

The Municipal Employees' Pension Act

being

Chapter M-26 of *The Revised Statutes of Saskatchewan, 1978*, (effective February 26, 1979) as amended by *The Revised Statutes of Saskatchewan, 1978 (Supplement) c.44*, and the *Statutes of Saskatchewan, 1979, c.41; 1979-80, c.5; 1982-83, c.41; 1983, c.20 and 77; 1983-84, c.16; 1984-85-86, c.77 and 100; 1988-89, c.20, 41, 44 and 47; 1989-90, c.54; 1990-91, c.C-8.1 and 23; 1992, c.P-6.001 and 71; 1993, c.22, 32 and 55; 1994, c.18; 1995, c.25; 1996, c.9, 15 and 52; 1997, c.14; 1998, c.26; 1999, c.22; 2000, c.18; 2001, c.50 and c.51; 2002, c.35; 2003, c.31; 2004, c.17; 2005, c.M-36.1; 2007, c.31 and 39; 2008, c.16; 2010, c.E-9.22; 2012, c.14; 2013, c.W-17.11 and c.18; 2014, c.E-13.1; 2015, c.21; 2018, c.23; 2020, c.3; and 2023, c.24.*

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 M-26

An Act respecting Pensions for Certain Employees of Municipalities, Larger School Units and other Institutions

SHORT TITLE

Short title

1 This Act may be cited as *The Municipal Employees' Pension Act*.

R.S.S. 1978, c.M-26, s.1; 1995, c.25, s.4.

INTERPRETATION

Interpretation

2 In this Act:

- (a) **“allowance”** means an annual sum of money granted under this Act or a former Act;
- (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;
- (c) **“child”** includes a step-child and an adopted child;
- (d) **“commission”** means The Municipal Employees' Pension Commission;

- (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);
- (e) **“continuous service”** means:
- (i) with respect to the period ending on December 31, 2000, the amount of continuous service credited to the employee on that date; and
 - (ii) with respect to the period commencing on January 1, 2001:
 - (A) in the case of an employee described in subsection 2.1(2) or (3), an amount equal to one full year for each academic year in which the employee meets the requirements of subsection 2.1(2);
 - (B) in the case of an employee described in subsection 2.1(3.1), an amount equal to the employee’s contributory service; and
 - (C) in any other case, an amount equal to the total of the pay periods with respect to which the employee is credited with contributory service;
- (f) **“contributory service”** means service for which an employee makes the contributions required by this Act, and includes:
- (i) periods of absence:
 - (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);
 - (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; and
 - (iii) periods that the employee is entitled to count as contributory service pursuant to section 2.1;
- (g) **“council”** means the council of a municipality to which this Act applies;
- (h) **Repealed.** 1992, c.71, s.3.
- (i) **“deferred life annuity”** means a life annuity that commences at retirement date;
- (j) **Repealed.** 2004, c.17, s.3.

- (k) **“dependant”** means any of the following:
- (i) a child under the age of 18 years;
 - (ii) an unmarried child under the age of 21 years who is attending an approved educational institution on a full-time basis;
 - (iii) the surviving spouse of an employee;
- (l) **“effective date”** means the first day of July, 1973;
- (m) **“employee”** means an individual who performs services for an employer but does not include any teacher as defined by *The Teachers Superannuation and Disability Benefits Act*;
- (n) **“employee additional contribution account”** means all contributions made under a former Act by an employee on a voluntary basis together with interest standing to the credit of the employee as at the thirtieth day of June, 1973, and includes any voluntary additional contributions made on or after the first day of July, 1973, together with accumulated interest;
- (o) **“employee annuity account”** means all contributions required to be made under a former Act by an employee and includes accumulated interest standing to the credit of an employee as at the thirtieth day of June, 1973;
- (p) **“employee annuity surplus account”** means all moneys standing to the credit of an employee, including accumulated interest, as at the thirtieth day of June, 1973, derived from the distribution of unallocated employer contributions under a former Act;
- (q) **“employee contribution account”** means the account set up to record employee contributions required to be made under this Act and includes accumulated interest;
- (r) **“employer”** includes:
- (i) every municipality and the northern settlement of Uranium City;
 - (ii) every board of education as defined in *The Education Act, 1995*;
 - (iii) the conseil scolaire as defined in *The Education Act, 1995*;
 - (iii.1) the SDLC as defined in *The Education Act, 1995*;
 - (iv) the board of every regional library as defined in *The Public Libraries Act, 1996*;
 - (v) the Saskatchewan School Boards Association;
 - (vi) the Saskatchewan Association of Rural Municipalities;
 - (vii) the Saskatchewan Municipal Hail Insurance Association;
 - (viii) the Saskatchewan Urban Municipalities Association;
 - (ix) any other groups or organizations that may be designated by regulation of the Lieutenant Governor in Council;

- (s) **“employer additional contribution account”** means the sum of all contributions made voluntarily by an employer under a former Act on behalf of an employee, with interest, as at the thirtieth day of June, 1973, and includes any additional voluntary contributions made by an employer on behalf of an employee on or after the first day of July, 1973, and accumulated interest;
- (t) **“employer annuity account”** means the sum of all contributions required to be made under a former Act on behalf of an employee by an employer and accumulated interest, as at the thirtieth day of June, 1973;
- (u) **“equity account”** means the sum of the employee annuity account together with the vested portions of the employer annuity account and the employee annuity surplus account with accumulated interest;
- (v) **“former Act”** means *The Municipal Employees’ Superannuation Act*, being chapter 180 of *The Revised Statutes of Saskatchewan, 1965* or any former *Municipal Employees’ Superannuation Act* or *Urban Employees’ Superannuation Act*;
- (v.1) **“former plan”** means the pension scheme provided by a former Act;
- (w) **“fund”** means The Municipal Employees’ Pension Fund;
- (x) **“member”** means an employee who has joined the plan and is entitled to benefits thereunder;
- (y) **“minister”** means the member of the Executive Council to whom for the time being is assigned the administration of this Act;
- (z) **“normal retirement age”** means:
- (i) the sixtieth birthday for designated firefighters and police officers;
 - (ii) the sixty-fifth birthday for all other members;
- (aa) **“normal retirement date”** means the first day of the month immediately following the month in which normal retirement age is attained;
- (bb) **“plan”** means the pension scheme provided by this Act;
- (cc) **“salary”** means the regular remuneration received by an employee for service rendered, whether as periodic payments or commissions and whether paid as earned or on a deferred basis, but does not include remuneration received by an employee with respect to overtime worked or in the form of a bonus;
- (cc.1) **“spouse”** means:
- (i) a person who is married to an employee; or
 - (ii) if an employee 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;

(dd) **“voluntary equity account”** means the sum of the employee additional contribution account together with the vested portion of the employer additional contributions, if any, with accumulated interest;

(ee) **“year’s maximum pensionable earnings”** has the meaning given to it by the *Canada Pension Plan*.

R.S.S. 1978, c.M-26, s.2; 1979, c.41, s.3; 1979-80, c.5, s.3; 1983, c.77, s.46; 1988-89, c.47, s.3; 1989-90, c.54, s.4; 1990-91, c.23, s.3; 1992, c.71, s.3; 1993, c.55, s.181; 1994, c.18, s.3; 1995, c.25, s.5; 1997, c.14, s.3; 1998, c.26, s.3; 1999, c.22, s.3; 2000, c.18, s.3; 2001, c.50, s.11; 2003, c.31, s.3; 2004, c.17, s.3; 2005, c.M-36.1, s.441; 2018, c.23, s.3; 2023, c.24, s.2.

Contributory service

2.1(1) In this section:

(a) **“academic year”** means, with respect to an employer that is a board of education, the conseil scolaire or the SDLC within the meaning of *The Education Act, 1995* or a regional college within the meaning of *The Regional Colleges Act*, a period that:

(i) is the regular period of annual employment of a full-time employee who provides educational services; and

(ii) is not less than 10 consecutive months;

(b) **“unit of service”** means a number of hours of service provided by an employee that is equal to the number of hours of service that a full-time employee of the employer would regularly provide in a week, but that is not less than 30 hours.

(2) Subject to subsections (3) to (5), an employee is entitled to count as one full year of contributory service every academic year in which the employee:

(a) is employed continuously by an employer pursuant to a contract of employment that requires the employee to provide services for an academic year; and

(b) contributes to the plan with respect to not less than 10 months in the academic year.

(3) An employee who meets the requirements of clauses (2)(a) and (b) but is not a full-time employee may count as contributory service that proportion of an academic year that the service provided by the employee during the academic year bears to the service that the employee would have provided if the employee had been a full-time employee during the academic year.

(3.1) An employee who is a full-time or part-time employee pursuant to a contract of employment that requires the employee to provide services for a portion of an academic year is entitled to count as contributory service that proportion of an academic year that the period of service provided by the employee during the academic year bears to the academic year.

(3.2) An employee described in subsection (3.1) who has not terminated employment with the employer may apply to the commission to have his or her contributory service with the employer recalculated in accordance with that subsection with respect to a period of time before the coming into force of that subsection.

(4) With respect to service provided during the period commencing on January 1, 2001 and ending on April 28, 2014, an employee of a rural municipality to whom sections 6 and 12 of *The Labour Standards Act* do not apply is entitled to count as one full week of contributory service every unit of service with respect to which the employee received salary.

(4.1) With respect to service provided on or after April 29, 2014, an employee of a rural municipality to whom sections 2-12, 2-17, 2-18 and 2-19 of *The Saskatchewan Employment Act* do not apply is entitled to count as one full week of contributory service every unit of service with respect to which the employee received salary.

(5) No period of contributory service that an employee is entitled to count pursuant to this section shall be combined with any other service to provide the employee with more than one year of contributory service in a year.

(6) With respect to service provided on or after January 1, 2017, an employee is entitled to count as one full week of contributory service every unit of service with respect to which the employee received salary in a pay period.

2000, c.18, s.4; 2003, c.31, s.4; 2004, c.17, s.4;
2018, c.23, s.4; 2023, c.24, s.2.

APPLICATION OF THIS ACT

Application of Act

3(1) This Act applies to:

- (a) employees who are designated by an employer or are deemed to have been designated as permanent employees;
- (b) employees who are designated by an employer as non-permanent employees and:
 - (i) have worked for an employer for 700 hours or more in each of two consecutive years; or
 - (ii) in the case of employees who are employed by an employer on or after January 1, 2001, do not meet the requirements of subclause (i) but have elected to participate in the plan; and
- (c) employees to whom this Act applied on December 31, 1990.

(1.1) An employer must designate an employee as a permanent employee unless there is a contract of employment, express or implied, that specifies a date for the termination of employment and that does not provide for the resumption of employment after termination.

(1.2) Where an employer fails to designate an employee as a permanent employee or a non-permanent employee, the employee is deemed to have been designated as a permanent employee.

(1.3) Where the commission has transferred assets of the fund to a registered pension plan within the meaning of the *Income Tax Act* (Canada) pursuant to a partial termination of the plan pursuant to *The Pension Benefits Act, 1992*, and that registered pension plan is administered by an employee's employer, this Act does not apply to the employee with respect to the employee's membership in that registered pension plan.

(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.

1990-91, c.23, s.4; 1994, c.18, s.4; 2000, c.18, s.5.

Mandatory retirement prohibited

3.1 Notwithstanding anything in this Act, no employee shall be required to retire at a specific age.

2007, c.39, s.6.

Application to participate

4(1) An employer who is exempted from the provisions of this Act by the Lieutenant Governor in Council, or who was exempted under the provisions of the former Act, may apply in writing to the commission for permission to participate in the plan.

(2) Where the commission, after such investigation as it considers necessary, is of opinion that the employer should be permitted to participate in the plan it may recommend to the Lieutenant Governor in Council that the employer be permitted to participate in the plan.

(3) Upon receipt of a recommendation from the commission under subsection (2) the Lieutenant Governor in Council may declare that on and from the date prescribed therefor in the order the employer shall be subject to this Act.

(4) An employer who is declared by the Lieutenant Governor in Council to be subject to this Act shall participate in the plan from the date prescribed therefor in the order.

R.S.S. 1978, c.M-26, s.4.

Application by exempted employer to participate

5(1) An employer who submits an application to the commission under section 4 shall, at his or her own cost, supply the commission with such information as the commission considers necessary for the purpose of deciding whether a recommendation should be made to the Lieutenant Governor in Council with respect to the application.

(2) The commission shall, within three months from the date of the receipt by it of the application and all other information required by it, either reject the application or recommend to the Lieutenant Governor in Council that an order do issue permitting the employer to participate in the plan.

(3) Forthwith after it has reached its decision the commission shall notify the employer, in writing, by registered mail, of its decision on the application to participate in the plan.

R.S.S. 1978, c.M-26, s.5; 2018, c.23, s.5.

Applies to new employers

6(1) Subject to subsection (2), any employer coming into existence on or after the effective date is subject to this Act.

(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 amount, determined by the commission 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.

R.S.S. 1978, c.M-26, s.6; 1992, c.71, s.4; 1996, c.52, s.3.

ADMINISTRATION

Composition of commission

7(1) The Municipal Employees' Pension Commission is continued.

(2) The commission shall administer this Act.

(3) A person who was a member of the commission immediately before the coming into force of this section ceases to be a member of the commission on the coming into force of this section unless the person is reappointed pursuant to subsection (4) or (5).

(4) The commission consists of:

- (a) the following persons who are deemed to be employer representatives:
 - (i) one person appointed by the Saskatchewan Urban Municipalities Association;
 - (ii) two persons appointed by the Saskatchewan School Boards Association;
 - (iii) one person appointed by the Saskatchewan Association of Rural Municipalities;

- (iv) one person appointed by associations that represent regional colleges as defined in *The Regional Colleges Act* and regional libraries as defined in *The Public Libraries Act, 1996*;
 - (v) one person appointed by the cities of Estevan, North Battleford, Prince Albert, Swift Current and Yorkton, and any other employer prescribed in the regulations, if the employer employs persons designated as firefighters or police officers; and
- (b) the following persons who are deemed to be employee representatives:
- (i) one person appointed by the Rural Municipal Administrators' Association of Saskatchewan;
 - (ii) one person appointed by the Saskatchewan Association of School Business Officials;
 - (iii) one person appointed by the Urban Municipal Administrators Association of Saskatchewan;
 - (iv) one person appointed by the Saskatchewan locals of trade unions that represent employees who are members of the plan, other than members mentioned in subclauses (v) and (vi);
 - (v) one person appointed by associations that represent firefighters and police officers who are members of the plan;
 - (vi) one person appointed by the Saskatchewan locals of the Canadian Union of Public Employees that represent employees who participate in the plan.
- (5) If there is a dispute with respect to the appointment of a member pursuant to subclause (4)(a)(iv) or (v) or subclause (4)(b)(iv), (v) or (vi), the minister shall appoint an arbitrator and the arbitrator shall:
- (a) conduct an arbitration in which the parties are the associations or trade unions that the member is to represent;
 - (b) determine who should be appointed to represent the associations or trade unions; and
 - (c) appoint the member.
- (6) Subject to subsections (7) and (8), a member of the commission:
- (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 commission to be appointed after the coming into force of this section is two years.
- (8) If the associations or trade unions that appoint members of the commission are unable to agree amongst themselves which members of the commission are to serve a two-year term pursuant to subsection (7), the commission 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 employer and employee representatives.

(9) Subject to subsection (10), on or before December 31, 2018 and every two years after that, the commission shall elect a chairperson and a vice-chairperson for a term of two years commencing on January 1 of the following year.

(9.1) **Repealed.** 2018, c.23, s.6.

(10) The members elected as chairperson and vice-chairperson must be selected alternately from the employer representatives and the employee representatives so that:

- (a) the chairperson and vice-chairperson who hold office at the same time are not representatives of the same group; and
- (b) the successor to a chairperson or vice-chairperson is not a representative of the same group as the person to whom he or she is the successor.

(10.1) If the position of chairperson or vice-chairperson becomes vacant, the commission shall elect a member as the new chairperson or new vice-chairperson, as the case may be, who is a representative from the same group as the person who vacated the position, to serve for the remainder of the two-year term.

(11) The chairperson or vice-chairperson and five other members of the commission constitute a quorum.

(12) The chairperson may call meetings of the commission whenever the chairperson considers it necessary to do so for the proper administration of this Act.

(13) On or before September 1, 2005 and every five years thereafter, the minister shall cause a review to be made of the composition of the commission.

(14) The cost of a review pursuant to subsection (13) is a charge on, and payable out of, the fund.

2003, c.31, s.5; 2007, c.31, s.3; 2013, c.18, s.3;
2018, c.23, s.6.

Majority and restriction on liability

7.01(1) Subject to subsection (2), a decision or any other action taken at a meeting of the commission constitutes a decision or action of the commission if it is voted for or approved by a majority of the members of the commission present at the meeting.

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

2013, c.18, s.4.

Powers of commission

7.1(1) The commission may:

- (a) charge a fee for any service provided by the commission;
 - (b) establish policies for:
 - (i) the investment of the assets of the fund; and
 - (ii) the calculation and allocation of revenues accruing to the fund;
 - (c) determine the amount of any allowance payable pursuant to this Act;
 - (d) settle or compromise any debt or obligation arising out of the administration of the plan or the fund;
 - (e) with respect to all or any part of an allowance, suspend payment to or withhold payment from any person who is indebted to the fund or has received a payment out of the fund to which the person was not entitled.
- (2) No action or proceeding lies or shall be commenced against the commission or a member of the commission for any loss or damage suffered by any person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by any of them pursuant to or in the exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any duty imposed by this Act or the regulations.

2000, c.18, s.6.

Transfer of pension credits

8 The commission may enter into agreements with persons representing any pension plan that is registered pursuant to the *Income Tax Act* (Canada) and who have the necessary authority to provide for the transfer of pension credits and contributions between this plan and the registered plan.

R.S.S. 1978, c.M-26, s.8; 1992, c.71, s.5.

Executive officer and staff

9(1) The staff of the commission shall consist of an executive secretary, an assistant to the executive secretary and such clerks and assistants as may be required for the proper administration of this Act.

(2) Either the executive secretary or the assistant to the executive secretary shall act as secretary at all meetings of the commission and shall be:

- (a) responsible for all day to day procedures in the administration of this Act;
- (b) subject to the direction and instructions of the commission.

(3) **Repealed.** 1992, c.71, s.6.

R.S.S. 1978, c.M-26, s.9; 1979-80, c.5, s.5; 1992, c.71, s.6.

Costs of administration

10(1) Repealed. 1988-89, c.41, s.4.

(2) The expenses of administering this Act including the remuneration and allowances payable to the members of the commission and the salaries of the executive secretary and the staff of the commission shall be a charge on and paid out of the fund.

(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.

R.S.S. 1978, c.M-26, s.10; 1988-89, c.41, s.4;
1992, c.71, s.7; 1995, c.25, s.7.

THE MUNICIPAL EMPLOYEES' SUPERANNUATION FUND

Fund continued

11(1) The Municipal Employees' Superannuation Fund is continued as the Municipal Employees' Pension Fund.

(2) The fund shall consist of:

(a) all moneys, investments and other assets of the fund including any reserve or other accounts and all moneys receivable from employers and employees as at June 30, 1973;

(b) all contributions to be made by employers and employees pursuant to this Act;

(c) all interest and other revenue from time to time accruing to the fund from investments made of the moneys of the fund; and

(d) all assets transferred into the fund in accordance with sections 47 and 48.

1995, c.25, s.8.

Allowances, etc., charge on fund

12(1) All benefits granted under a former Act and all allowances, payments and refunds under this Act shall be a charge upon and payable out of the fund in the manner provided in this Act.

(2) The commission may engage consultants and experts to make actuarial studies of the plan from time to time in order to determine the adequacy of the fund and the contributions made to it and to improve the administration of the plan, and the cost of such studies and other expenses related thereto shall be payable out of the fund.

R.S.S. 1978, c.M-26, s.12.

Moneys of the fund

13(1) All moneys in the fund, or hereafter received for the fund, shall be paid to and shall be held in trust by the commission, and the commission shall invest such moneys in securities authorized under *The Pension Benefits Act, 1992*.

(2) The commission shall annually submit to the minister a financial report with respect to the investment activities of the fund for the preceding year and shall include in the report a summary of the securities in which moneys of the fund are invested and the amount invested in each kind of security as at the end of the year.

(3) The commission may dispose of all or any assets in which the fund has been invested pursuant to subsection (1) in any manner and on any terms that it considers appropriate.

(4) The commission may:

- (a) enter into any agreement;
- (b) engage the services or retain any technical, professional or other adviser, specialist or consultant; or
- (c) do any other things;

that it considers necessary for the purposes of managing, investing or disposing of all or any part of the assets of the fund.

(5) The:

- (a) costs incurred pursuant to subsection (4) in; and
- (b) other expenses related to;

managing, investing or disposing of all or any part of the assets of the fund are a charge on and payable out of the fund.

R.S.S. 1978, c.M-26, s.13; 1979-80, c.5, s.6; 1982-83, c.41, s.3; 1988-89, c.44, s.7; 1992, c.P-6.001, s.75.

ELIGIBILITY**Eligibility of employees**

14(1) All employees who were, on the thirtieth day of June, 1973, participants of the pension scheme provided by the Act repealed by this Act become members of the plan on the effective date.

(2) Subject to subsection (4) and section 3, an employee who is not a participant of the pension scheme provided by *The Municipal Employees' Superannuation Act*, being chapter 180 of *The Revised Statutes of Saskatchewan, 1965*, and who was in the service of an employer on July 1, 1973 or who subsequently enters the service of an employer becomes a member of the plan:

- (a) in the case of an employee who is designated by an employer as a permanent employee or who is deemed to be a permanent employee, on the later of:
 - (i) the first day of service with the employer; and
 - (ii) January 1, 1993; and

- (b) in the case of an employee who is designated by an employer as a non-permanent employee, on the earlier of:
- (i) the day on which the employee completes the requirement set out in subclause 3(1)(b)(i); and
 - (ii) the day on which the employee elects to participate in the plan.
- (3) Subject to subsection (4), a member who terminates his or her service with an employer and becomes employed by another employer shall again become a member on his or her first day of service with the new employer if:
- (a) the period between his or her former service and the service with the new employer does not exceed two years; and
 - (b) he or she has not been issued a refund in accordance with section 20 or 37.
- (4) Where, before the expiry of the two-year period mentioned in subsection (3), the commission receives a written request from or on behalf of an employee for an extension of time beyond that period, the commission may grant an extension for any period that the commission sees fit if the commission is satisfied that there are reasonable grounds for the extension.
- (5) **Repealed.** 1979-80, c.5, s.7.
- (6) **Repealed.** 1979-80, c.5, s.7.
- (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.
- (8) An employee who is denied the right to participate in the plan may appeal such rejection to the commission in writing, which, after reviewing the facts and any submissions made by or on behalf of the appellant, shall determine the matter and shall make its decision known to the appellant within thirty days after the commission has reviewed the matter.

R.S.S. 1978, c.M-26, s.14; 1979-80, c.5, s.7; 1983-84, c.16, s.15; 1990-91, c.23, s.5; 1992, c.71, s.8; 1993, c.32, s.3; 1996, c.52, s.4; 2000, c.18, s.7; 2018, c.23, s.7.

Limitation on contributions

15 A member is not entitled to make contributions or to have contributions made by an employer under this Act in respect of salary on which the member is making contributions by payroll deduction to any other employee group pension plan other than under the *Canada Pension Plan*.

R.S.S. 1978, c.M-26, s.15; 2018, c.23, s.8.

15.1 Repealed. 1999, c.22, s.5.

CONTRIBUTIONS

Rate of contributions

16(1) For the period ending on December 31, 1988, there shall be deducted from the salary of each member as a contribution to the fund an amount equal to 7% of that salary less any amount that is required to be remitted pursuant to the *Canada Pension Plan*.

(1.1) For the period commencing on January 1, 1989 and ending on December 31, 1990, there shall be deducted from the salary of each member as a contribution to the fund an amount equal to the difference between:

- (a) 7% of the member's salary; and
- (b) 1.8% of the member's maximum earnings less the member's basic exemption pursuant to the *Canada Pension Plan*.

(1.2) Notwithstanding subsections (1) and (1.1), when the maximum contributions required pursuant to the *Canada Pension Plan* have been made by a member for any year, there shall be deducted from the member's salary for the remainder of the year as a contribution to fund an amount equal to 7% of the member's salary for the remainder of the year.

(1.3) On and from January 1, 1991, there shall be deducted from the salary of each member an amount determined in accordance with regulations made pursuant to subsection 57(2).

(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).

(1.33) Notwithstanding any other provision of this Act, if, pursuant to subsection (1.31), the commission has waived the requirements of the employee and the employer to make contributions, the commission may require the employee to request the Workers' Compensation Board to pay into the fund, pursuant to clause 73(5)(b) of *The Workers' Compensation Act, 2013*, the amount set aside by the Workers' Compensation Board pursuant to subsection 73(3) of that Act with respect to the period for which contributions are waived.

(1.34) Notwithstanding any other provision of this Act, where the amount mentioned in subsection (1.33) is not paid into the fund, the commission shall, with respect to the period for which contributions are waived, reduce the amount of any allowance, refund of contributions or transfer out of the fund to which the employee becomes entitled by the amount determined by the commission to be the value of any annuity to which the employee may be entitled pursuant to *The Workers' Compensation Act, 2013* with respect to the same period.

(1.35) The commission may establish guidelines for the calculation of the amounts mentioned in subsection (1.34).

- (1.4) No employee is required to make contributions in a year that exceed:
- (a) the maximum contributions prescribed by the *Income Tax Act* (Canada) with respect to the employee for the year; or
 - (b) the amount of contributions that the employer is required to make 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.
- (2) Where an employer has determined and notified the commission that any employee who is a police officer or a firefighter shall retire upon reaching the age of sixty years there shall be deducted from the salary of such employee as a contribution to the fund a further one and one-half per cent of the employee's salary in addition to the contribution required under subsection (1).
- (2.1) Notwithstanding subsections (1), (1.1), (1.2), (1.3) and (2), where an employer has determined and notified the commission that an employee who is a police officer or a firefighter shall retire on reaching the age of 60 years, there shall be deducted from the salary of the employee as a contribution to the fund:
- (a) for the period commencing on January 1, 1993 and ending on December 31, 1993, an amount equal to 7.3% of the employee's salary; and
 - (b) for the period commencing on January 1, 1994, an amount determined in accordance with the regulations.
- (3) Subject to subsection (3.1), an employee may make additional voluntary contributions to the former plan but no such contributions may exceed the maximum permitted under the *Income Tax Act* (Canada).
- (3.1) No additional voluntary contributions mentioned in subsection (3) shall be made after October 9, 1986.
- (4) **Repealed.** 1992, c.71, s.9.
- (5) Voluntary contributions made by an employee under this Act or any former Act must not be refunded to the employee while he or she remains in the service of the employer.

R.S.S. 1978, c.M-26, s.16; 1979, c.41, s.4; 1979-80, c.5, s.8; 1988-89, c.47, s.4; 1990-91, c.23, s.6; 1992, c.71, s.9; 1993, c.32, s.4; 1996, c.52, s.5; 1998, c.26, s.4; 1999, c.22, s.6; 2002, c.35, s.3; 2004, c.17, s.5; 2013, c.W-17.11, s.189 and 193; 2018, c.23, s.9.

Purchase of service by certain members

16.1(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) either:
 - (i) gives written notice to the commission of his or her election not later than December 31, 1998; or
 - (ii) in the case of a member who is entitled to a deferred allowance, gives written notice to the commission of his or her election, together with the payment mentioned in subsection (2) before July 1, 2001.

(2) A member who makes an election pursuant to subsection (1) shall contribute as a lump sum payment an amount calculated by the commission with respect to the period of service in accordance with generally accepted actuarial principles.

(3) An election by a member pursuant to subsection (1) is irrevocable.

1997, c.14, s.6; 1998, c.26, s.5; 2000, c.18, s.8.

Periods of leave

16.2(1) In this section and section 16.3:

- (a) **“approved leave”** means a leave of absence from an employer that has been approved by the employer and during which the employee is not making contributions to a pension plan that is registered pursuant to the *Income Tax Act* (Canada);
- (b) **“maximum leave contribution period”** means the maximum leave contribution period established by the commission pursuant to subsection (3).

(2) Subject to the *Income Tax Act* (Canada) and the regulations made pursuant to that Act, an employee who takes an approved leave may elect to make contributions to the fund in accordance with this section:

- (a) with respect to the period of approved leave taken; or
- (b) where the period of approved leave taken exceeds the maximum leave contribution period, with respect to the maximum leave contribution period.

(3) For the purposes of clause (2)(b), the commission may establish a maximum leave contribution period that:

- (a) is not less than the period of maternity leave, adoption leave or parental leave to which an employee is entitled pursuant to *The Labour Standards Act*; and
- (b) with respect to the year in which the approved leave or a portion of the approved leave is taken, is not greater than a qualifying period determined pursuant to section 8507 of the *Income Tax Regulations, Consolidated Regulations of Canada, 1978*, chapter 945.

- (4) Periods of approved leave not exceeding the maximum leave contribution period shall be counted as contributory service if the employee who takes the approved leave makes contributions to the fund in accordance with this section.
- (5) Subject to any agreement between the employer and the employee, if an employee elects to make contributions to the fund with respect to periods of approved leave:
- (a) the employee shall make all contributions to the fund with respect to those periods; and
 - (b) notwithstanding subsection 17(1), the employer is not required to make any contributions with respect to those periods.
- (6) The amount of contributions required for a period of approved leave is an amount equal to two times the amount of contributions that the employee would have been required to make pursuant to section 16 if the employee had not taken the approved leave, calculated by applying the employee's rate of pay immediately prior to the commencement of the approved leave to an amount of service that is the greater of:
- (a) the amount of contributory service that the employee accrued during the period immediately preceding the commencement of the approved leave that is equal in length to the period of approved leave; and
 - (b) the amount of service that the employee establishes, to the satisfaction of the commission, that he or she would have provided if the period of approved leave had not been taken.
- (7) An employee who takes approved leave may, on returning to work, make contributions with respect to that approved leave in any of the following ways:
- (a) by lump sum transfer from a registered retirement savings plan;
 - (b) by lump sum payment by personal cheque;
 - (c) by payroll deductions over a period equal to the period of the approved leave or over a period agreed to by the commission.
- (8) A lump sum transfer, a lump sum payment or the first payment by payroll deduction pursuant to subsection (7) must be made not later than 90 days after the employee returns to work.

2000, c.18, s.9.

Purchase of prior service

16.3(1) In this section, "**prior service**" means:

- (a) a period of approved leave with respect to which a member has not made contributions to the plan; and
 - (b) a period of service with an employer with respect to which a member has not made contributions to the plan.
- (2) A member who has not terminated employment with an employer may elect to make contributions with respect to a period of prior service with an employer in accordance with this section.

(3) Subject to any agreement between the employer and the employee, if an employee elects to make contributions to the fund with respect to a period of prior service:

(a) the employee shall make all contributions to the fund with respect to those periods; and

(b) notwithstanding subsection 17(1), the employer is not required to make any contributions with respect to those periods.

(4) The amount of contributions required for a period of prior service is an amount calculated by the commission with respect to the period of prior service in accordance with generally accepted actuarial principles.

2000, c.18, s.9; 2002, c.35, s.4.

Purchase of pre-designation service – firefighters, police officers

16.4(1) In this section:

(a) **“designated member”** means a member who has contributory service in the plan as a police officer or firefighter with respect to a period before the member was designated pursuant to subsection 40(2) and with respect to a period after that designation;

(b) **“pre-designation service”** means a period of service of a designated member as a police officer or firefighter before the member was designated pursuant to subsection 40(2).

(2) A designated member who has not terminated employment with an employer may, in accordance with this section, elect to count a period of pre-designation service with that employer as contributory service with respect to the period after the designation.

(3) Subject to subsection (7), a designated member who makes an election pursuant to subsection (2) shall pay into the fund the amount A calculated in accordance with the following formula:

$$A = NAR - (PDAR + DAR)$$

where:

NAR is the amount required by the fund for the purpose of providing an allowance to the designated member after the election has been made;

PDAR is the amount required by the fund for the purpose of providing an allowance to the designated member with respect to the period of pre-designation service; and

DAR is the amount required by the fund for the purpose of providing an allowance to the designated member with respect to the period of service provided by the member after the member was designated pursuant to subsection 40(2).

(4) **Repealed.** 2007, c.31, s.4.

(5) **Repealed.** 2007, c.31, s.4.

- (6) **Repealed.** 2007, c.31, s.4.
- (7) For the purposes of subsection (3):
 - (a) the value of A must be a positive number; and
 - (b) the values for NAR, PDAR and DAR are the values determined by the commission in accordance with generally accepted actuarial principles.
- (8) An election by a designated member pursuant to subsection (2):
 - (a) is not effective until the amount calculated pursuant to subsection (3) is paid; and
 - (b) is irrevocable.

2002, c.35, s.5; 2007, c.31, s.4.

Responsibility on employer for contributions

17(1) Each employer shall contribute to the fund with respect to each employee an amount equal to the contributions required to be made to the fund by the employee.

(1.01) On and after January 1, 1991, each employer shall contribute to the fund with respect to each employee an amount equal to the amount, determined by the commission in accordance with generally accepted actuarial principles, that the commission requires for the purpose of funding any allowances that may accrue to the employees pursuant to this Act.

(1.1) Where an employee contributes to the fund with respect to periods of absence due to illness or disability, the employer shall contribute to the fund an amount equal to the amount, determined by the commission in accordance with generally accepted actuarial principles, that the commission requires for the purpose of funding any allowance that may accrue to the employee pursuant to this Act.

(2) An employer may make additional contributions to the fund in respect of those employees mentioned in subsection (3) of section 16.

R.S.S. 1978, c.M-26, s.17; 1990-91, c.23, s.7;
1996, c.52, s.6; 1997, c.14, s.7; 1999, c.22, s.8.

Time and manner of remitting contributions

18(1) Each employer shall:

- (a) deduct from the salaries of all employees employed by him or her the amount of contributions required to be made by the employees pursuant to section 16; and
 - (b) within 15 days after the last day of a pay period, remit the deductions made pursuant to clause (a) to the commission, together with any amounts that the employer is required to remit pursuant to section 17.
- (2) Remittances shall be made in the manner and form prescribed by the commission.

(3) The responsibility for payment of all sums mentioned in sections 16 and 17 shall be upon the employer and such sums shall be a debt due from the employer to the commission recoverable by action in any court of competent jurisdiction.

(4) If any employer fails to make payment to the commission of any sum mentioned in sections 16 and 17 within thirty days of the due date for payment, the commission may apply to the Board of Revenue Commissioners for an order attaching any money payable by the Minister of Finance to the employer and upon such application the Board of Revenue Commissioners may issue such order.

(4.1) An employer who fails to make payment to the commission of all sums mentioned in sections 16 and 17 within 30 days of the day on which the payment is due shall pay to the commission interest on those sums calculated from the due date at the rate of interest determined by the commission. (5) No liability rests with the plan where it is determined that an employer has failed to remit the contributions required by section 16 or 17.

R.S.S. 1978, c.M-26, s.18; 1979-80, c.5, s.9; 1982-83, c.41, s.4, 1992, c.71, s.10; 2018, c23, s.10.

BENEFIT CONDITIONS FOR SERVICE UNDER FORMER ACT

Benefits for service under former Act

19(1) The amount of the equity account and voluntary equity account of each employee in the fund shall be determined as of midnight of the thirtieth day of June, 1973, in the same manner as at the end of a fiscal year under the Act repealed by this Act.

(2) The amount in the equity account and voluntary equity account of each employee as determined under subsection (1) shall continue to earn interest at such rate as the commission may from time to time determine until the amount is paid out in accordance with this Act.

(3) The rate of interest mentioned in subsection (2) applies to funds accumulated to the credit of an employee in the plan and in the plan provided by the former Act.

(4) The unvested amounts in the employer annuity account and voluntary equity account of each employee as at the thirtieth day of June, 1973, shall continue to earn interest at the rate determined by the commission pursuant to subsections (2) and (3).

(5) When an employee who had money in an equity account in the fund on June 30, 1973 elects to retire, the commission shall arrange for the purchase of a life annuity, in such form as the employee selects, with the moneys standing to the credit of the employee in the fund.

- (6) If, at the date of retirement, any employee has money in the voluntary equity account, the commission may, on request of the employee:
- (a) use the money to purchase an additional life annuity on behalf of the employee, in such form as the employee selects; or
 - (b) refund the amount in the employee's additional contribution account in one lump sum and purchase a life annuity on behalf of the employee, in such form as the employee selects, with the moneys remaining in the voluntary equity account.
- (7) A member may elect to count as contributory service the period of service with respect to which the member contributed to the equity account, as calculated pursuant to subsection (8), if the member:
- (a) has an amount standing to his or her credit in the equity account;
 - (b) has not retired; and
 - (c) gives written notice to the commission of his or her election not later than December 31, 1999.
- (8) A member who makes an election pursuant to subsection (7) may count as contributory service the period that is the lesser of:
- (a) the period with respect to which the amount standing to the credit of the member in the equity account would be the actuarial reserve, calculated by the commission in accordance with generally accepted actuarial principles, required by the fund for the purpose of providing an allowance with respect to the period of service; and
 - (b) all of the member's service.
- (9) Where a member makes an election pursuant to subsection (7), the commission shall reduce the amount standing to the credit of the member in the equity account by an amount equal to the actuarial reserve described in clause (8)(a).
- (10) An election by a member pursuant to subsection (7) is irrevocable.

R.S.S. 1978, c.M-26, s.19; 1982-83, c.41, s.5;
 1988-89, c.47, s.5; 1995, c.25, s.9; 1999, c.22, s.9;
 2018, c23, s.11.

TERMINATION AND RETIREMENT

Benefits upon termination

20(1) Subject to subsections (1.1) and (1.2) but notwithstanding any other provision of this Act, on and after January 1, 1992, an employee who has been in the service of the employer or who has been a member of the plan 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.

(1.1) Subject to subsection (1.2), an employee who:

- (a) on January 1, 1992 is in the service of the employer or is a member of the plan; and

(b) has been in the service of the employer or has been a member of the plan 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 before the end of the continuous period of two years mentioned in subsection (1);

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.

(1.2) A member who terminated employment before July 1, 1998 and who is entitled to a deferred allowance pursuant to subsection (1) or (1.1) shall, on retirement, receive an allowance in the amount A calculated in accordance with the following formula:

$$A = D + (RD - D) + 0.85 (PR - PD)$$

where:

A is not less than D;

D is the amount of the deferred allowance calculated in accordance with section 22 on the date of the termination of the member's employment;

RD is the amount of the deferred allowance to which the member would have been entitled in accordance with section 22 if the deferred allowance had been calculated using the average highest salary on July 1, 1998;

PR is the amount of the deferred allowance to which the member would have been entitled in accordance with section 22 with respect to service before January 1, 1990 if the member's employment had terminated on July 1, 1998; and

PD is the amount that would be the amount RD if that amount had been calculated only with respect to service before January 1, 1990.

(2) Where an employee becomes entitled to an allowance in accordance with subsection (1), the employee's accumulated contributions with interest are to be applied to offset no more than 50% of the value of the allowance.

(3) Subject to subsection (3.1), 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.

(3.1) No election may be made pursuant to subsection (3) after December 31, 2018.

(4) Subject to subsection (4.1) but notwithstanding any other provision of this Act, an employee may transfer the value of any accumulative contributions with interest in excess of the amount required to offset 50% of the value of the employee's allowance:

(a) to another pension plan that is registered pursuant to the *Income Tax Act* (Canada) providing pension benefits for the employee;

- (b) to an individual registered retirement savings plan as defined in the *Income Tax Act* (Canada);
 - (c) **Repealed.** 2000, c.18, s.10.
 - (c.1) **Repealed.** 2000, c.18, s.10.
 - (c.11) to purchase additional pension benefits in an amount calculated by the commission with respect to the amount in accordance with generally accepted actuarial principles; or
 - (c.2) to the member or former member;
- where the recipient of the transfer made in accordance with clause (a) or (b) agrees:
- (d) to hold the assets in trust for the sole purpose of providing a life annuity; and
 - (e) to invest the moneys in securities and loans prescribed in *The Pension Benefits Regulations, 1993* with respect to similar investments.
- (4.1) If a member has terminated employment and has not made a transfer pursuant to subsection (4) on or before December 31, 2018:
- (a) no election may be made by the member pursuant to clause (4)(c.11); and
 - (b) on the expiry of the period provided for in subsection 14(3) or (4), the value of any accumulative contributions with interest in excess of the amount required to offset 50% of the value of the member's allowance shall be paid to the member in accordance with clause (4)(c.2).
- (4.2) At any time before the member commences receiving an allowance, a member may transfer the commuted value of the additional pension benefits to which the member becomes entitled as a result of a transfer pursuant to clause (4)(c.11):
- (a) to a plan or person to which a transfer may be made pursuant to subsection (6); or
 - (b) to the member.
- (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 member requests the transfer before the member is entitled to begin receiving an allowance pursuant to section 22 or 41.
- (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) Subject to subsection (8), on making a transfer pursuant to this section, a member is not entitled to any further allowance or benefit pursuant to this Act.
- (8) If the amount that a member transfers pursuant to subsection (5) exceeds the amount that the member is permitted to transfer pursuant to subsection 147.3(4) of the *Income Tax Act* (Canada), and if the transfer is made on or before December 31, 2018, the member may elect:
- (a) to have the amount of the excess paid to the member; or
 - (b) subject to subsection (9), to receive an allowance, the commuted value of which is equal to the amount of the excess, until the earlier of:
 - (i) the last day of the month in which the member attains the age of 65 years; and
 - (ii) the expiry of 15 years after the date of the transfer.
- (8.1) If the amount that a member transfers pursuant to subsection (5) exceeds the amount that the member is permitted to transfer pursuant to subsection 147.3(4) of the *Income Tax Act* (Canada), and if the transfer is made on or after January 1, 2019, the excess amount shall be paid to the member.
- (9) No allowance shall be paid pursuant to clause (8)(b) if the amount of the allowance would be less than \$100 per month.
- (10) If a member who is receiving an allowance pursuant to clause (8)(b) dies before the entitlement to the allowance terminates:
- (a) if there is a beneficiary pursuant to section 20.1, the beneficiary may elect:
 - (i) to receive the allowance for the unexpired portion of the period in which the member would have been entitled to receive the allowance; or
 - (ii) to have an amount equal to the commuted value of the allowance described in subclause (i) paid to the beneficiary; or
 - (b) if there is no beneficiary pursuant to section 20.1, the legal representative of the estate may elect:
 - (i) to receive on behalf of the estate the allowance for the unexpired portion of the period in which the member would have been entitled to receive the allowance; or
 - (ii) to have an amount equal to the commuted value of the allowance described in subclause (i) paid to the estate.

1982-83, c.41, s.6; 1984-85-86, c.100, s.4; 1992, c.71, s.11; 1993, c.32, s.5; 1994, c.18, s.5; 1997, c.14, s.8; 2000, c.18, s.10; 2003, c.31, s.6; 2004, c.17, s.6; 2018, c23, s.12.

BENEFICIARIES

Beneficiaries

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

(2) If a member has a spouse, the member's spouse is deemed to be the member's beneficiary unless the spouse provides a written waiver of the spouse's entitlement to a benefit in a form acceptable to the commission.

(3) At any time before the date of death of a member, the member's spouse may revoke a waiver provided pursuant to subsection (2) by providing a written notice of the revocation in a form acceptable to the commission.

1992, c.71, s.12; 2000, c.18, s11; 2013, c.18, s.5.

DEATH PRIOR TO RETIREMENT

Death prior to retirement

21(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 beneficiary pursuant to section 20.1, pay to the estate of the deceased employee an amount equal to the aggregate of:

- (a) an amount equal to the aggregate of:
 - (i) the commuted value of the employee's allowance, calculated as if the employee's date of death were the employee's date of termination; and
 - (ii) the amount by which the employee's contributions plus interest exceed 50% of the amount mentioned in subclause (i); and
- (b) the following amounts standing to the employee's credit:
 - (i) the amount in the employee additional contribution account;
 - (ii) the amount in the employee annuity account;
 - (iii) the amount in the employee annuity surplus account;
 - (iv) the amount in the employer additional contribution account;
 - (v) the amount in the employer annuity account.

(2) Subject to subsection (3), if an employee mentioned in subsection (1) has a beneficiary pursuant to section 20.1, the beneficiary is entitled to be paid the amount that would have been paid to the estate of the deceased employee pursuant to subsection (1).

(2.1) **Repealed.** 2004, c.17, s.7.

(2.2) **Repealed.** 2004, c.17, s.7.

(2.3) **Repealed.** 2004, c.17, s.7.

(2.4) **Repealed.** 2004, c.17, s.7.

(3) If a beneficiary is the surviving spouse of a deceased employee, the surviving spouse may, instead of receiving the amount to which the beneficiary is entitled pursuant to subsection (2), make an election by providing notice to the commission within the period approved by the commission:

(a) to transfer the whole of the amount to which the beneficiary is entitled pursuant to subsection (2) to any plan or entity described in subsection 20(6) in the manner and to the extent prescribed for the purposes of subsection 20(5); or

(b) to receive an allowance calculated in accordance with subsection (4) or (5).

(4) If the employee died before the earliest day on which the employee could have elected to receive an allowance, the allowance that the beneficiary is entitled to elect to receive pursuant to clause (3)(b) must be equal in value to the amount to which the beneficiary is entitled pursuant to subsection (2).

(5) If the employee died on or after the earliest day on which the employee could have elected to receive an allowance, the allowance that the beneficiary is entitled to elect to receive pursuant to clause (3)(b) is an allowance calculated in accordance with section 22 or 23 as if the employee had commenced to receive his or her allowance on the date of death.

R.S.S. 1978, c.M-26, s.21; 1992, c.71, s.13; 1994, c.18, s.6; 1996, c.52, s.7; 2004, c.17, s.7; 2013, c.18, s.6.

BENEFIT CONDITIONS FOR SERVICE UNDER THIS ACT

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 the following amounts:

(a) with respect to service before 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;
- (b) with respect to service on and after January 1, 1990 but before January 1, 2001, 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) 1.5% of the member's average highest salary for each year and fractional year of contributory service;
- (c) with respect to service on and after January 1, 2001 but before January 1, 2006, 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;
- (d) with respect to service on and after January 1, 2006, 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) 1.5% of the member's average highest salary for each year and fractional year of contributory service.

(8) Where a member described in subsection 40(2) commences employment before January 1, 1993 and retires on or after July 1, 1998, the allowance is the total of the following amounts:

(a) with respect to service before 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;

(b) with respect to service on and after January 1, 1990 but before January 1, 2001, 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) 1.7% of the member's average highest salary for each year and fractional year of contributory service;

(c) with respect to service on and after January 1, 2001, but before January 1, 2006, 2% of the member's average highest salary for each year and fractional year of contributory service; and

(d) with respect to service on and after January 1, 2006, 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) 1.7% of the member's average highest salary for each year and fractional year of contributory service.

(9) Subject to subsection (10), where a member commences employment on or after January 1, 1993, the allowance is the total of the following amounts:

(a) with respect to service on and after January 1, 1990 but before January 1, 2001, 1.5% of the member's average highest salary for each year and fractional year of contributory service;

- (b) with respect to service on and after January 1, 2001, but before January 1, 2006, 1.8% of the member's average highest salary for each year and fractional year of contributory service; and
 - (c) with respect to service on and after January 1, 2006, 1.5% of the member's average highest salary for each year and fractional year of contributory service.
- (10) Where a member described in subsection 40(2) commences employment on or after January 1, 1993, the allowance is the total of the following amounts:
- (a) with respect to service on and after January 1, 1990 but before January 1, 2001, 1.7% of the member's average highest salary for each year and fractional year of contributory service;
 - (b) with respect to service on and after January 1, 2001, but before January 1, 2006, 2% of the member's average highest salary for each year and fractional year of contributory service; and
 - (c) with respect to service on and after January 1, 2006, 1.7% of the member's average highest salary for each year and fractional year of contributory service.
- (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 the breakdown of a spousal relationship, 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.

1998, c.26, s.6; 2000, c.18, s.12; 2001, c.50, s. 11.

Allowance on early retirement

23(1) Subject to section 23.01, a member who retires early in accordance with subsection 41(1) is entitled to receive an allowance equal to 2% of the member's average highest salary for each year of contributory service less the reduction mentioned in subsection 41(5), payable until the member reaches his or her sixty-fifth birthday, on which date the allowance is to be recalculated in accordance with subsection 22(1), and the recalculated allowance less the reduction pursuant to subsection 41(5) 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.

(1.1) Subject to section 23.01, a member who retires early in accordance with subsection 41(6) or clause 41(7)(a) 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) Subject to section 23.01, a member who retires early in accordance with clause 41(7)(b) 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 less the reduction pursuant to subsection 41(5) 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.

(2) Subject to section 23.01, a member employed as a police officer or firefighter who retires in accordance with subsection 40(2) 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 subsection 22(1), 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.

R.S.S. 1978, c.M-26, s.23; 1984-85-86, c.100, s.6;
1992, c.71, s.15; 1996, c.52, s.8; 1998, c.26, s.7;
2000, c.18, s.13; 2018, c.23, s.13.

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.

1998, c.26, s.8.

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.
- (3) If a member has a medical condition that, in the opinion of the commission, is likely to shorten the member's life considerably, the member may elect to receive payment of the commuted value of the allowance, annuity or other benefit to which the member would otherwise have been entitled pursuant to this Act.
- (4) Where a member who has a spouse elects pursuant to subsection (3) to receive payment of the commuted value of the allowance, annuity or other benefit to which the member would otherwise have been entitled pursuant to this Act, the member shall provide a written waiver executed by the spouse, in a form satisfactory to the commission, of the allowance, annuity or other benefit to which the spouse would otherwise be entitled.

1992, c.71, s.16; 1995, c.25, s.10; 1996, c.52, s.9.

DISABILITY ALLOWANCE

Disability allowance

24(1) Except as otherwise provided in this Act, a member who:

- (a) has at least fifteen years of continuous service immediately prior to the date determined by the commission as the date on which an allowance may be commenced;
- (b) has not attained the age of sixty years;
- (b.1) is totally and permanently disabled within the meaning of subsection 8500(1) of the *Income Tax Regulations* (Canada).
- (c) submits evidence that he or she is in receipt of a disability pension under the *Canada Pension Plan*; and
- (d) makes written application to the commission to be retired because of total physical or mental incapacity;

may receive, during his or her disability, an allowance calculated in accordance with section 22.

(2) A disability allowance shall not be granted to a member unless he or she has been incapacitated for a period of at least four consecutive months.

(3) Where a person dies while receiving a disability allowance granted under this section, the allowance shall be continued in accordance with clause 39(a), (b) or (c), as the case may be.

R.S.S. 1978, c.M-26, s.24; 1988-89, c.47, s.7;
1992, c.71, s.17; 1996, c.52, s.10; 2018, c23, s.14.

Proof of disability

25(1) A person who applies for a disability allowance must provide the commission with certificates of two qualified medical doctors setting forth the nature and extent of his or her disability and what treatment, if any, could correct the condition.

(2) The commission may require the applicant to submit to an examination by a doctor named by it.

(3) An employee shall not be considered totally incapacitated if a device can be purchased, treatment given or an operation performed that, in the opinion of the commission based on the medical reports furnished, will render the member capable of obtaining gainful employment.

(4) The commission may reject an employee's application for a disability allowance if the employee refuses to undergo treatment recommended by the commission.

(5) If an employee is receiving a disability allowance at the time he or she refuses to undergo treatment recommended by the commission, the commission may reduce, suspend or discontinue the allowance.

R.S.S. 1978, c.M-26, s.25; 2018, c23, s.15.

Medical board, appeal to

26(1) Where the commission refuses to grant a disability allowance under this Act, the employee may request the commission in writing to refer the employee's case to a medical board.

(2) The medical board referred to in subsection (1) shall consist of not more than three qualified medical practitioners appointed by the commission and such appointment shall be made within thirty days after the receipt of such request.

(3) The medical board shall convene within fifteen days from date of appointment to review the employee's case and shall be authorized to call any witnesses or any evidence to better enable it to assess the case.

(4) The decision of the medical board shall, subject to sections 27 and 28, be binding upon the commission unless its decision is modified or changed by a subsequent medical board.

(5) All expenses for the medical board including witness fees, and all other expenses shall be paid from the fund.

R.S.S. 1978, c.M-26, s.26; 2018, c23, s.16.

Commission may reduce, etc., disability allowance

27 The commission may in its discretion, reduce, suspend or discontinue the disability allowance of a person who has obtained gainful employment or who is capable of obtaining such employment.

R.S.S. 1978, c.M-26, s.27.

Review of disability allowances

28(1) The commission:

(a) shall from time to time review the case of a member who is in receipt of a disability allowance, unless the member attained normal retirement age during the period of his or her disability; and

(b) shall reduce, suspend or discontinue the member's disability allowance if:

- (i) the member has recovered from his or her disability; or
- (ii) in the commission's opinion, the member is no longer totally and permanently disabled.

(2) The commission may reinstate any allowance or any part of an allowance reduced, suspended or discontinued under subsection (1).

R.S.S. 1978, c.M-26, s.28; 2018, c23, s.17.

Time limit decision of commission

29 Where an application is made for a disability allowance, the commission shall reach a decision within three months after all required evidence has been received by it.

R.S.S. 1978, c.M-26, s.29.

Reduction by amount of Workers' Compensation

30 A disability allowance granted to a member under this Act shall be reduced by the sum that has been paid or is likely to be paid to or on behalf of the applicant under *The Workers' Compensation Act, 2013* or under a similar statute or law with respect to injured workers.

R.S.S. 1978, c.M-26, s.30; 1979-80, c.5, s.12;
2004, c.17, s.8; 2013, c.W-17.11, s.189.

DEPENDENTS' ALLOWANCES

31 Repealed. 1992, c.71, s.18.

32 Repealed. 1992, c.71, s.18.

Payments to child

33(1) Allowances payable to a child shall be paid to the person constituted or appointed legal decision-maker for the child by or pursuant to *The Children's Law Act, 2020* or otherwise.

(2) Lump sum amounts payable to a child shall be paid to the person constituted or appointed guardian of the property of the child by or pursuant to *The Children's Law Act, 2020*.

(3) If there is no legal decision-maker or guardian as described in subsection (1) or (2), moneys payable to a child may be paid to any person that the commission may determine, having regard to the best interests of the child.

2020, c3, s.7.

34 Repealed. 1992, c.71, s.18.

DEFERRED ALLOWANCES

35 Repealed. 1982-83, c.41, s.7.

36 Repealed. 1982-83, c.41, s.8.

REFUNDS

Refunds

37(1) Subject to subsection (2), where:

- (a) the employment of an employee terminates; and
- (b) the employee is not entitled to a deferred pension benefit;

the commission shall, within two years after the date of termination, refund to the employee the amount standing to the employee's credit in the employee annuity account, employee contribution account and employee additional contribution account of the employee.

(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.

1990-91, c.23, s.10; 1992, c.71, s.19; 1996, c.52, s.11.

38 Repealed. 1992, c.71, s.20.

DEATH AFTER RETIREMENT

Death after retirement dependent's allowances

39(1) Subject to section 39.1, 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:
 - (A) in the case of a member who retires prior to July 1, 1995, five years from the day of the retired member's retirement;

(B) in the case of a member who retires on or after July 1, 1995 and who had a spouse on the day of the retired member's retirement, five years from the day of the retired member's retirement; or

(C) in the case of a member who retires on or after July 1, 1995 and who did not have a spouse on the day of the retired member's retirement, 15 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.

(2) Where, at the day of the last payment of an allowance pursuant to clause (1)(a) or (b):

(a) the total amount received by the retired member and the spouse and dependants of the retired member as allowances pursuant to clauses (1)(a) and (b);

is not equal to or greater than:

(b) the amount in the employee contribution account standing to the credit of the retired member at the day of the retired member's retirement;

the amount by which the amount described in clause (b) exceeds the total amount described in clause (a) is to be paid to the estate of the spouse or a dependant of the retired member.

(2.1) If there is no named beneficiary to which an amount payable pursuant to clause (1)(c) may be paid, the commission, on application by the personal representative of the member, may pay the commuted value of the amount to the member's estate.

(3) In this section, "**surviving spouse**" means the spouse of the retired member on the day of his or her retirement.

R.S.S. 1978, c.M-26, s.39; 1983, c.20, s.5; 1990-91, c.23, s.11; 1994, c.18, s.7; 1995, c.25, s.11; 2007, c.31, s.5; 2018, c23, s.19.

New spouse

39.1(1) In this section:

(a) "**former spouse**" means, in relation to a retired member, a person who was a spouse of the retired member on the date of his or her retirement;

(b) "**new spouse**" means, in relation to a retired member, a person who becomes a spouse of the retired member after:

(i) the retired member is predeceased by a spouse;

- (ii) the retired member commences receiving an allowance, having no spouse at that date; or
 - (iii) the retired member commences receiving an allowance, having a former spouse who has waived entitlement to an allowance in a form acceptable to the commission.
- (2) On acceptance by the commission of a waiver mentioned in subclause (1)(b)(iii):
 - (a) the waiver is irrevocable; and
 - (b) the former spouse is deemed not to be the spouse of the retired member.
- (3) A retired member with a new spouse may apply in writing to the commission to recalculate, in accordance with this section, the allowance to which the retired member would otherwise be entitled, so as to provide for:
 - (a) an allowance for the retired member; and
 - (b) an allowance to which the new spouse would become entitled on the death of the retired member in lieu of all other allowances that are or may become payable pursuant to this Act.
- (4) A retired member who makes an application pursuant to subsection (3) shall submit with the application a deposit, in an amount estimated by the commission to be sufficient to pay the actual and reasonable costs incurred by the commission to recalculate the allowance.
- (5) If there is a portion of the deposit remaining after the costs described in subsection (4) have been paid, the commission shall refund that amount to the applicant.
- (6) If the amount of the deposit is insufficient to pay in full the costs described in subsection (4), the commission may require the applicant to pay the amount of the shortfall before disclosing the results of the recalculation to the applicant.
- (7) The commission may approve an application pursuant to subsection (4) if the retired member satisfies the commission that the retired member does not have a medical condition that is likely to considerably shorten the retired member's life expectancy.
- (8) An allowance recalculated pursuant to this section:
 - (a) must be calculated in accordance with generally accepted actuarial principles;
 - (b) must be equivalent in value to the allowance otherwise payable to the retired member, including the entitlement to an allowance on the death of the retired member of the person who, but for this section, would be the surviving spouse of the retired member; and

- (c) at the option of the retired member, must be either:
 - (i) an allowance that includes an allowance payable to the new spouse in the amount that would be payable to a surviving spouse in accordance with subsection 39(1); or
 - (ii) an allowance that, if elected pursuant to section 23.1, would be a prescribed pension benefit.
- (9) If the retired member elects to receive an allowance recalculated in accordance with this section, the recalculated allowance is payable in lieu of all other allowances that are or may become payable pursuant to this Act.

2007, c.31, s.6.

NORMAL RETIREMENT DATE

Normal retirement date

40(1) A member shall normally retire upon attaining his or her sixty-fifth birthday and the first allowance payment shall be payable from the first day of the month following the month in which such birthday occurred.

(2) Notwithstanding subsection (1), a member employed as a police officer or firefighter and so designated by his or her employer shall normally retire on attaining his or her sixtieth birthday and the first allowance payment shall be payable from the first day of the month following the month in which such birthday occurred.

R.S.S. 1978, c.M-26, s.40; 1988-89, c.47, s.8;
2018, c.23, s.20.

EARLY RETIREMENT

Early retirement

41(1) A member may retire before attaining the normal retirement age if the member meets the requirements set out in subsection (2), (3) or (4) and applies to the commission in writing.

(2) A member who terminates employment before January 1, 2001 may retire before attaining the normal retirement age if the member has not less than 15 years of continuous service and is not less than 55 years of age.

(3) A member who terminates employment and retires on or after January 1, 2001 but before January 1, 2006 may retire before attaining the normal retirement age:

- (a) in the case of a member described in subsection 40(2), if the member:
 - (i) has not less than 20 years of continuous service; or
 - (ii) is not less than 50 years of age; and

- (b) in the case of any other member, if:
 - (i) the member:
 - (A) has not less than 25 years of continuous service; or
 - (B) is not less than 55 years of age; or
 - (ii) the sum of the member's age and years of continuous service is not less than 75.
- (4) A member who terminates employment on or after January 1, 2006 may retire before attaining the normal retirement age if the member has not less than 15 years of continuous service and is not less than 55 years of age.
- (5) Subject to subsection (7.1), a member described in subsection (1) is entitled to an allowance calculated in accordance with subsection 23(1) with a reduction of 0.25% for each complete month by which the member's early retirement date precedes the earliest day on which the member would otherwise have been eligible for an allowance if the member had continued to be a member until that day.
- (6) Notwithstanding subsections (1) to (4), a member other than a member described in subsection 40(2) is entitled to an allowance without reduction:
 - (a) if the member terminates employment before January 1, 2001, where the sum of the member's age and years of continuous service is not less than 80;
 - (b) if the member terminates employment and retires on or after January 1, 2001 but before January 1, 2006, where:
 - (i) the member:
 - (A) has not less than 30 years of continuous service; or
 - (B) is not less than 60 years of age; or
 - (ii) the sum of the member's age and years of continuous service is not less than 80;
 - (c) if the member terminates employment on or after January 1, 2006, where the sum of the member's age and years of continuous service is not less than 80.
- (7) Notwithstanding subsections (1) to (4), a member described in subsection 40(2) is entitled:
 - (a) to an allowance without reduction on the earliest day on which:
 - (i) the member:
 - (A) has not less than 25 years of continuous service; or
 - (B) is not less than 55 years of age; or
 - (ii) the sum of the member's age and years of continuous service is not less than 75; or

- (b) to a reduced allowance on the earliest day on which:
 - (i) the member is not less than 45 years of age; and
 - (ii) the sum of the member's age and years of continuous service is not less than 70.

(7.1) Where a member described in subsection (1) has contributory service in the plan as a police officer or firefighter with respect to a period before the member was designated pursuant to subsection 40(2) and with respect to a period after that designation, and the member is entitled to an allowance with respect to a period after that designation, the member may elect to receive, with respect to the period of service before the designation, an allowance calculated in accordance with subsection 23(1) with a reduction of 0.5% for each complete month by which the member's early retirement date precedes the earliest day on which the member would otherwise have been eligible for an allowance if the member had continued to be a member until that day.

(8) Allowances pursuant to this section are payable effective from the first day of the month that follows the latest of the following:

- (a) the month in which the member meets the age and service requirements;
- (b) the month in which the member terminates service;
- (c) the month in which the member applies in writing to the commission.

2000, c.18, s.14; 2002, c.35, s.6.

POSTPONED RETIREMENT

Postponed retirement

42(1) A member may postpone his or her normal retirement date past his or her normal retirement age but not past the date on which, pursuant to the *Income Tax Act* (Canada), retirement benefits must commence to be paid to the member.

(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) A member who has postponed his or her normal retirement date is entitled to an allowance calculated at his or her actual retirement date in accordance with section 22.

(4) Notwithstanding any other provision of this Act, if a member dies while on postponed retirement, his or her dependants or beneficiaries are entitled to benefits as though the deceased member had retired on the date of his or her death.

- (5) Allowances under this section commence on:
- (a) the first day of the month following the month in which the member ceases to be employed;
 - (b) the date on which, pursuant to the *Income Tax Act* (Canada), retirement benefits must commence to be paid to the member;
 - (c) any other date specified by the member in writing;

whichever is earliest, and thereupon all contributions to the plan cease.

1979-80, c.5, s.15; 1992, c.71, s.22; 1997, c.14, s.10; 2007, c.39, s.6; 2008, c.16, s.2; 2018, c.23, s.21.

Provision of deferred or immediate life annuities, by purchase or payment from fund

43 Deferred or immediate life annuities wherever referred to in this Act:

- (a) may be purchased by the commission, from any person or company licensed to underwrite life annuities in Saskatchewan; or
- (b) may be paid out of the fund and the amounts of such annuities will be based on tables and rates approved by the commission.

R.S.S. 1978, c.M-26, s.43.

44 to 46 Repealed. 2002, c.35, s.7.

TRANSFER AND RECIPROCAL AGREEMENTS

Transfer of another plan into the fund

47 In accordance with and subject to section 8, the commission may enter into an agreement with another employer for the transfer of all assets and liabilities of a registered pension plan into the fund, provided:

- (a) all liabilities of the plan to be transferred into the fund have been met or contingently met to the satisfaction of the commission;
- (b) the employer supplies the executive secretary with all records he or she may require for proper administration; and
- (c) an up-to-date actuarial evaluation is supplied to the commission.

R.S.S. 1978, c.M-26, s.47; 1992, c.71, s.23; 2018, c.23, s.22.

Transfer between this plan and other plans

48 In accordance with and subject to section 8, the commission may enter into an agreement for the transfer of:

- (a) individual pension credits and contributions from another registered retirement plan into the fund;
- (b) individual pension credits and contributions out of the fund into another registered retirement plan.

R.S.S. 1978, c.M-26, s.48.

Purchase of service – transfer from other plan

48.1(1) In this section:

- (a) **“member”** means a member who transfers pension credits and contributions from another registered retirement plan into the fund pursuant to an agreement described in section 48;
 - (b) **“service surplus”** means a period equivalent to the amount by which the period of pensionable service of a member in another registered retirement plan exceeds the period of contributory service, calculated by the commission, that the member’s pension credits and contributions transferred into the fund will purchase.
- (2) Within one year after transferring pension credits and contributions into the fund from another registered retirement plan, a member who has a service surplus may elect to count that service surplus as contributory service if the member:
- (a) has not retired; and
 - (b) gives written notice to the commission of his or her election.
- (3) A member who makes an election pursuant to subsection (2) shall contribute as a lump sum payment the amount of the actuarial reserve, calculated by the commission in accordance with generally accepted actuarial principles, with respect to the service surplus.
- (4) An election by a member pursuant to subsection (2) is irrevocable.

1997, c.14, s.11.

49 Repealed. 1992, c.71, s.24.

Application of special provisions of former Act

- 50(1)** Any allowance granted under special provisions of a former Act shall be a charge upon the fund and shall continue to be paid therefrom during the lifetime of the recipient.
- (2) The commission may in its discretion by regulation increase the amount of the allowance referred to in subsection (1).

R.S.S. 1978, c.M-26, s.50; 1996, c.9, s.16.

SMALL ALLOWANCES

Lump sum payment for small allowance

51 The commission shall pay to a person entitled to an allowance an amount equal to the commuted value of the allowance if the commuted value of the allowance does not exceed the maximum amount determined pursuant to subsection 39(1) of *The Pension Benefits Act, 1992*.

2007, c.31, s.7.

MISCELLANEOUS

Payment to trustee in case of lack of capacity

52 If a recipient entitled to receive any annuity or allowance under this plan, in the opinion of the commission, lacks the capacity to receive such annuity or allowance, the commission may authorize payment of the annuity or allowance to any other person, institution or guardian who in the opinion of the commission is able to act as trustee and to manage such allowance for the benefit of the recipient and such payment shall be a valid discharge of the commission's obligation to the recipient.

R.S.S. 1978, c.M-26, s.52; 2015, c.21, s.28.

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, seized, attached, given as security or surrendered except as provided in this section.

(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*, payments:

- (a) that are payable to a member are subject to seizure pursuant to that Act; and
- (b) to which a member is entitled pursuant to section 20 are subject to attachment pursuant to that Act.

(2.1) Where an amount has been attached pursuant to subsection (2), the commission shall deduct from the commuted value of the benefits to which the member is entitled:

- (a) the cost of complying with the attachment calculated in the prescribed manner;
- (b) the total amount of taxes, if any, that are required to be deducted or withheld as a result of the attachment; and
- (c) the lesser of:
 - (i) the amount attached; and
 - (ii) the remainder of the commuted value of the member's benefits.

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

- (a) the member has no further claim or entitlement to any payment or allowance pursuant to the plan respecting the amount attached;

- (b) the entitlement of the member is to be calculated on the basis of the commuted value of his or her benefits after the attachment or on the amount standing to his or her credit after the attachment, as the case may be; and
 - (c) neither the commission nor the fund is liable to any person by reason of having made payment pursuant to an attachment mentioned in sub-section (2).
- (3) Subject to subsection (4), a payment or transfer may be made in accordance with a requirement in an order pursuant to *The Family 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).

1992, c.71, s.25; 1996, c.15, s.8; 2001, c.51, s.11;
2004, c.17, s.9; 2010, c.E-9.22, s.207; 2012, c.14,
s5.

Division on breakdown of marriage

- 53.1(1)** Notwithstanding any other provision of this Act, the commission shall, on the breakdown of the spousal relationship 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 family property pursuant to *The Family 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 family property that is an interspousal contract agreement within the meaning of *The Family 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 commencement of the spousal relationship 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.

1994, c.18, s.9; 2001, c.50, s.11.

Registration of plan

54 The commission shall file this plan for registration under the *Income Tax Act* (Canada) and *The Pension Benefits Act, 1992*.

R.S.S. 1978, c.M-26, s.54; 1992, c.P-6.001, s.75.

Funding in accordance with *Pension Benefits Act*

55 The plan authorized by this Act shall be funded in accordance with the test for solvency prescribed by *The Pension Benefits Act, 1992*.

R.S.S. 1978, c.M-26, s.55; 1992, c.P-6.001, s.75.

Members to receive written explanation of plan

56(1) Subject to subsection (2), the commission shall supply each member with a written explanation of:

- (a) the terms and conditions of the plan;
- (b) the rights and duties of a member;
- (c) the benefits available to members under the plan; and
- (d) such other information as the commission may consider desirable or as may be required by the regulations.

(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.

R.S.S. 1978, c.M-26, s.56; 1992, c.71, s.26.

Regulations

57(1) For the purpose of carrying out the provisions of this Act according to their intent and of supplying any deficiency therein, the Lieutenant Governor in Council may make regulations not inconsistent with the spirit of the Act which shall have the same force and effect as if enacted herein and without restricting the generality of the foregoing, the Lieutenant Governor in Council may make regulations:

- (a) defining any words used in this Act and not defined, or insufficiently defined;
- (b) setting interest rates to be applied in certain circumstances under this Act;
- (c) exempting, upon the advice of the commission, any class or group of employees of an employer or any employer from the application of all or part of this Act;
- (c.1) for the purposes of subsection 23.01(4), prescribing criteria governing the circumstances in which the commission may recalculate allowances;
- (d) prescribing rules for calculating the amounts of additional allowances to any superannuated employees and their spouses and payment of those allowances;
- (e) prescribing the manner in which the required special contributions to the fund shall be calculated and remitted to the fund;
- (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 subjectmatter 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;
- (h.1) for the purposes of section 53, governing the manner of calculating the cost of complying with an attachment;
- (i) prescribing or governing any matter or thing that is required or authorized by this Act to be prescribed or governed in the regulations.

(2) The Lieutenant Governor in Council, on the recommendation of the commission, may make regulations prescribing and governing the manner of determining the amount to be deducted from the salaries of members pursuant to subsection 16(1.3).

(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.

R.S.S. 1978, c.M-26, s.57; 1983, c.20, s.6; 1990-91, c.23, s.13; 1992, c.71, s.27; 1993, c.32, s.7; 1996, c.15, s.8; 1998, c.26, s.9; 2015, c.21, s.64.

58 Repealed. 2007, c.31, s.8.

Allowance by equal instalments

59(1) The allowances granted under this Act shall be adjusted to provide for payments in equal monthly instalments.

(2) Any allowance payable under this Act or any former Act shall be paid to the end of the month in which the allowance ceases to become payable.

R.S.S. 1978, c.M-26, s.59.

Additional allowances

59.1(1) At intervals not greater than three years, the commission shall cause to be carried out an actuarial valuation of the liabilities of the fund with respect to allowances, additional allowances, life annuities and additional annuities payable out of the fund.

(2) Subject to subsection (3), where, as a result of an actuarial valuation pursuant to subsection (1), the commission determines that the assets of the fund are more than adequate to satisfy the test of solvency prescribed by *The Pension Benefits Act, 1992*, having regard to any additional allowances and additional annuities payable, the commission may pay:

(a) an additional allowance with respect to an allowance granted pursuant to this Act or a former Act that is not a life annuity; and

(b) an additional annuity with respect to a life annuity that is payable out of the fund.

(3) The commission may suspend, cancel or reduce an additional allowance or additional annuity payment where the commission determines that the payment:

(a) would cause the assets of the fund to be less than adequate to satisfy the test of solvency prescribed by *The Pension Benefits Act, 1992*; or

(b) does not comply with the *Income Tax Act* (Canada).

2002, c.35, s.8.

60 Repealed. 2002, c.35, s.9.

Audit

61 The Provincial Auditor or any other auditor or firm of auditors that the commission may appoint shall annually:

(a) audit the accounts and records of the commission; and

(b) certify the financial statements mentioned in clause 62(1)(b) in accordance with the outcome of the audit.

1990-91, c.23, s.14.

Annual report

62(1) The commission shall, in each fiscal year, in accordance with section 13 of *The Executive Government Administration Act*, prepare and submit to the minister:

- (a) a report of the commission on its business for its preceding fiscal year; and
- (b) a financial statement showing the business of the commission for its preceding fiscal year in any form that may be required by Treasury Board.

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

(1.2) A report pursuant to subsection (1) is to set out:

- (a) to (d) **Repealed.** 1999, c.22, s.10.
- (e) the audited financial statements for the preceding fiscal year;
- (f) the expenses incurred in the administration of this Act that were:
 - (i) paid by Saskatchewan;
 - (ii) paid out of the fund; and
- (g) any other information that the commission considers desirable.

(2) All employer and employee associations who have members participating in the plan are entitled to have access to the commission's report.

(3) Upon receipt of a request from a member or employer, the executive secretary or the assistant to the executive secretary shall send to the member or employer a copy of the commission's report.

1982-83, c.41, s.12; 1990-91, c.23, s.15; 1999, c.22, s.10; 2004, c.17, s.10; 2014, c.E-13.1, s.62.

Annuities to meet certain requirements

63 An immediate or deferred life annuity purchased by a member must be one that is permitted pursuant to the *Income Tax Act (Canada)* and *The Pension Benefits Act, 1992* and approved by the commission.

2002, c.35, s.10.

Decision of commission final

64 When a question arises as to the application, interpretation or intent of this Act or the regulations it shall be determined by the commission whose decision shall be final.

R.S.S. 1978, c.M-26, s.64.

