund to which a transfer may be made pursuant to subsection 18(2).

(2) Subject to any terms and conditions prescribed in the regulations, a person who, as a member, has transferred to an external plan pursuant to subsection 18(2) the amount standing to his or her credit may transfer back into the plan the amount standing to his or her credit in the external plan for the purpose of purchasing a prescribed pension benefit from the board.

(3) A person who transfers an amount into the plan pursuant to subsection (2) is deemed to be a member for the purposes of purchasing a prescribed pension benefit from the board.

2004, c.24, s.12.

Reciprocal agreements

19(1) Subject to the approval of the Lieutenant Governor in Council, the board may enter into a reciprocal agreement with the administrator of a pension plan that is registered pursuant to the *Income Tax Act* (Canada).

(2) An agreement made pursuant to subsection (1):

(a) may be retroactive in effect; and

(b) may, in addition to the terms and conditions mentioned in this section, contain any other terms and conditions that the board may require in order to give effect to the intent of this section.

(3) An agreement pursuant to subsection (1) may provide that:

(a) the board shall pay to the administrator of the other pension plan the lesser of:

(i) the amount demanded by the administrator with respect to a member who:

(A) ceases to be employed by an eligible employer;

(B) within the period specified in the agreement, becomes a member of the pension plan administered by the administrator;

(C) has not received a refund of contributions and allocated investment earnings from the plan; and

(D) within the period specified in the agreement, requests the board to make the payment; and

(ii) the amount standing to the credit of the member described in subclause (i); and

(b) the administrator shall pay to the board the lesser of:

(i) the amount demanded by the board with respect to a person who:

(A) ceases to be employed with an employer that participates in the plan administered by the administrator;

(B) within the period specified in the agreement, becomes a member of the plan;

- (C) has not received a refund of contributions and investment earnings from the administrator; and
 - (D) within the period specified in the agreement, requests the board to make the payment; and
 - (ii) the amount of the contributions made by or on behalf of the person described in subclause (i), together with investment earnings.
- (4) Where a payment is made by the board in accordance with clause (3)(a):
- (a) if the amount of the payment is the full amount standing to the credit of the member, the member ceases to be entitled to any benefits under the plan; and
 - (b) if the amount of the payment is only part of the amount standing to the credit of the member, the amount that remains standing to the credit of the member remains locked in and is subject to the terms and conditions of the plan.

1996, c.P-36.2, s.19; 2004, c.24, s.13.

Lump sum payment – member seriously ill

- 19.1(1)** Subject to subsections (2) and (3) and the *Income Tax Act* (Canada), if a member satisfies the board that the member has a condition that is likely to shorten the member's life considerably, the member may elect to receive payment of all or part of the amount standing to the credit of the member in a lump sum.
- (2) The condition mentioned in subsection (1) must be certified by a duly qualified medical practitioner who has been approved by the board.
- (3) If a member described in subsection (1) has a spouse, the member must provide a written waiver of the spouse's entitlement to a benefit, or of a portion of the spouse's entitlement to a benefit, in a form acceptable to the board.

2004, c.24, s.14.

Payment on retirement

- 20(1)** Subject to subsections (2) to (6), a member who ceases to be employed by a participating employer and applies to the board is entitled to retire and receive a prescribed pension benefit provided by the amount standing to the credit of the member.
- (2) A member may retire:
- (a) on or after attaining the age of 50 years;
 - (b) **Repealed.** 2004, c.24, s.15.
 - (c) on a date that is recommended to the minister by the participating employer who employs the member and that is fixed by an order of the Lieutenant Governor in Council.
- (3) **Repealed.** 2007, c.39, s.7.

(4) If a member has not retired before the date on which, pursuant to the *Income Tax Act* (Canada), retirement benefits must commence to be paid to the member, the board shall:

- (a) transfer the amount standing to the credit of the member to the annuity fund to provide the member with a prescribed guaranteed life annuity; or
- (b) provide the member, from the amount standing to the credit of the member, with a prescribed pension benefit in accordance with subsection (4.1).

(4.1) Subject to subsection (4.2) and any prescribed terms or conditions, if a member described in subsection (4) has not made an election with respect to a pension benefit and cannot be located by the board, the board may elect on behalf of the member for the member to receive a prescribed pension benefit in lieu of a prescribed guaranteed life annuity if, having regard to the information in the records of the board, the board considers it in the best interest of the member.

(4.2) Before making an election on behalf of a member pursuant to subsection (4.1), the board must take reasonable steps to locate the member and, if it appears from the records of the board that the member has a spouse, the spouse of the member.

(5) Subject to subsection (6), a member who has a spouse is required to receive a pension benefit that provides for a prescribed pension benefit that is not less than 60% of the pension benefit to which the member would have been entitled to be paid to the spouse after the member's death, unless the spouse provides a written waiver of the benefit in a form acceptable to the board.

(6) For the purposes of subsection (4.1), if it appears from the records of the board that the member has a spouse and the spouse cannot be located after reasonable steps have been taken to locate the spouse, the spouse is deemed to consent to the provision of a prescribed pension benefit to the member.

1996, c.P-36.2, s.20; 2000, c.4, s.8; 2004, c.24, s.15; 2007, c.35, s.6 and c.39, s.7; 2008, c.16, s.3.

Beneficiaries

21(1) Subject to subsections (4) and (5), a member may designate one or more beneficiaries who are entitled to the amount standing to the credit of the member in the event of the member's death.

(2) The designation of a member's beneficiary:

- (a) must be in writing in a form acceptable to the board; and
- (b) may be revoked by the member at any time before the member applies for a pension benefit.

(3) Where a member designates more than one person as a beneficiary, the member must designate the persons either jointly or in common and, in the latter case, specify the share to which each beneficiary is entitled.

- (4) If a member has a spouse, the member's beneficiary is deemed be the spouse unless the spouse provides a written waiver of the spouse's entitlement to a benefit, or of a portion of the spouse's entitlement to a benefit, in a form acceptable to the board.
- (5) If a member has no spouse and has not made a designation, the member's beneficiary is deemed to be the member's estate.
- (6) Subject to subsection (7), on the death of a member:
- (a) if only one beneficiary is designated, the beneficiary is entitled to receive a lump sum payment of the amount standing to the credit of the member;
 - (b) if two or more beneficiaries are designated jointly, the beneficiaries are entitled to receive jointly a lump sum payment of the amount standing to the credit of the member;
 - (c) if two or more beneficiaries are designated in common, each beneficiary is entitled to receive in a lump sum payment his or her respective share, as specified in the designation, of the amount standing to the credit of the member.
- (7) On the death of a member, a beneficiary who is the spouse of the member may elect to receive:
- (a) payment of the amount standing to the credit of the member or the beneficiary's share of that amount in a lump sum in accordance with subsection (6); or
 - (b) a prescribed pension benefit provided by the amount mentioned in clause (a).
- (8) If, on the death of a member, a beneficiary who is the spouse of the member does not elect to receive a payment or a prescribed pension benefit pursuant to subsection (7), the beneficiary may, with respect to the amount to which he or she is entitled out of the amount standing to the credit of the member, exercise any right under the plan that the beneficiary could exercise if he or she were a member.

1996, c.P-36.2, s.21; 2018, c31, s.7.

Discrimination on the basis of sex

22 The sex of a person shall not be taken into account in determining:

- (a) the amount or rate of contributions required to be made by a member of the plan;
- (b) the amount of a pension benefit or the commuted value of a pension benefit to which a person is or may become entitled; or
- (c) the entitlement of a person to become a member of the plan.

1996, c.P-36.2, s.22.

Assignment prohibited

23(1) Notwithstanding anything to the contrary in any other Act, but subject to subsections (2) to (4) and sections 19 and 24, no amount standing to the credit of a member and no pension benefit provided by an amount standing to the credit of a member shall be transferred, assigned, charged, anticipated, seized, attached, given as security or surrendered.

(2) Notwithstanding any other provision of this Act or any other Act, for the purpose of enforcing a maintenance order as defined in *The Enforcement of Maintenance Orders Act, 1997*:

(a) pension benefits, as they become payable, are subject to seizure pursuant to that Act; and

(b) the amount standing to the credit of the member is subject to attachment pursuant to that Act.

(3) Where an amount has been attached pursuant to subsection (2), the board shall deduct from the amount standing to the credit of the member:

(a) the total amount of taxes, if any, that are required to be deducted or withheld as a result of the attachment;

(b) the cost of complying with the attachment calculated in the prescribed manner; and

(c) the lesser of:

(i) the amount attached; and

(ii) the amount standing to the credit of the member.

(4) Where an amount has been attached pursuant to subsection (2):

(a) the member has no further claim or entitlement to any pension or benefit pursuant to the plan respecting the amount attached;

(b) the amount standing to the credit of the member is reduced by the amount deducted pursuant to subsection (3); and

(c) neither the board nor the plan is liable to any person by reason of having made payment pursuant to an attachment mentioned in subsection (2).

1996, c.P-36.2, s.23; 2010, c.E-9.22, s.228; 2012, c.14, s.8.

Division on marriage breakdown

24(1) On the breakdown of the spousal relationship of a member, the board may, in accordance with this section, divide:

(a) the amount standing to the credit of the member; or

(b) a pension benefit provided by an amount standing to the credit of the member.

- (2) Subject to subsections (3) and (4), a pension benefit payable to, or the amount standing to the credit of, a member is to be divided:
- (a) where a court has made an order for the division of family property pursuant to *The Family Property Act*, in accordance with that order; or
 - (b) where the member and the member's spouse have entered into an agreement to divide their property that is an interspousal contract within the meaning of *The Family Property Act*, in accordance with that agreement.
- (3) A division pursuant to subsection (2) of the amount standing to the credit of a member shall not reduce the amount standing to the credit of the member to less than 50% of the amount standing to the credit of the member prior to the division.
- (4) A division pursuant to subsection (2) of a pension benefit provided by an amount standing to the credit of a member shall not reduce the amount of the pension benefit payable to the member after the division to less than 50% of the amount of the pension benefit payable to the member prior to the division.
- (5) The amount to which the spouse or former spouse of a member is entitled on a division pursuant to subsection (2) of an amount standing to the credit of a member may be transferred to a pension plan or fund or a retirement savings plan or fund that does not permit contributions to be withdrawn:
- (a) before the spouse or former spouse attains the age of 50 years; or
 - (b) for any purpose other than to provide a pension benefit to the spouse or former spouse.
- (6) Subsection (1) and section 23 apply to any amount that is transferred pursuant to subsection (5).
- (6.1) If the spouse or former spouse of a member does not elect to make a transfer pursuant to subsection (5), the spouse or former spouse may, with respect to the amount to which he or she is entitled on a division pursuant to subsection (2) of the amount standing to the credit of the member, exercise any right under the plan that the spouse or former spouse could exercise if he or she were a member.
- (7) Neither the board nor the fund is liable to any person by reason of having complied with an order or agreement mentioned in this section.

1996, c.P-36.2, s.24; 2001, c.50, s.13 and c.51,
s.11; 2002, c.8, s.2; 2018, c.31, s.8.

Objection to division

- 25(1)** Except where an order or agreement mentioned in subsection 24(2) has been filed with the board by the member and the spouse or former spouse jointly, the board shall give a notice in writing to the member that an order or agreement has been filed.
- (2) Unless the board receives a notice in writing within 30 days after providing the notice mentioned in subsection (1) that the member objects to the division on one of the grounds set out in subsection (3), the board shall comply with the order or agreement.

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- (3) The grounds for an objection pursuant to subsection (2) are:
- (a) that the order or agreement has been varied or is of no force or effect;
 - (b) that the terms of the order or agreement have been or are being satisfied by other means;
 - (c) that proceedings have been commenced in a court of competent jurisdiction in Canada to appeal or review the order or to challenge the terms of the agreement.
- (4) A member who submits a notice of objection pursuant to subsection (2) shall include with the notice documentary evidence to establish the grounds for objection.
- (5) Where a notice of objection pursuant to subsection (2) is received by the board, the board may apply to the Court of Queen's Bench for directions and, subject to subsection (6), the court may make any order that it considers appropriate in the circumstances.
- (6) No order as to costs shall be made against the board or the fund.

1996, c.P-36.2, s.25.

Amounts payable to persons who cannot be located

- 25.1(1)** If an amount becomes payable out of the fund to any person who cannot be located, the board may pay the amount into the general revenue fund and, subject to subsection (3), the amount becomes the property of the Crown.
- (2) Before paying any amount into the general revenue fund pursuant to subsection (1), the board must take reasonable steps to locate the person to whom the amount is payable.
- (3) If a person claims to be entitled to any amount paid into the general revenue fund pursuant to subsection (1), the Minister of Finance may, on the recommendation of the board, pay to the claimant the amount claimed or any portion of that amount specified by the Minister of Finance, together with interest at any rate that the Minister of Finance may specify.

2007, c.35, s.7.

Regulations

- 26(1)** For the purpose of carrying out this Act according to its intent, the Lieutenant Governor in Council may make regulations:
- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
 - (b) prescribing the conditions for membership in the plan;
 - (c) prescribing the manner in which contributions shall be made to the fund;
 - (d) prescribing terms and conditions with respect to the transfer of contributions into the fund;
 - (e) prescribing the types of pension benefits that may be provided by the amount standing to the credit of members;

- (f) prescribing the manner of payment of pension benefits;
- (g) prescribing the conditions governing beneficiaries and the manner of payment to beneficiaries;
- (h) for the purposes of subsection 10(1):
 - (i) designating employers as participating employers;
 - (ii) designating employees or categories of employees of a participating employer that are entitled to be members of the plan;
- (i) for the purposes of subsection 10(4), declaring that specified provisions of *The Superannuation (Supplementary Provisions) Act* or any superannuation Act within the meaning of that Act apply to members of the plan or any category of members of the plan;
- (i.01) for the purposes of subsection 10(5):
 - (i) respecting the manner in which the membership with respect to the defined contribution provision of a pension plan is to be terminated;
 - (ii) prescribing, from among members of the pension plan whose employment has terminated, those whose membership with respect to the defined benefit contribution provision of a pension plan is to be terminated;
 - (iii) prescribing the manner of transfer to the fund of amounts standing to the credit of members;
 - (iv) prescribing the manner in which a member's election with respect to the investment of amounts transferred is applied to the participation of the member in the plan;
- (i.1) for the purposes of subsection 18.2(2), prescribing terms and conditions with respect to the transfer of amounts into the fund from external plans;
- (i.2) for the purposes of subsection 20(4.1), prescribing terms and conditions with respect to the election of a prescribed pension benefit by the board on behalf of a member who cannot be located;
- (j) for the purposes of clause 23(3)(b), governing the manner of calculating the cost of complying with an attachment;
- (k) declaring that any provision of this Act that does not comply with the *Income Tax Act* (Canada) is inoperative to the extent necessary to comply with that Act;
- (l) respecting the manner in which the subject-matter of a provision that is declared inoperative by a regulation made pursuant to clause (k) is to be administered for the purpose of complying with the *Income Tax Act* (Canada);
- (m) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (n) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

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(2) Notwithstanding any other Act or law, a regulation made pursuant to subsection (1) may be made retroactive to a date not earlier than October 1, 1977.

1996, c.P-36.2, s.26; 2004, c.24, s.16; 2007, c.35, s.8; 2014, c.23, s.7.

Fiscal year

27 The fiscal year of the board is the period commencing on April 1 in one year and ending on March 31 in the next year.

1996, c.P-36.2, s.27.

Audit

28 The Provincial Auditor or any other auditor or firm of auditors that the board may appoint shall audit the accounts and financial statements of the board annually and at any other time requested by the Lieutenant Governor in Council.

1996, c.P-36.2, s.28.

Tabling of documents

29(1) In each fiscal year, the board shall, in accordance with section 13 of *The Executive Government Administration Act*, prepare and submit to the minister:

- (a) a report on the activities of the board for the preceding fiscal year; and
- (b) a financial statement showing the business of the board for the preceding fiscal year.

(2) The financial statement mentioned in clause (1)(b) is to be in the form required by Treasury Board.

(3) Notwithstanding section 46 of *The Superannuation (Supplementary Provisions) Act*, with respect to the fiscal year in which this Act comes into force, the board shall prepare one financial statement with respect to both the Public Employees (Government Contributory) Superannuation Fund and the Public Employees Pension Fund.

(4) In accordance with section 13 of *The Executive Government Administration Act*, the minister shall lay before the Assembly each report and financial statement received by the minister pursuant to subsection (1).

1996, c.P-36.2, s.29; 2014, c.E-13.1, s.62.