

**2003**

## **CHAPTER 40**

An Act to amend *The Superannuation (Supplementary Provisions) Act*

(Assented to June 27, 2003)

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 Superannuation (Supplementary Provisions) Amendment Act, 2003*.

**R.S.S. 1978, c.S-64 amended**

**2** *The Superannuation (Supplementary Provisions) Act* is amended in the manner set forth in this Act.

**New sections 28 to 28.4**

**3 Section 28 is repealed and the following substituted:**

**“Payments to family on death of superannuate**

**28(1)** In this section and in sections 28.1, 28.2 and 29, ‘**spouse**’ means:

- (a) with respect to a superannuate who died before June 25, 1996, a person who was the spouse of the superannuate at the date on which the superannuate commenced receiving an allowance and who remained the spouse of the superannuate at the date of death of the superannuate; and
- (b) with respect to a superannuate who dies on or after June 25, 1996, a person who is the spouse of the superannuate at the date on which the superannuate commences receiving an allowance.

(2) Subject to section 28.3, if a superannuate dies leaving a spouse, a spouse’s allowance equal to 60% of the allowance to which the superannuate was entitled shall be paid to the spouse for life.

(3) Subject to subsection (4) and section 28.3, if a superannuate dies leaving a spouse and a child or children under the age of 18 years, a sum equal to 10% of the allowance to which the superannuate was entitled, in addition to the spouse’s allowance paid pursuant to subsection (2), shall be paid to the surviving spouse on behalf of each child of the superannuate who is less than 18 years of age.

(4) The total of the allowances payable at any time on behalf of the children of a superannuate pursuant to subsection (3) shall not exceed one-quarter of the superannuate’s allowance.

(5) If the total of the allowances that would be payable on behalf of the children of a superannuate pursuant to subsection (3) is reduced pursuant to subsection (4), the total amount shall be divided equally among the children who are eligible for an allowance.

(6) Subject to section 28.3, if a superannuate dies without a spouse but leaving a child or children under the age of 18 years, the amount that would have been paid as a spouse's allowance shall be:

- (a) paid to those children until they attain that age, in lieu of the sums to which they were entitled before the death of the spouse; and
- (b) divided equally among the children who are eligible pursuant to clause (a).

(7) Subject to section 28.3, if the spouse of a superannuate dies after becoming eligible for a spouse's allowance and leaving a child or children of the superannuate under the age of 18 years, the amount of the spouse's allowance shall be:

- (a) paid to those children until they attain that age, in lieu of the sums to which they were entitled before the death of the spouse; and
- (b) divided equally among the children who are eligible pursuant to clause (a).

**“Presumption re missing separated spouse**

**28.1** A deceased superannuate who, at the time of death, is separated from a spouse whose whereabouts are unknown to the board is deemed to have been predeceased by the spouse unless the spouse notifies the board in writing within two years after the date of death of the superannuate.

**“Waiver by spouse**

**28.2(1)** A spouse of a superannuate may waive entitlement to an allowance by delivering to the board a waiver in a form acceptable to the board that has been signed by the spouse in the presence of a witness and outside the presence of the superannuate.

(2) On acceptance of the waiver by the board:

- (a) the waiver is irrevocable; and
- (b) the spouse is deemed not to be the spouse of the superannuate.

**“New spouse**

**28.3(1)** In this section, ‘**new spouse**’ means, in relation to a superannuate:

- (a) a person who becomes a spouse of the superannuate after:
  - (i) the superannuate commences receiving an allowance, having no spouse at that date;
  - (ii) the superannuate is predeceased by a spouse; or
  - (iii) a spouse of the superannuate waives entitlement to an allowance pursuant to section 28.2; or
- (b) a person who is a spouse of the superannuate when a former spouse of the superannuate waives entitlement to an allowance pursuant to section 28.2.

(2) A superannuate with a new spouse:

- (a) may apply in writing to the board to receive an annuity for the superannuate and the new spouse in lieu of all other allowances that are or may become payable under a superannuation Act; and
- (b) shall submit with the application a deposit, in an amount estimated by the board to be sufficient to pay the actual and reasonable costs incurred by the board to calculate the amount of the annuity.

(3) If, after the amount of an annuity is calculated and the costs described in clause (2)(b) are paid, there is a portion of the deposit remaining, the board shall refund that amount to the applicant.

(4) If, after the amount of an annuity is calculated and the costs described in clause (2)(b) are paid, the amount of the deposit is insufficient to pay in full the costs described in clause (2)(b), the board may require the applicant to pay the amount of the shortfall before disclosing the results of the calculation to the applicant.

(5) The board may approve an application for an annuity pursuant to subsection (2) if the superannuate satisfies the board that the superannuate does not have a medical condition that is likely to considerably shorten the superannuate’s life expectancy.

(6) An annuity 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 superannuate if the superannuate had no spouse; and
- (c) at the option of the superannuate, must be either:
  - (i) a 60% joint life annuity; or
  - (ii) a form of joint annuity prescribed in the regulations.

**“Reduction – death of superannuate before age 65**

**28.4** Where a superannuate dies before attaining the age of 65 years and an allowance or other amount is being paid pursuant to section 28, 28.3 or 29 to a spouse or child of the superannuate, the allowance or other amount shall be reduced:

- (a) at the time when the superannuate’s allowance would have been reduced pursuant to the regulations made pursuant to section 49; and
- (b) in proportion to the reduction that would have been made to the superannuate’s allowance if the superannuate had been living at that time”.

**Section 29.01 repealed****4 Section 29.01 is repealed.****Coming into force****5** This Act comes into force on assent.