

**1998**

**CHAPTER 26**

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

(Assented to June 11, 1998)

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' Pension Amendment Act, 1998*.

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

**2** *The Municipal Employees' Pension 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:

(i) in the case of a member who has three years of contributory service or more, the greater of:

(A) the total salary of the member during the three years of highest salary with respect to which contributions were made, including salary for service before the effective date, divided by three; and

(B) the total amount that the member would have received during the three years in which the highest salary occurred if the member had been employed for the entire year at the average monthly rate of salary at which the member was paid during the months with respect to which contributions were made during that year, including salary for service before the effective date, divided by three; and

(ii) in the case of a member who has less than three years of contributory service, the total salary of the member during the member's period of service, including salary for service before the effective date, divided by the number of years of contributory service, including any fractional year of contributory service”; **and**

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

“(f) ‘**contributory service**’ means service for which an employee receives remuneration from an employer and makes the required contributions as specified by this Act, and includes:

- (i) periods of absence due to illness or disability:
  - (A) for which the employee makes the required contributions; or
  - (B) with respect to which the requirement to make contributions has been waived pursuant to subsection 16(1.31); and
- (ii) one-half of any period of actual service with an employer that the member was required to complete pursuant to section 14, as it existed at the relevant time, before becoming a member”.

**Section 16 amended**

**4 The following subsections are added after subsection 16(1.3):**

“(1.31) Notwithstanding any other provision of this Act, where an employee is absent from work due to illness or disability, the commission may, on the application of the employee, waive the requirements of the employee and the employer to make contributions with respect to the period of absence.

“(1.32) The commission may establish guidelines for the making of decisions pursuant to subsection (1.31)”.

**Section 16.1 amended**

**5 Subsection 16.1(1) is repealed and the following substituted:**

“(1) A member who, pursuant to section 14 as it existed at the relevant time, was required to complete a period of actual service with an employer before becoming a member may elect to count one-half of that period of service as contributory service if the member:

- (a) did not retire before January 1, 1998; and
- (b) gives written notice to the commission of his or her election not later than December 31, 1998”.

**New section 22**

**6 Section 22 is repealed and the following substituted:**

**“Allowance on retirement on or after normal retirement age**

**22(1)** Subject to section 23.01, a member who retires on or after attaining the normal retirement age is entitled to receive an allowance in an amount determined in accordance with this section.

(2) Where a member retires before January 1, 1993, the allowance is equal to the total of the following amounts, calculated for each year and fractional year of contributory service prior to retirement:

- (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).

(3) Subject to subsection (4), where a member commences employment before January 1, 1993 and retires before July 1, 1998, the allowance is the greater of:

(a) the total of the following amounts, calculated for each year and fractional year of contributory service prior to retirement:

(i) 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

(ii) 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 subclause (i); and

(b) 1.5% of the member's average highest salary for each year and fractional year of contributory service prior to retirement.

(4) Where a member who is employed as a police officer or firefighter commences employment before January 1, 1993 and retires before July 1, 1998, the allowance is the greater of:

(a) the total of the following amounts, calculated for each year and fractional year of contributory service prior to retirement:

(i) 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

(ii) 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 subclause (i); and

(b) 1.7% of the member's average highest salary for each year and fractional year of contributory service prior to retirement.

(5) Subject to subsection (6), where a member commences employment on or after January 1, 1993 and retires before July 1, 1998, the allowance is the total of the amounts equal to 1.5% of the member's average highest salary for each year and fractional year of contributory service prior to retirement.

(6) Where a member who is employed as a police officer or firefighter commences employment on or after January 1, 1993 and retires before July 1, 1998, the allowance is the total of the amounts equal to 1.7% of the member's average highest salary for each year and fractional year of contributory service prior to retirement.

(7) Subject to subsection (8), where a member commences employment before January 1, 1993 and retires on or after July 1, 1998, the allowance is the total of:

(a) with respect to service prior to January 1, 1990, the greater of:

(i) the total of the following amounts, calculated for each year and fractional year of contributory service:

(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 paragraph (A); and
    - (ii) 1.8% of the member's average highest salary for each year and fractional year of contributory service prior to retirement; and
  - (b) with respect to service on and after January 1, 1990, the greater of:
    - (i) the total of the following amounts, calculated for each year and fractional year of contributory service prior to retirement:
      - (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 paragraph (A); and
      - (ii) 1.5% of the member's average highest salary for each year and fractional year of contributory service prior to retirement.
- (8) Where a member who is employed as a police officer or firefighter commences employment before January 1, 1993 and retires on or after July 1, 1998, the allowance is the total of:
  - (a) with respect to service prior to January 1, 1990, the total of the amounts equal to 2% of the member's average highest salary for each year and fractional year of contributory service; and
  - (b) with respect to service on and after January 1, 1990, the greater of:
    - (i) the total of the following amounts, calculated for each year and fractional year of contributory service prior to retirement:
      - (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 paragraph (A); and
      - (ii) 1.7% of the member's average highest salary for each year and fractional year of contributory service prior to retirement.
- (9) Subject to subsection (10), where a member commences employment on or after January 1, 1993, the allowance is the total of the amounts equal to 1.5% of the member's average highest salary for each year and fractional year of contributory service prior to retirement.
- (10) Where a member who is employed as a police officer or firefighter commences employment on or after January 1, 1993, the allowance is the total of the amounts equal to 1.7% of the member's average highest salary for each year and fractional year of contributory service prior to retirement.

(11) The allowance resulting from a calculation pursuant to this section 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).

(12) 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**

**7(1) Subsection 23(1) is amended by striking out “A member” and substituting “Subject to section 23.01, a member”.**

**(2) Subsection 23(1.1) is amended by striking out “A member” and substituting “Subject to section 23.01, a member”.**

**(3) Subsection 23(1.2) is amended by striking out “A member” and substituting “Subject to section 23.01, a member”.**

**(4) Subsection 23(2) is amended by striking out “A member” and substituting “Subject to section 23.01, a member”.**

**New section 23.01**

**8 The following section is added after section 23:**

**“Alternate calculation of allowances**

**23.01(1)** In this section, ‘**allowance**’ means an allowance to which a member is entitled pursuant to section 22 or 23.

(2) The commission shall:

(a) calculate an allowance in accordance with subsections (3) and (4) with respect to a member who:

(i) is paid an amount with respect to salary in a month that exceeds the monthly rate of salary; and

(ii) retires prior to December 1, 1998; and

(b) pay to a member described in clause (a) the greater of:

(i) the member’s allowance calculated pursuant to section 22 or 23; and

(ii) the member’s allowance calculated pursuant to this section.

(3) For the purposes of subsection (2), the commission shall calculate the allowance of a member as if:

(a) the amount paid to the member in the month were the salary of the member for the purpose of calculating the member’s average highest salary;

(b) the average highest salary were calculated in accordance with the definition of ‘average highest salary’ as it existed on December 31, 1997; and

(c) the amount paid to the member in the month did not include any amount that would not, in the opinion of the commission, be within the definition of salary.

(4) For the purposes of subsection (2), the commission may from time to time, subject to any criteria prescribed in the regulations, recalculate an allowance calculated in accordance with subsection (3) to take into account:

(a) the amount of any additional allowance provided pursuant to section 59.1 after January 1, 1998; and

(b) the amount of any increase to an allowance provided by an amendment to this Act that comes into force after January 1, 1998”.

**Section 57 amended**

**9 The following clause is added after clause 57(1)(c):**

“(c.1) for the purposes of subsection 23.01(4), prescribing criteria governing the circumstances in which the commission may recalculate allowances”.

**Coming into force**

**10(1)** Subject to subsections (2) and (3), this Act comes into force on assent.

(2) Subject to subsection (3), sections 3 and 4 of this Act come into force on July 1, 1998.

(3) Subclause 2(f)(ii) of *The Municipal Employees' Pension Act*, as being enacted by clause 3(b) of this Act, and sections 5, 7, 8 and 9 of this Act come into force on assent but are retroactive and are deemed to have been in force on and from January 1, 1998.