

1994

CHAPTER 18

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

(Assented to May 2, 1994)

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, 1994*.

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 **The following clause is added after clause 2(d):**

"(d.1) **'commuted value'** means:

(i) the value of benefits as of a certain date, determined:

(A) on the basis of actuarial assumptions and methods that are adequate and appropriate and in accordance with generally accepted actuarial principles; and

(B) in accordance with the conditions, if any, that are prescribed by the commission; or

(ii) the moneys that represent the value described in subclause (i)".

Section 3 amended

4 **Section 3 is amended:**

(a) **by renumbering it as subsection 3(1); and**

(b) **by adding the following subsection after subsection (1):**

"(2) Except in the case of a conflict between a provision of this Act and a provision of *The Pension Benefits Act, 1992*, the provisions of that Act apply to the plan".

Section 20 amended

5 **Section 20 is amended:**

(a) **by repealing subsection (3) and substituting the following:**

"(3) A member, on termination of membership in the plan prior to retirement, may elect to receive a refund in an amount not exceeding 50% of the contributions required to be made by the member as of December 31, 1993 together with interest accrued to that day, in partial discharge of the plan's obligation to the member";

(b) **in subsection (4):**

(i) **by striking out "or" after clause (b); and**

(ii) **by adding the following clauses after clause (c):**

"(c.1) to the former plan; or

"(c.2) to the member or former member"; and

(c) **by adding the following subsections after subsection (4):**

"(5) A member may make a transfer, in the manner and to the extent prescribed, of the whole of the commuted value of the member's allowance in accordance with subsection (6) where:

(a) the member is entitled to receive an immediate or deferred allowance pursuant to subsection (1); and

(b) the transfer is requested before the earliest day on which the member could receive an allowance pursuant to this Act.

"(6) The transfer mentioned in subsection (5) may be made to:

(a) another plan that permits the transfer, if any payment from the other plan is a payment that this Act would otherwise require;

- (b) an RRSP that is prescribed in the regulations made pursuant to *The Pension Benefits Act, 1992*;
 - (c) an insurance company to purchase a deferred pension that is not commutable and that will not commence earlier than the earliest day on which an allowance could have commenced pursuant to this Act; or
 - (d) any other retirement plan prescribed in the regulations that is registered pursuant to the *Income Tax Act* (Canada).
- “(7) On making a transfer pursuant to this section, a member is not entitled to any further allowance or benefit pursuant to this Act”.

Section 21 amended

6 Section 21 is amended:

- (a) in subsection (2) by striking out “subsection (2.1)” and substituting “subsections (2.1) to (2.4)”; and**
- (b) by adding the following subsections after subsection (2.1):**

- “(2.2) Where a member who has named his or her spouse as beneficiary dies prior to the earliest day on which he or she could have elected to receive an allowance, an allowance is payable to the surviving spouse, the commuted value of which is equal to the greater of:
- (a) the aggregate of the amounts mentioned in subsection (1); and
 - (b) the accrued pension as if the member had terminated on the date of death.
- “(2.3) Where a member who has named his or her spouse as beneficiary dies after the earliest day on which he or she could have elected to receive an allowance, an allowance is payable to the surviving spouse, the commuted value of which is equal to the greater of:
- (a) the allowance provided pursuant to section 22 as if the date of death was the member's date of retirement; and
 - (b) the aggregate of the amounts mentioned in subsection (1).
- “(2.4) The commission may permit a surviving spouse to transfer the whole of the commuted value of an allowance payable pursuant to this section in accordance with section 20”.

Section 39 amended

7 Section 39 is amended:

- (a) by repealing subsection (1) and substituting the following:**

- “(1) If a retired member dies:
- (a) leaving a surviving spouse:
 - (i) 100% of the allowance to which the retired member was entitled shall be paid to the surviving spouse for the period, if any, remaining in the period of five years from the day of the retired member's retirement; and
 - (ii) after that, 60% of the allowance to which the retired member was entitled shall be paid to the surviving spouse for life;
 - (b) leaving no surviving spouse:
 - (i) 100% of the allowance to which the retired member was entitled shall be paid to any dependant or dependants named by the retired member to receive the amount for the period, if any, remaining in the period of five years from the day of the retired member's retirement; and
 - (ii) after that, 60% of the allowance to which the retired member was entitled shall be paid to any dependant or dependants named by the retired member to receive the amount; or
 - (c) leaving no surviving spouse or other dependant eligible to receive an allowance:
 - (i) 100% of the allowance to which the retired member was entitled shall be paid to the named beneficiary or the estate of the deceased member for the period, if any, remaining in the period of five years from the day of the retired member's retirement; and
 - (ii) where, at date of death, the retired member had not received by way of allowances an amount equal to the amount in the employee contribution account standing to his or her credit in the fund at the date of his or her retirement, the amount by which the employee contribution account exceeds the total of the allowance paid to him or her shall be paid to his or her named beneficiary or estate”; and

- (b) by adding the following subsection after subsection (2):**

- “(3) In this section, ‘surviving spouse’ means the spouse of the retired member on the day of his or her retirement”.

New section 51

8 Section 51 is repealed and the following substituted:

Lump sum payment for small allowances

"51 The commission shall pay to the person entitled to the allowance the commuted value of the allowance in one lump sum where:

- (a) the commuted value of an allowance payable pursuant to this Act does not exceed 4% of the Year's Maximum Pensionable Earnings in effect in the year in which the entitlement occurs; or
- (b) the annual allowance does not exceed 2% of the Year's Maximum Pensionable Earnings in effect in the year in which the entitlement occurs".

New section 53.1

9 The following section is added after section 53:

Division on breakdown of marriage

"53.1(1) Notwithstanding any other provision of this Act, the commission shall, on the breakdown of the marriage of a member or former member, divide an allowance or other payment to which the member or former member is entitled, in accordance with this section.

- (2) Subject to subsection (3), an allowance or other payment benefit shall be divided:
 - (a) where a court has made an order for the division of matrimonial property pursuant to *The Matrimonial Property Act*, in accordance with the order; or
 - (b) where the member or former member and his or her spouse have entered into an agreement to divide their matrimonial property that is an interspousal contract agreement within the meaning of *The Matrimonial Property Act*, in accordance with the interspousal contract agreement.
- (3) A division of an allowance or other payment pursuant to subsection (2) shall not reduce the member's commuted value to less than 50% of the member's commuted value prior to the division.
- (4) The value of the allowance or other payment to be divided shall be calculated by the commission:
 - (a) where the member or former member has not become eligible to receive an allowance without reduction, as the commuted value of the allowance that accrued during the period beginning on the date of the marriage and ending on the date mentioned in the order or agreement, calculated as if the member or former member had terminated membership in the plan on the date mentioned in the order or agreement;
 - (b) where the member or former member is eligible to receive an allowance without reduction, as either the commuted value of the allowance calculated pursuant to clause (a) or as a division of the allowance when it becomes payable, as provided in the order or agreement; or
 - (c) where the member has commenced receiving an allowance, as a division of the allowance in accordance with the order or agreement.
- (5) Where the spouse or former spouse of a member or former member is entitled to a division of the commuted value of an allowance, the portion of the commuted value to which that person is entitled shall be transferred to an RRSP prescribed in the regulations made pursuant to *The Pension Benefits Act, 1992*.
- (6) Where an amount has been transferred to an RRSP in accordance with subsection (5):
 - (a) the person has no further claim or entitlement to any allowance pursuant to this Act;
 - (b) the entitlement of the member or former member is to be calculated on the basis of the commuted value of his or her allowance after the transfer; and
 - (c) neither the commission nor the fund is liable to any person by reason of having complied with an order or agreement mentioned in this section.
- (7) Except where an order or agreement mentioned in subsection (2) has been filed with the commission by the member or former member and his or her spouse or former spouse jointly, the commission shall give a notice in writing to the member or former member that an order or agreement has been filed.
- (8) Unless the commission receives a notice in writing within 30 days of providing the notice mentioned in subsection (7) that the member or former member objects to the division of the pension or benefit on one of the grounds set out in subsection (9), the commission shall comply with the order or agreement.
- (9) The grounds for an objection pursuant to subsection (8) 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.
- (10) A member or former member who submits a notice of objection pursuant to subsection (8) shall include with the notice documentary evidence to establish the grounds for objection.
- (11) Where the commission receives a notice of objection pursuant to subsection (8), the commission shall apply to the court for directions and, subject to subsection (12), the court may make any order that it considers appropriate in the circumstances.
- (12) No order as to costs shall be made against the commission or the fund".

Coming into force

10 This Act comes into force on assent.