

Chapter 4

SUPPLEMENTARY RETIRING ALLOWANCES ACT

(Assented to March 6, 2002)

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

INTERPRETATION

Definitions

1. In this Act,

"actuary" means a Fellow of the Canadian Institute of Actuaries engaged by the Management and Services Board under section 4; (*actuaire*)

"allowance" means an allowance payable under this Act; (*allocation*)

"annual allowance" means an annual allowance payable pursuant to section 9, 10 or 11; (*allocation annuelle*)

"basic allowance" means

- (a) in the case of a member, the annual allowance the member would have been eligible to receive under this Act if the member had ceased to be a member on the day immediately before the death of the member, and
- (b) in the case of a former member who is in receipt of an annual allowance, the annual allowance the former member was receiving under this Act at the time of the death of the former member; (*allocation de base*)

"Benefit Index" means the Benefit Index as defined in the *Supplementary Retirement Benefits Act* (Canada); (*indice de prestation*)

"child" means a natural child or adopted child of a member or former member, and includes a person whom a member has demonstrated a settled intention to treat as his or her child, except under an arrangement where the child is placed for valuable consideration in a foster home by a person having lawful custody, where the child

- (a) is less than the age of majority, or
- (b) has attained the age of majority, but is less than 25 years of age, is not cohabiting, and is in full-time attendance at a school or university, having been in full-time attendance substantially without interruption since he or she reached the age of majority, or since the member or former member died, whichever occurred later; (*enfant*)

"cohabit" means to live together in a conjugal relationship;

"Deputy Speaker" means the Deputy Speaker and chairperson of the Committee of the Whole; (*président adjoint*)

"earnings" means the indemnity payable to a person for service in a capacity referred to in section 2 of Schedule C of the *Legislative Assembly and Executive Council Act*; (*indemnité*)

"Management and Services Board" means the Management and Services Board established by the *Legislative Assembly and Executive Council Act*; (*Bureau de régie et des services*)

"member" means a member of the Legislative Assembly; (*député*)

"pensionable age" means the earliest of

- (a) the age of 60 years,
- (b) 30 years of service, or
- (c) the aggregate of an age in years and years of service equal to 80; (*âge admissible*)

"pensionable remuneration" means an annual, daily or other indemnity payable to a member under the *Legislative Assembly and Executive Council Act*; (*revenu admissible*)

"recipient" means a person who

- (a) is a member or former member who is in receipt of an annual allowance under this Act, or
- (b) is a person in receipt of an annual allowance by virtue of being a surviving spouse or child of a member or former member; (*bénéficiaire*)

"service" means service as a member of the Legislative Assembly; (*mandat*)

"surviving spouse" means a person who, immediately before the death of a member or former member,

- (a) was married to the member or former member and was cohabiting with him or her,
- (b) was married in good faith to the member or former member in a marriage that was voidable or void, had entered that marriage in good faith, and was cohabiting with him or her, or
- (c) was cohabiting outside marriage with the member or former member and was registered in accordance with the regulations as a spouse, if
 - (i) the person and the member or former member had cohabited for a period of at least two years, or

- (ii) the person and the member or former member had cohabited in a relationship of some permanence and were together the natural or adoptive parents of a child. (*conjoint survivant*)

Duration of Legislative Assembly

2. For the purposes of this Act, a Legislative Assembly that is not dissolved before the expiration of the period fixed for its duration shall be deemed to be dissolved on the expiration of that period.

When a person ceases to be a member

3. For the purposes of this Act,
- (a) a person does not cease to be a member by reason only of a dissolution of the Legislative Assembly; and
 - (b) a person who, immediately before a dissolution of the Legislative Assembly, was a member shall cease to be a member if he or she is not elected as a member of the Legislative Assembly at the general election next following the dissolution and shall be deemed to have ceased to be a member on the day on which the general election was held.

ADMINISTRATION

Management and Services Board

4. (1) The Management and Services Board shall administer this Act and the regulations made under this Act.

Engaging persons

(2) The Management and Services Board may engage the persons that it considers necessary for carrying out the provisions of this Act and it may delegate all or any of its powers of administration to those persons.

Engaging professionals

- (3) The Management and Services Board
- (a) may engage the professionals that it requires to assist and advise it in the administration of this Act; and
 - (b) shall fix the functions, duties and remuneration of the professionals that it engages.

Accounts

(4) An account shall be kept in respect of every member and former member in which shall be shown all payments made to the member or former member or the legal representatives of the member or former member under this Act.

Frequency of valuation

(5) The actuary shall value the liabilities under this Act no less frequently than as of the day on which each general election is held, and shall provide a report of the valuation to the Management and Services Board.

Payments out of Consolidated Revenue Fund

5. (1) Every allowance and benefit payable under this Act and all expenses incurred in the administration of the Act shall be paid out of the Consolidated Revenue Fund out of moneys appropriated for the purpose.

Administration by Management and Services Board

(2) Notwithstanding the *Financial Administration Act*, the Management and Services Board shall oversee the administration of that portion of the Consolidated Revenue Fund that can be attributed to moneys appropriated for a purpose mentioned in subsection (1).

ALLOWANCES TO MEMBERS

Allowances

6. (1) An allowance shall be paid in accordance with this Act to or in respect of a person who elects to participate in this Act under section 7 and who

- (a) being a member, ceases to be a member; or
- (b) being a member or former member, dies.

Monthly payments

(2) Subject to subsection 11(4), an annual allowance is payable monthly to every recipient during the lifetime of the recipient.

Election

7. A member is only entitled to participate in this Act if the member elects to do so by filing a form to that effect with the Speaker in accordance with the regulations

- (a) within 60 days of first being elected to the Legislative Assembly;
or
- (b) in the case of a person who is a member at the time this Act comes into force, within 30 days of it coming into force.

Section 11 of *Legislative Assembly and Executive Council Act*

8. (1) Where a person ceases to be a member by virtue of section 11 of the *Legislative Assembly and Executive Council Act*, no allowance shall be paid to or in respect of that person.

Ceasing to be a member

(2) For the purposes of subsection (1), a person ceases to be a member by virtue of section 11 of the *Legislative Assembly and Executive Council Act* if

- (a) he or she is convicted of an offence referred to in subsection (1) of that section;

- (b) he or she is expelled under subsection (2) of that section; or
- (c) he or she is convicted of an offence referred to in subsection (2) of that section and resigns before the Legislative Assembly determines whether or not to expel him or her.

Entitlement to refund

(3) A person referred to in subsection (1) who has made contributions under subsection 6(2) or (6) of the *Legislative Assembly Retiring Allowances Act* is entitled to be refunded the difference between the contributions he or she has made and the contributions that he or she would have made under subsection 6(1) of that Act, with interest fixed by the Management and Services Board.

Where person subsequently elected

(4) If a person referred to in subsection (1) is subsequently elected to the Legislative Assembly, he or she may elect under section 7 as if he or she had been elected to the Legislative Assembly for the first time, but is deemed for the purposes of this Act to have never previously been a member.

Resumption in payment

(5) Nothing in this section prevents the resumption in payment of an allowance that had ceased to be paid pursuant to subsection 17(2).

Definition of "qualifying member"

9. (1) In this section, "qualifying member" means a member who ceases to be a member and who

- (a) at the time he or she ceases to be a member has given at least four years of service; or
- (b) was elected to the Legislative Assembly at a general election and, at the time he or she ceases to be a member, has continued as a member of that Legislative Assembly until it is dissolved.

Annual allowance

(2) Subject to section 16, a qualifying member shall be paid, on attaining pensionable age, an annual allowance in an amount equal to

- (a) the number of years of service;
- multiplied by
- (b) where the member has served four or more years, 3% of the average annual pensionable remuneration received by the member during any period selected by him or her or on his or her behalf consisting of non-overlapping periods of service totalling four years; or
 - (c) where the member has served less than four years, 3% of the average annual pensionable remuneration received by the member during the period of total service.

Maximum years of service

- (3) The number of years of service referred to in paragraph (2)(a)
- (a) shall not exceed 15 years; and
 - (b) shall not include any year after November 30 in the year in which the member or former member attains the age of 69 years.

Definitions

10. (1) In this section:

"required capacity" means a capacity referred to in section 2 of Schedule C of the *Legislative Assembly and Executive Council Act*; (*qualité requise*)

"qualifying member" means a member who, at the time the member ceases to be a member,

- (a) is eligible for an allowance under section 9; and
- (b) has served at least one year in a required capacity. (*député admissible*)

Additional annual allowance

(2) Subject to section 16, a qualifying member shall be paid, on attaining pensionable age, in addition to the allowance payable under section 9, an annual allowance equal to

- (a) the number of years of service in the required capacity;
- multiplied by
- (b) where the member has served four or more years in the required capacity, 3% of the average annual earnings received by the member during any period selected by him or her or on his or her behalf consisting of non-overlapping periods of service in the required capacity totalling four years; or
 - (c) where the member has served less than four years in the required capacity, 3% of the average annual earnings received by the member during the period of total service in the required capacity.

Maximum years of service

- (3) The number of years of service referred to in paragraph (2)(a)
- (a) shall not exceed 15 years; and
 - (b) shall not include any year after November 30 in the year in which the member or former member attains the age of 69 years.

ALLOWANCES TO SURVIVORS

Allowances to surviving spouse and children

11. (1) Where a member or former member dies, on his or her death an annual allowance shall be paid to the surviving spouse and to each child of the member or former member as follows:

- (a) to the surviving spouse, an annual allowance equal to

- (i) 100% of the basic allowance of the member or former member for the first 60 monthly payments beginning the day on which an allowance under this Act commences to be paid, and
- (ii) 66 2/3% of the basic allowance of the member or former member after the first 60 monthly payments;
- (b) if the member or former member dies leaving a surviving spouse, to each child of the member or former member, an annual allowance equal to 10% of the basic allowance of the member or former member;
- (c) if the member or former member dies without leaving a surviving spouse, to each child of the member or former member, an annual allowance equal to
 - (i) 100% of the basic allowance of the member or former member, divided by the number of children, for the first 60 monthly payments beginning the day on which an allowance under this Act commences to be paid, and
 - (ii) 25% of the basic allowance of the member or former member after the first 60 monthly payments.

Duration of allowance

(2) An allowance payable under paragraph (1)(a) is payable for the lifetime of the surviving spouse.

Five year guarantee

(3) An allowance payable under clause (1)(c)(i) and, notwithstanding subsection (2), an allowance payable under clause (1)(a)(i) are payable for 60 monthly payments made after the day on which an allowance under this Act commences to be paid to the former member.

Allowance to child

(4) An allowance payable under paragraph (1)(b) or subparagraph (1)(c)(ii) is payable until

- (a) the child attains the age of majority; or
- (b) where the child is a child within the meaning of paragraph (b) of the definition of "child" in section 1, whichever of the following first occurs:
 - (i) the child attains 25 years of age, or
 - (ii) the child begins to cohabit or ceases to be in full-time attendance at a school or university.

Where more than one allowance payable

(5) Where more than one allowance is payable under subsection (1), the total amount of the allowances shall not exceed 100% of the basic allowance of the member or former member.

Lump sum

12. (1) Where a member or former member who is not in receipt of an allowance under this Act dies and there is no person to whom an allowance may be paid in respect of that member or former member, a lump sum approved by the Management and Services Board shall be paid to the beneficiary designated by the member or former member.

Amount

(2) A lump sum referred to in subsection (1) shall be equal to the actuarial present value of the basic allowance that would have been paid to the member or former member as determined by the actuary in accordance with the regulations.

Payment to beneficiary

13. Where a former member who is in receipt of an allowance dies and there is no person to whom an allowance may be paid in respect of that former member, a lump sum equal to the actuarial present value of the allowance that would have been paid to the former member for the period commencing on the day of the former member's death and ending on the day before the tenth anniversary of the day that payment of the allowance to the former member commenced shall be paid to the beneficiary designated by the former member.

Designation of beneficiary

14. (1) A member or former member may designate a beneficiary for the purposes of sections 12 and 13 in accordance with the regulations.

Deemed designation of beneficiary

(2) A member or former member who does not make a designation of a beneficiary under subsection (1) is deemed to have designated his or her estate as beneficiary.

POST RETIREMENT INCREASES

Post-retirement increase

15. (1) A post-retirement increase shall be paid to every recipient.

Formula

(2) The post-retirement increase payable to a recipient for a month in any year is an amount equal to the amount obtained by multiplying

(a) the amount of the annual allowance payable to the recipient for that month,

by

(b) the ratio that the Benefit Index for the year in which that month falls bears to the Benefit Index for the year in which the member or former member ceases to be a member or dies,

and by subtracting from that product the amount of the annual allowance payable.

When post-retirement increase payable

(3) A post-retirement increase payable to a recipient is payable at the same time, in the same manner, and subject to the same terms and conditions as an annual allowance payable to that recipient.

RETIREMENT

Election to receive allowance at other time

16. (1) Subject to subsection (3), a member who ceases to be a member may elect, in accordance with the regulations, to begin receiving, at any time, any allowance to which he or she would otherwise be entitled under this Act.

Reduction for early election

(2) Where a member or former member elects under subsection (1) to commence receiving an allowance before he or she has attained pensionable age, the amount of the allowance payable to him or her shall be reduced by 0.25% for each month or part of a month that precedes the day the member attains pensionable age.

Where election not made

(3) A member or former member who fails to make an election before December 1 of the year in which he or she attains the age of 69 years is deemed to have elected to commence receiving an allowance on December 1 of that year.

Entitlement to allowance

17. (1) A member is not entitled to receive any allowance until whichever of the following first occurs:

- (a) he or she ceases to be a member; or
- (b) December 1 in the year in which the member attains the age of 69 years.

Cessation of allowance

(2) If a former member is receiving an allowance and is elected again to the Legislative Assembly, the allowance shall cease to be paid pursuant to subsection 25(2) of the *Legislative Assembly and Executive Council Act*, and he or she shall not be entitled to receive the allowance until subsection (1) again applies.

Resumption of allowance

(3) When subsection (1) again applies to the former member who becomes a member as described in subsection (2)

- (a) the allowance referred to in subsection (2) shall recommence at the rate at which it was being paid before it ceased, plus any increase that is arrived at by application of the Benefit Index; and
- (b) he or she is entitled to an additional allowance for his or her subsequent service, and that allowance shall be calculated under sections 9 and 10 separately from the allowance referred to in paragraph (a).

Definition of "subsequent service"

(4) For the purposes of paragraph (3)(b), "subsequent service" means service as a result of the election referred to in subsection (2).

LIMITATION ON AMOUNT OF ALLOWANCE

Maximum allowance

18. (1) Notwithstanding any other provision of this Act or of the *Legislative Assembly Retiring Allowances Act*, the combined allowances payable to or in respect of a member or a former member under this Act and the *Legislative Assembly Retiring Allowances Act* in the year in which the allowances commence or commenced to be paid shall not exceed 75% of the sum of

- (a) the average annual pensionable remuneration referred to in subsection 9(2); and
- (b) the average annual earnings determined in accordance with paragraph 10(2)(b) or (c);

multiplied by the ratio that the Benefit Index for the year in which the allowances commence or commenced to be paid bears to the Benefit Index for the year in which the member or former member ceases to be a member.

Priority in case of reduction

(2) If the combined allowances payable in respect of a member or a former member are reduced as a result of the application of subsection (1), the reduction shall be made

- (a) first from the allowances payable under this Act; and
- (b) if there is no allowance or no further allowance payable under this Act, from the allowances payable under the *Legislative Assembly Retiring Allowances Act*.

Adjustments to maximum allowance

(3) Where combined allowances are limited under subsection (1), the only adjustments that may be made to the combined allowances payable to a member or former member after the year in which the allowances commence or commenced to be paid are the post-retirement increases referred to in section 15 of this Act and section 18 of the *Legislative Assembly Retiring Allowances Act*.

Application to allowance payable on death

(4) In respect of an allowance payable under subsection 11(1), subsection (1) applies to the basic allowance of the member or former member referred to in paragraphs 11(1)(a), (b) and (c).

Legislative Assembly Retiring Allowances Act

(5) In respect of an allowance payable under subsection 15(1) of the *Legislative Assembly Retiring Allowances Act*, subsection (1) applies to the basic allowance of the member or former member referred to in paragraphs 15(1)(a), (b) and (c) of that Act.

Assignment of rights

19. (1) No right of any person under this Act is capable of being assigned, charged, anticipated, given as security or surrendered.

Exceptions to assignment

(2) For the purposes of subsection (1), assignment does not include

- (a) assignment pursuant to a decree, order or judgment of a competent tribunal or a written agreement in settlement of rights arising as a consequence of a breakdown of a marriage or other conjugal relationship between a member or former member and his or her spouse or former spouse; or
- (b) assignment by the legal representative of a deceased member or former member on the distribution of his or her estate.

REPORT TO THE LEGISLATIVE ASSEMBLY

Report

20. The Management and Services Board shall, as soon as possible after the end of each fiscal year, lay before the Legislative Assembly a report on the administration of this Act during the preceding fiscal year and shall include in the report

- (a) any report prepared by the actuary under subsection 4(5); and
- (b) any other information that in the opinion of the Management and Services Board should be brought to the attention of the Legislative Assembly.

REGULATIONS

Regulations

21. The Speaker, on the recommendation of the Management and Services Board, may make regulations

- (a) respecting the administration of this Act and the regulations made under this Act;
- (b) prescribing any form that may be necessary for the administration of this Act;
- (c) respecting the calculation of the actuarial present value of the allowance under subsection 12(2) and section 13;
- (d) respecting the registration of members and their spouses and any changes to or deletion of a registration;
- (e) respecting the designation of a beneficiary, and the revocation of a designation, under subsection 14(1);
- (f) respecting elections that may be made by a member under section 7 and subsection 16(1);
- (g) respecting the information to be provided by a member for the purpose of the administration of this Act;
- (h) setting out when every allowance and benefit shall be paid and when payment to a recipient shall commence and cease, and

providing that where a person receiving an allowance ceases to be entitled to the allowance, payment may be made in respect of the full month in which that person ceases to be entitled to an allowance;

- (i) providing, where a person receiving an annual allowance is incapable of managing his or her affairs, that the allowance may be paid to another person on his or her behalf;
- (j) defining, for the purposes of this Act, the expression "full-time attendance at school or university" as applied to a child of a member or former member;
- (k) specifying, for the purposes of this Act, the circumstances under which attendance at school or university by a child of a member or former member shall be deemed to be substantially without interruption.