

1992

CHAPTER 71

An Act to amend *The Municipal Employees' Superannuation Act*

(Assented to August 28, 1992)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 **This Act may be cited as *The Municipal Employees' Superannuation Amendment Act, 1992*.**

R.S.S. 1978, c.M-26 amended

2 ***The Municipal Employees' Superannuation Act* is amended in the manner set forth in this Act.**

Section 2 amended

3 **Section 2 is amended:**

(a) **by repealing clause (b) and substituting the following:**

"(b) **'average highest salary'** means the average monthly salary of a member during the 60 months of highest salary with respect to which contributions were made, including salary for service prior to the effective date, divided by five";

(b) **by repealing clause (f) and substituting the following:**

"(f) **'contributory service'**:

(i) means service for which an employee receives remuneration from an employer and makes the required contributions as specified by this Act; and

(ii) includes periods of absence due to illness or disability for which the employee makes the required contributions";

(c) **by repealing clause (h);**

(d) **by striking out "for a continuous period of six months" in clause (m); and**

(e) **by repealing clauses (cc) and (cc.1) and substituting the following:**

"(cc) **'salary'** means the regular remuneration received by an employee for service 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 an employee with respect to overtime worked;

"(cc.1) **'spouse'** means:

(i) a person who is married to an employee; or

(ii) if the employee is not married, a person of the opposite sex with whom the employee is cohabiting as husband and wife at the relevant time and who has been cohabiting continuously with the employee as his or her spouse for at least one year prior to the relevant time".

Section 6 amended

4 **Section 6 is amended:**

(a) **by renumbering it as subsection (1);**

(b) **by striking out "Any" in subsection (1) and substituting "Subject to subsection (2), any"; and**

(c) **by adding the following subsections after subsection (1):**

"(2) The commission may determine the date on which an employer mentioned in subsection (1) commences participation in the plan.

"(3) Where the date on which an employer commences participation in the plan precedes the date on which the employer commences making contributions to the fund, the employer shall pay into the fund the greater of:

(a) the amount, determined in accordance with generally accepted actuarial principles, that the commission requires for the purpose of funding any allowances that have accrued to the employees of the employer during the period of participation with respect to which contributions were not made; and

- (b) twice the amount of contributions that the employees would have been required to make with respect to the allowances that have accrued to the employees of the employer during the period of participation with respect to which contributions were not made”.

Section 8 amended

5 Section 8 is amended:

- (a) **by striking out** “Subject to the approval of the minister, the” **and substituting** “The”;
(b) **by striking out** “other pension plan” **and substituting** “pension plan that is registered pursuant to the *Income Tax Act* (Canada)”; **and**
(c) **by striking out** “such other” **and substituting** “the registered”.

Section 9 amended

6 Subsection 9(3) is repealed.

Section 10 amended

7 Subsection 10(3) is repealed and the following substituted:

“(3) The members of the commission are entitled:

- (a) to receive any remuneration for attending meetings of the commission and other services that the commission determines; and
(b) to be reimbursed for travel, accommodation and other expenses that are incurred in the course of performing their duties pursuant to this Act”.

Section 14 amended

8(1) Subsection 14(2) is amended:

(a) **by striking out** “and” **after subclause (a)(i);**

(b) **by adding the following subclause after subclause (a)(ii):**

“(iii) in the case of an employee who commences employment with an employer after January 1, 1993, on the first day of service with the employer; and”; **and**

(c) **by repealing clause (b) and substituting the following:**

“(b) in the case of an employee who is designated by an employer as a non-permanent employee and who elects to become a member of the plan, on the day on which the employee completes the requirement set out in subclause 3(b)(ii)”.

(2) Subsection 14(3) is amended by striking out “received” **and substituting** “been issued”.

(3) Subsection 14(7) is repealed and the following substituted:

“(7) An employee who has reached normal retirement age may participate in the plan only if he or she is not in receipt of an allowance pursuant to the plan”.

Section 16 amended

9(1) The following subsections are added after subsection 16(1.3):

“(1.4) No employee shall be required to make contributions in a year that exceed the maximum contributions prescribed by the *Income Tax Act* (Canada) with respect to the employee for the year.

“(1.5) Where an employee has made contributions pursuant to a superannuation Act in a year that exceed, in the aggregate, the maximum contributions prescribed by the *Income Tax Act* (Canada) with respect to the employee for the year, the amount of the excess contributions shall be refunded to the employee with interest”.

(2) Subsection 16(3) is amended by striking out “An employee” **and substituting** “Subject to subsection (3.1), an employee”.

(3) The following subsection is added after subsection 16(3):

“(3.1) No additional voluntary contributions mentioned in subsection (3) shall be made after October 9, 1986”.

(4) Subsection 16(4) is repealed.

Section 18 amended

10 Subsection 18(1) is amended by adding “day” **after** “fifteenth”.

Section 20 amended

11(1) Subsection 20(1) is repealed and the following substituted:

"(1) Notwithstanding any other provision of this Act, an employee who has been in the service of the employer or who has been a member of the plan:

(a) for a continuous period of one year or more and whose age and number of years of service or membership in the plan, when added, equal at least 45; or

(b) on or after January 1, 1992, for a continuous period of two years;

shall, on retirement or on termination of employment prior to retirement, receive an immediate or deferred allowance, as the case may be, calculated in accordance with section 22".

(2) Subsection 20(4) is amended:

(a) by striking out "another plan" and substituting "another pension plan that is registered pursuant to the *Income Tax Act* (Canada)" in clause (a); and

(b) by adding "registered" after "individual" in clause (b).

New section 20.1

12 The following section is added after section 20:

"BENEFICIARIES

Beneficiaries

"20.1(1) A member may name a beneficiary for the purposes of this Act.

(2) Where a member has a spouse, the member shall not name as beneficiary any person other than the spouse".

Section 21 amended

13(1) Subsection 21(1) is repealed and the following substituted:

"(1) Where an employee dies on or after the effective date but prior to commencing to receive an allowance, the commission shall, where there is no named beneficiary, pay to the estate of the deceased employee an amount equal to the aggregate of the following amounts standing to the employee's credit:

(a) the amount in the employee contribution account multiplied by two;

(b) the amount in the employee additional contribution account;

(c) the amount in the employee annuity account;

(d) the amount in the employee annuity surplus account;

(e) the amount in the employer additional contribution account; and

(f) the amount in the employer annuity account".

(2) Subsection 21(2) is amended by striking out "Where" and substituting "Subject to subsection (2.1), where".

(3) The following subsection is added after subsection (2):

"(2.1) Clause (2)(b) applies only with respect to a beneficiary who is a spouse".

New section 22

14 Section 22 is repealed and the following substituted:

Allowance on retirement on or after normal retirement age

"22(1) A member who retires on or after attaining normal retirement age is entitled to receive an allowance equal to the amount determined pursuant to subsection (2), (3) or (4).

(2) Where the member retires prior to January 1, 1993, the allowance is to be equal to:

(a) 1.3% of the portion of the member's average highest salary that is not in excess of the average year's maximum pensionable earnings; and

(b) 2% of the portion of the member's average highest salary, if any, that exceeds the average year's maximum pensionable earnings as calculated in clause (a);

for each year and fractional year of contributory service in the plan prior to retirement.

(3) Where the member commences employment on or after January 1, 1993, the allowance is to be equal to:

(a) where the member is employed as a police officer or fireman and retires in accordance with subsection 40(2), 1.7% of the member's average highest salary; or

(b) where the member is a member other than a member mentioned in clause (a), 1.5% of the member's average highest salary.

(4) Where the member commences employment prior to January 1, 1993 and retires on or after that date, the allowance is to be equal to the greater of:

(a) an amount calculated in accordance with subsection (2); and

- (b) an amount calculated in accordance with subsection (3);
for each year and fractional year of contributory service in the plan prior to retirement.
- (5) The allowance resulting from the calculation in subsection (2), (3) or (4) and all other allowances or payments out of the plan, including any distribution of a surplus and any amount paid out to a spouse as a result of a marriage breakdown, whether payable on retirement, on termination of employment or on termination of the plan, shall not exceed the maximum that is allowed pursuant to the *Income Tax Act* (Canada).
- (6) Any contributions made by an employee with respect to an allowance to which the employee is not entitled pursuant to this section shall be refunded to the employee with interest”.

Section 23 amended

15(1) Subsection 23(1) is amended by striking out “credited service” and substituting “contributory service”.

(2) Subsection 23(1.1) is repealed and the following substituted:

“(1.1) A member who retires early in accordance with subsection 41(3) or (3.1) is entitled to receive an allowance equal to 2% of the member's average highest salary for each year of contributory service payable until the member reaches his or her sixty-fifth birthday, on which date the allowance is to be recalculated in accordance with section 22, and the recalculated allowance is payable to the member monthly commencing with the first day of the month following the month in which the member becomes 65 years of age.

“(1.2) A member who retires early in accordance with subsection 41(4) is entitled to receive an allowance equal to the aggregate of:

- (a) an allowance calculated in accordance with subsection (1.1) with respect to the member's contributory service up to and including December 31, 1991; and
- (b) an allowance calculated in accordance with subsection (1.1) with respect to the member's contributory service after December 31, 1991, with a reduction of 0.25% for each complete month by which the total of the member's years of continuous service and the member's age, determined at the member's retirement date, is less than 75;

that is payable until the member reaches his or her sixty-fifth birthday, on which date the allowance is to be recalculated in accordance with section 22, and the recalculated allowance is payable to the member monthly commencing with the first day of the month following the month in which the member becomes 65 years of age”.

(3) Subsection 23(2) is amended by striking out “credited service” and substituting “contributory service”.

New section 23.1

16 The following section is added after section 23:

Prescribed pension benefits before retirement

- “23.1(1) A member who retires is entitled to elect, prior to the member's retirement, to receive a prescribed pension benefit, calculated in accordance with generally accepted actuarial principles, that is equal in value to the benefit to which the member would otherwise be entitled pursuant to this Act.
- (2) Where a member who has a spouse elects pursuant to subsection (1) to receive a prescribed pension benefit pursuant to a plan that provides that less than 60% of the pension benefit is payable to the member's spouse on the member's death, the member shall provide a written waiver executed by the spouse, in a form satisfactory to the commission, of the portion of the allowance to which the spouse would otherwise be entitled”.

Section 24 amended

17 Subsection 24(3) is amended by striking out “may be continued, with the approval of the commission,” and substituting “shall be continued”.

Sections 31, 32 and 34 repealed

18 Sections 31, 32 and 34 are repealed.

Section 37 amended

19 Section 37 is amended:

- (a) by renumbering it as subsection (1);**

(b) by striking out "Where" in subsection (1) and substituting "Subject to subsection (2), where"; and

(c) by adding the following subsection after subsection (1):

"(2) Where a lump sum payment is required to be made pursuant to this Act, the payment, with interest at the rate determined by the commission, is to be made within 60 days after the later of:

- (a) the event giving rise to the payment; and
- (b) the completion and filing with the commission of all documents required to authorize the making of the payment".

Section 38 repealed

20 **Section 38 is repealed.**

Section 41 amended

21(1) The following subsection is added after subsection 41(3):

"(3.1) Notwithstanding subsections (1) and (2) but subject to subsections (4) and (5), a member to whom subsection 40(2) applies is entitled to an allowance on the earliest of the following events:

- (a) on the member's reaching the age of 65 years;
- (b) on the member's completing 25 years of continuous service;
- (c) on the member's reaching a total of age plus years of continuous service equal to 75".

(2) Subsection 41(5) is amended by striking out "subsection (3) or (4)" and substituting "subsection (3) or (3.1)".

(3) The following subsection is added after subsection 41(5):

"(5.1) The allowance to which a member is entitled pursuant to subsection (4) is to be calculated in accordance with subsection 23(1.2)".

Section 42 amended

22(1) Subsection 42(1) is amended by striking out "age of 70 years" and substituting "end of the calendar year in which the member reaches the age of 71 years".

(2) Subsection 42(2) is repealed and the following substituted:

"(2) During the period in which a member's retirement is postponed, contributions required by this Act continue to be required if the member is not in receipt of an allowance pursuant to this Act".

(3) Clause 42(5)(b) is repealed and the following substituted:

"(b) the first day of December immediately following the calendar year in which the member reaches the age of 71 years".

Section 47 amended

23 **Section 47 is amended:**

(a) by adding "registered" after "liabilities of a" in the portion that precedes clause (a); and

(b) by striking out "and the minister" in clause (a).

Section 49 repealed

24 **Section 49 is repealed.**

New section 53

25 Section 53 is repealed and the following substituted:

Attachment, assignment prohibited except in certain circumstances

"53(1) Notwithstanding any other Act, no payment, allowance, entitlement to any payment or allowance or amount standing to the credit of any person in a fund shall be transferred, assigned, charged, anticipated, attached, given as security or surrendered except as provided in this section.

(2) A payment made pursuant to this Act is subject to attachment for the purposes of enforcement of a maintenance order pursuant to *The Enforcement of Maintenance Orders Act*.

(3) Subject to subsection (4), a payment or transfer may be made in accordance with a requirement in an order pursuant to *The Matrimonial Property Act* that divides:

- (a) an allowance;
- (b) an entitlement to an allowance, including the entitlement of a spouse to an allowance on the death of a member;
- (c) an annuity; or

- (d) the amount standing to the credit of a member in a fund.
- (4) Nothing in subsection (3) shall be construed as permitting a payment or transfer to be made to any person of an amount that, but for the order, could not have been:
- (a) paid to the member or the spouse of the member; or
- (b) transferred to any person pursuant to an election made by the member; pursuant to a provision of this Act.
- (5) Where a spouse is entitled to transfer a portion of an amount standing to the credit of an employee in a fund, the spouse may exercise any of the options with respect to that amount that the employee could have exercised as if the spouse were a member whose employment had terminated.
- (6) Subsection (1) applies to any amount that has been transferred or paid pursuant to subsection (3)".

Section 56 amended

26 **Section 56 is amended:**

(a) by renumbering it as subsection (1);

(b) by striking out "The commission" in subsection (1) and substituting "Subject to subsection (2), the commission"; and

(c) by adding the following subsection after subsection (1):

"(2) On and after the coming into force of *The Pension Benefits Act, 1992*, the commission shall provide each member with the information required by that Act".

Section 57 amended

27(1) **Subsection 57(1) is amended by adding the following clauses after clause (e):**

"(f) declaring that any provision of this Act that does not comply with the *Income Tax Act* (Canada) is inoperative to the extent that is necessary to comply with that Act;

"(g) respecting the manner in which the subject matter of a provision that is declared inoperative by a regulation made pursuant to clause (f) is to be administered for the purpose of complying with the *Income Tax Act* (Canada);

"(h) prescribing the types of pension benefits that a member is entitled to elect to purchase where the member elects not to purchase an annuity".

(2) The following subsection is added after subsection (2):

"(3) Notwithstanding any other Act or law, regulations made pursuant to clauses (1)(f) and (g) may be made retroactive to a day not earlier than December 31, 1991".

Section 63 amended

28 **Section 63 is amended by striking out "selected by an employee and purchased by the commission" and substituting "purchased by a member must be one that is permitted pursuant to the *Income Tax Act* (Canada) and *The Pension Benefits Regulations* and approved by the commission".**

Coming into force

29(1) **Subject to subsections (2) and (3), this Act comes into force on January 1, 1993.**

(2) Clause 8(1)(c) comes into force on the day of assent but is retroactive and is deemed to have been in force on and from January 1, 1992.

(3) Subsection 9(3) comes into force on the day of assent but is retroactive and is deemed to have been in force on and from October 9, 1986.