

1996

CHAPTER P-36.2

An Act respecting Pensions for Public Employees

(Assented to June 25, 1996)

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 Public Employees Pension Plan Act*.

Interpretation

2 In this Act:

- (a) **“allocated interest”** means the amount allocated by the board, having regard to the revenue accruing to the fund, to 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 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.

Board

3(1) The Supervisory Board of the Public Employees (Government Contributory) Superannuation Plan established by section 39 of *The Superannuation (Supplementary Provisions) Act* is continued as the Public Employees Pension Board.

(2) The board is responsible to the minister and shall administer this Act.

(3) The board consists of seven members appointed by the Lieutenant Governor in Council, including:

- (a) three members representing employees;
- (b) three members representing participating employers; and
- (c) a person nominated by the minister who is to be the chairperson.

(4) The members of the board may elect one of their number to be vice-chairperson to act in the place of the chairperson during the chairperson's absence.

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 representing employees.

Powers of the board

5 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) employ any staff and acquire any goods, services, accommodation and facilities that the board may require in connection with the administration of the plan;
- (c) 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*;

- (d) 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;
- (e) 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;
- (f) charge a fee for any service provided by the board;
- (g) establish policies for:
 - (i) the investment of the assets of the fund; and
 - (ii) the calculation and allocation of revenues accruing to the fund;
- (h) determine rates of interest to be allocated annually to the amounts standing to the credit of members;
- (i) determine rates of interest for the purpose of calculating any amounts payable into or out of the fund.

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.

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.

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 and 16; 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;
- (b) an amount that is permitted or required to be transferred out of the fund;
- (c) refunds of contributions and, where appropriate, allocated interest;
- (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.

Specialty funds

9(1) Subject to the approval of the Lieutenant Governor in Council, the board may 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.

(2) The board may:

- (a) allocate interest to the credit of members with respect to whom an allocation has been made pursuant to subsection (1), having regard to the revenue accruing from the investment of the allocated assets;
- (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.

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.

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.

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).

Contributions not permitted

13(1) No contributions may be made by a member after the end of the calendar year in which the member attains the age of 71 years.

(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.

Members' contributions in particular cases

14(1) A member who has not attained the normal date of retirement 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.

Transfers of contributions from registered pension plans

15 A member who, prior to 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) may elect to transfer to the plan an amount from that pension plan.

Transfers from RRSPs

16 Subject to any terms and 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):

- (a) while the member is employed by a participating employer and required pursuant to section 11 to make contributions to the plan; and
- (b) in the case of a member whose employment by a participating employer terminates, within 90 days after the date of termination.

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 of the month that follows the month with respect to which the contributions are made.

(3) Where any contributions have not been remitted within the period mentioned in subsection (2), the employer shall pay interest on the contributions at a rate determined by the board.

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 after one year of membership 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 allocated interest on those contributions, are deemed to be locked in on and after January 1, 1998.
- (4) A member whose contributions are not locked in, who terminates employment with a participating employer and who does not commence employment with another participating employer within 15 days after the date of termination is entitled to a refund of contributions made by the member, together with allocated interest on those contributions, and the board may require that the refund be taken.
- (5) Where a member receives a refund pursuant to subsection (4), the board shall calculate the amount of the contributions made by the participating employer with respect to the contributions refunded to the member, together with allocated interest on those contributions, and the board shall:
- (a) refund the amount to the participating employer;
 - (b) apply the amount to the cost of administering the plan; or
 - (c) refund a portion of the amount to the participating employer and apply the remaining portion of the amount to the cost of administering the plan.
- (6) All amounts transferred to the fund pursuant section 15 or 16 or pursuant to a reciprocal agreement, together with allocated interest 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.

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 interest 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 interest 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 interest.

(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.

Payment on retirement

20(1) Subject to subsections (2) to (5), 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 55 years, where the member has made contributions to the plan for a period of at least one year;
- (b) at any time after the day on which the member has contributed to the plan for 35 years; or
- (c) on a date fixed by an order of the Lieutenant Governor in Council.

(3) Subject to subsection (2), unless a member is otherwise entitled to continue being employed by a participating employer, a member shall retire on the normal date of retirement.

(4) If a member has not retired before the end of the calendar year in which the member attains the age of 71 years, the board shall transfer the amount standing to the credit of the member to the annuity fund to provide the member with a prescribed guaranteed life annuity.

(5) A member who has a spouse is required to receive a pension benefit that provides for a prescribed pension benefit 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.

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 to 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).

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.

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, 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*:

(a) pension benefits, as they become payable, are subject to garnishment 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).

Division on marriage breakdown

24(1) On the breakdown of the marriage 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 matrimonial property pursuant to *The Matrimonial 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 Matrimonial 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 must 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 55 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).

(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.

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.

(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.

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;
 - (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.
- (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.

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.

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.

Tabling of documents

29(1) In each fiscal year, the board shall, in accordance with *The Tabling of Documents Act, 1991*, 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 *The Tabling of Documents Act, 1991*, the minister shall lay before the Assembly each report and financial statement received by the minister pursuant to subsection (1).

Coming into force

30 This Act comes into force on proclamation.