

2004

CHAPTER 42

An Act to amend *The Pension Benefits Act, 1992*

(Assented to June 17, 2004)

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

Short title

1 This Act may be cited as *The Pension Benefits Amendment Act, 2004*.

S.S. 1992, c.P-6.001 amended

2 *The Pension Benefits Act, 1992* is amended in the manner set forth in this Act.

Section 2 amended

3 **Subsection 2(1) is amended:**

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

“(a) **‘additional voluntary contributions’** means contributions made by a member to a plan that are additional to those required to be made to attain a pension, including interest on those additional voluntary contributions, but does not include:

- (i) contributions the payment of which, pursuant to the terms of the plan, requires the employer to make concurrent additional contributions, and includes interest on those contributions; or
- (ii) optional ancillary contributions”;

(b) **in paragraph (e)(i)(A) by striking out** “generally accepted actuarial principles” **and substituting** “accepted actuarial practice”;

(c) **in the portion of clause (k) preceding subclause (i) by adding** “, other than a provision with respect to an optional ancillary contribution,” **after** “plan”; **and**

(d) **by adding the following clauses after clause (v):**

“(v.1) **‘optional ancillary benefit’** means a benefit described in subclause (v.2)(ii);

“(v.2) **‘optional ancillary benefit provision’** means a provision of a defined benefit plan that provides for:

- (i) participation by a member at the member’s option; and
- (ii) provision of benefits other than the benefits provided pursuant to provisions of the plan in which participation by a member is required;

“(v.3) ‘**optional ancillary contributions**’ means contributions made by a member pursuant to an optional ancillary benefit provision for the purpose of providing optional ancillary benefits, and includes interest on those contributions”.

Section 11 amended

4 Paragraph 11(4)(b)(i)(B) is amended by striking out “generally accepted actuarial principles” and substituting “accepted actuarial practice”.

New section 25.1

5 The following section is added after section 25:

“Contents of plans - optional ancillary benefit provisions

25.1(1) A defined benefit plan that includes an optional ancillary benefit provision must provide for the method of conversion of the optional ancillary contributions made by a member to optional ancillary benefits on the occurrence of the following events:

- (a) termination of membership in the plan;
- (b) pension commencement;
- (c) death of the member before retirement;
- (d) termination of the plan.

(2) For the purposes of subsection (1), the method of conversion of optional ancillary contributions to optional ancillary benefits must be made on the basis of actuarial assumptions and methods that are appropriate and in accordance with accepted actuarial practice.

(3) A defined benefit plan that includes an optional ancillary benefit provision must retain any amount by which the accumulated optional ancillary contributions of a member exceeds the amount that can be converted to optional ancillary benefits on the occurrence of any of the events set out in clauses (1)(a) to (d) and that, if paid out, would result in the revocation of the registration of the plan pursuant to the *Income Tax Act* (Canada)”.

Section 27 amended

6 Subsection 27(5) is amended:

- (a) by striking out “or” after clause (a);
- (b) by adding “or” after clause (b); and
- (c) by adding the following clause after clause (b):
“(c) on the death of the member”.

Section 29 amended

7(1) Subsection 29(1) is amended by adding “or the regulations” after “in this Act”.

(2) Subsection 29(3) is amended by adding “or optional ancillary contributions” after “voluntary contributions”.

Section 30 amended**8 Section 30 is amended:**

- (a) by striking out “and” after clause (b);
- (b) by adding “and” after clause (c); and
- (c) by adding the following clause after clause (c):
 - “(d) optional ancillary contributions”.

Section 31 amended**9 Clause 31(3)(b) is repealed and the following substituted:**

- “(b) the commuted values of any portions of a member’s pension that are attributable to:
 - (i) past service benefits voluntarily funded entirely by the member; and
 - (ii) optional ancillary benefits”.

New section 33**10 Section 33 is repealed and the following substituted:****“Pre-retirement survivor benefit**

33(1) Subject to section 31, if a member or a former member who has not commenced his or her pension dies before the earliest day on which the member or former member could have elected to receive a pension, a surviving spouse is entitled to receive a pension, the value of which is equal to the commuted value of the pension of the deceased member or former member.

(2) Subject to section 31, if a member or a former member who has not commenced his or her pension dies after the earliest day on which the member or former member could have elected to receive a pension, a surviving spouse is entitled to receive a pension calculated in accordance with section 34 as if the member or former member had commenced his or her pension on the date of death.

(3) Subject to subsection (4), a surviving spouse who is entitled to a pension pursuant to subsection (1) or (2) may, within a prescribed period, elect:

- (a) to transfer the commuted value of the pension in accordance with subsection 32(2); or
- (b) to receive a lump sum payment equal to the commuted value of the pension.

(4) A plan may provide that a surviving spouse who fails to make an election pursuant to subsection (3) within the prescribed period is deemed to have elected to receive the pension in the form of a lump sum payment pursuant to clause (3)(b).

(5) If a member or a former member described in subsection (1) or (2) dies without leaving a surviving spouse, a lump sum payment equal to the commuted value of the pension to which a surviving spouse would have been entitled pursuant to subsection (1) or (2), as the case may be, is to be paid:

- (a) to the designated beneficiary of the deceased member or former member; or

- (b) if there is no validly designated beneficiary, to the estate of the deceased member or former member.
- (6) At any time before the date of death of a member or former member, the spouse of the member or former member:
 - (a) may waive the spouse's entitlement pursuant to subsection (1) or (2) by delivering a written and signed waiver in the prescribed form to the administrator; and
 - (b) may revoke a waiver delivered pursuant to clause (a) by delivering a written and signed notice of revocation to the administrator.
- (7) If a waiver pursuant to subsection (6) is in effect on the date of death of a member or former member, subsection (5) applies as if the member or former member died leaving no surviving spouse".

Section 39 amended**11 Clauses 39(1)(a) and (b) are repealed and the following substituted:**

- "(a) the commuted value does not exceed a maximum amount determined in accordance with the regulations; or
- "(b) the annual pension does not exceed a maximum amount determined in accordance with the regulations".

Section 63 amended**12(1) Subsection 63(1) is amended by striking out "Subject to subsection (3), benefits" and substituting "Benefits".****(2) Subsection 63(3) is repealed.****Section 69 amended****13 Subsection 69(1) is amended:****(a) by adding the following clause after clause (b):**

"(b.1) for the purposes of subsection 29(1), prescribing and governing transactions or circumstances in which a person entitled to a pension may during his or her lifetime withdraw or surrender all or part of any pension, any interest in a pension or any commuted value of a pension";
and

(b) by adding the following clause after clause (g):

"(g.01) governing the determination of:

- (i) the maximum amount of the commuted value of a pension for the purposes of clause 39(1)(a); and
- (ii) the maximum amount of an annual pension for the purposes of clause 39(1)(b)".

Coming into force**14 This Act comes into force on proclamation.**