

1977 BILL 93

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Third Session, 18th Legislature, 26 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 93**

**THE PENSION STATUTES  
AMENDMENT ACT, 1977**

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THE PROVINCIAL TREASURER

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First Reading .....

Second Reading .....

Third Reading .....

## BILL 93

1977

### THE PENSION STATUTES AMENDMENT ACT, 1977

(Assented to \_\_\_\_\_, 1977)

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

#### **The Public Service Management Pension Act**

*1(1) The Public Service Management Pension Act is amended by this section.*

*(2) Section 1 is amended by adding the following clause after clause (k):*

(1) "spouse", with reference to a deceased employee, means a person who is legally married to the employee at the employee's date of death, or a person of the opposite sex who proves to the satisfaction of the Board that

(i) the deceased employee left no dependent spouse to whom he was married,

(ii) the deceased cohabited with that person

(A) for the 5-year period immediately preceding the employee's death, or

(B) for the 2-year period immediately preceding the employee's death where there is a child born to that person and the deceased employee,

and

(iii) the person had been a dependant of the employee and was known in the community in which they lived as a consort of the deceased.

*(3) Section 12(2) is repealed and the following is substituted:*

## **Explanatory Notes**

### **The Public Service Management Pension Act**

1(1) This section will amend chapter 81 of the Statutes of Alberta, 1972.

(2) A definition of “spouse” will be added which takes into account so-called “common law” marriages.

(3) Section 12(2) presently reads:

(2) In order to determine whether an employee is incapable of effectively performing his regular duties by reason of mental or physical disability or by reason of any other cause, the Board may require the employee to be examined by a physician who shall submit a report with respect to his examination and findings.

(3) Where the Board is not satisfied with the medical report received, it may require the case of an employee to be reviewed by an independent medical examiner or medical board.

(4) This section does not apply to persons employed by the Government through a special placement program for handicapped persons unless they are eligible to participate in a disability plan.

(4) *Section 15 is repealed and the following is substituted:*

**15(1)** For the purpose of this Act, pensionable service includes

(a) any period of service in respect of which contributions have been made in accordance with *The Superannuation Act, The Public Service Pension Act* or this Act;

(b) any period of service that may be recognized as pensionable service under the terms of a reciprocal agreement made pursuant to section 34;

(c) any period of service with the Government where an employee was not a contributor under *The Public Service Pension Act* or this Act, if there is paid into the Fund at the rate and on the terms that the Board directs, contributions on the salary paid him during that service by the Government, together with interest at the rate fixed pursuant to section 7, to the date of completion of payment in full;

(d) any period of authorized leave of absence with or without pay or any period when an employee has received or is receiving benefits under a disability plan, if payment of contributions and interest is made in an amount that the Board by regulation may prescribe;

(e) any period of service referred to in section 1(k) which is not otherwise included as pensionable service pursuant to this subsection, if there is paid into the Fund within the time periods, at the rate and upon the terms that the Board directs, contributions on the salary paid to the employee by the Government at the time the Board receives a written request from the employee as to the amount required to effect payment with respect to that service, calculated as if that salary were actually

*(2) In order to determine whether an employee is incapable of effectively performing his regular duties by reason of mental or physical disability, the Board may require the employee to be examined by a medical officer of The Workers' Compensation Board who shall submit a report with respect to his examination and findings.*

(4) This amendment consolidates the provisions of the previous section and provides for payments on prior service to be based on current salary rather than starting salary unless arrangements for payment are made within the time specified in the proposed section 15(4).

paid to him during the service, together with interest at a rate prescribed by the Board, and payable until the date of completion of payment in full.

(2) Notwithstanding subsection (1), any period of service that is recognized for pension purposes by any other pension plan under which a member is entitled to receive or is receiving pension benefits may not be counted as pensionable service under this Act unless the Board otherwise orders and then only upon such terms and conditions as the Board may direct.

(3) Notwithstanding subsection (1), pensionable service may not include more than 35 years of service.

(4) Notwithstanding subsection (1), where

(a) an employee is in the employ of the Government on January 1, 1978 and has made payment in full with respect to his prior service,

(b) an employee has made arrangements for payment with respect to his prior service that are satisfactory to the Board, before January 1, 1979, or

(c) an employee

(i) has, prior to January 1, 1979, requested the Board to advise him as to the amount required to effect payment with respect to his prior service, and

(ii) has made arrangements for payment with respect to his prior service that are satisfactory to the Board within 90 days of being so advised by the Board,

subsection (1)(e) does not apply.

(5) *Section 20 is amended*

*(a) in subsection (2) by repealing clause (b) and substituting the following:*

(b) if he dies after retirement

(i) leaving a surviving dependent spouse to whom he was married for at least 5 years prior to his death, or

(ii) if there is no surviving dependent spouse to whom subclause (i) applies, leaving a surviving dependent spouse with whom he cohabited for at least 5 years prior to his death,

(5) This amendment is consequential to the new definition of "spouse". Section 20(2) presently reads:

*(2) Where an employee elects to receive a normal pension*

*(a) that pension shall be payable to him for his life, and*

*(b) if he dies after retirement and there is a surviving spouse whom he married at least five years prior to his death, the pension shall be payable to that spouse for life in an amount equal to 75 per cent of the normal pension that was payable to him.*

the pension shall be payable to that spouse for life in an amount equal to 75% of the normal pension that was payable to him.

*and*

*(b) by adding after subsection (2) the following:*

(3) This section does not affect the right to receive a pension of any surviving spouse receiving a pension on or before December 31, 1977.

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

**22(1)** Before an employee attains the age of 65 years or within a reasonable time after receipt of an application for early retirement or of notification of the death of an employee whose spouse is entitled to a pension, the Board shall notify in writing the employee or, in the event of the employee's death, the spouse, as to the choice of benefits that person is entitled to.

(2) Where the person notified is required to make a choice and fails to make that choice within 3 months after being notified by the Board, the Board may, in its discretion, select for that person a normal pension or an alternative pension or payment referred to in section 21.

*(7) Section 26 is repealed and the following is substituted:*

**26(1)** Where the service of an employee whose pensionable service is less than 5 years is terminated before that employee becomes entitled to receive a pension under this Act, he may elect

(a) to be paid the amount of contributions by him and the interest credited thereon, standing to his credit in the records of the Board as provided by section 27,

(b) to have the amount specified in clause (a) transferred to a pension or retirement savings plan accepted for registration under the *Income Tax Act* (Canada), or to any other fund or plan satisfactory to the Board, or

(c) to have the amount specified in clause (a), together with at least an equal amount contributed by the Government and the interest credited thereon, to which that person is entitled under a reciprocal agreement entered into pursuant to section 34, transferred to a pension plan accepted for registration under the *Income Tax Act* (Canada) and operated by the reciprocating party.



(6) Section 22 presently reads:

*22.(1) The Board, before an employee attains the age of 65 years, shall notify him in writing as to the normal and alternative pensions from which the employee may make a selection, and if the employee does not select an alternative pension prior to his attaining the age of 65 years, the Board may, in its discretion, select for him a normal pension or one of the alternative pensions referred to in section 21.*

*(2) Where a former employee dies or has elected to take an early retirement and has not made a selection from the pension options available to him, the Board shall in its discretion select a normal pension or one of the alternative pensions or payment referred to in section 21.*

(7) This provision will up-date the existing section and make provision for the transfer of pension benefits.

(2) Where the service of an employee whose pensionable service is not less than 5 years is terminated before that employee becomes entitled to receive a pension under this Act, he may elect

(a) to receive any of the benefits specified in subsection (1), or

(b) to receive a deferred pension as provided in this section after he attains the age of 55 years.

(3) A deferred pension under this section shall at the election of that person be

(a) a normal pension as determined under section 20, or

(b) an alternative pension of any of the types specified in section 21.

(4) A person who has elected to receive a deferred pension under this section may at any time thereafter, by written request, receive instead the payment specified in subsection (1), in which case his election to receive a deferred pension is thereupon void.

(5) Where a person is entitled to a deferred pension and becomes mentally or physically disabled for gainful employment prior to attaining the age of 55 years, he may apply for an immediate pension in accordance with section 19.

*(8) Section 34(3)(a)(ii) is amended by adding “at least” after “a Government contribution”.*

### **The Public Service Pension Act**

*2(1) The Public Service Pension Act is amended by this section.*

(8) Section 34(3)(a) presently reads:

*(3) An agreement made under this section may provide*

*(a) in the case of the transfer of a person from the employment of or service with the Government, that*

*(i) the amount of the person's contributions and interest thereon standing to the credit of his account in the records of the Board at the time of transfer of his contributions, and*

*(ii) a Government contribution equal to the amount in the person's account under subclause (i),*

*be transferred from the Fund to the pension fund of the other party to the agreement,*

#### **The Public Service Pension Act**

2(1) This section will amend chapter 299 of the Revised Statutes of Alberta 1970.

(2) *Section 2 is amended by adding the following after clause (f):*

(g) “spouse”, with reference to a deceased employee, means a person who is legally married to the employee at the employee’s date of death, or a person of the opposite sex who proves to the satisfaction of the Board that

(i) the deceased employee left no dependent spouse to whom he was married,

(ii) the deceased cohabited with that person

(A) for the 5-year period immediately preceding the employee’s death, or

(B) for the 2-year period immediately preceding the employee’s death where there is a child born to that person and the deceased employee,

and

(iii) the person had been a dependant of the employee and was known in the community in which they lived as a consort of the deceased.

(3) *Section 4(2) is repealed and the following is substituted:*

(2) In accordance with *The Public Service Act* there may be appointed a chief executive officer and all other employees required for the purposes of carrying out the business and affairs of the Public Service Pension Administration.

(4) *Section 5(2)(b) is repealed and the following substituted:*

(b) respecting employment after the employee has attained the age of 65 years,

(5) *Section 11 is amended*

(a) *by repealing subsection (2) and substituting the following:*

(2) In order to determine whether an employee is incapable of effectively performing his regular duties by reason of mental or physical disability or by reason of any other cause, the Board may require the employee to be examined by a physician who shall submit a report with respect to his examination and findings.

(2.1) Where the Board is not satisfied with the medical report received, it may require the case of an employee to be reviewed by an independent medical examiner or medical board.

and

(2) A definition of “spouse” will be added which takes into account “common law marriages”, so-called.

(3) Section 4(2) presently reads:

*(2) In accordance with The Public Service Act there may be employed such persons as are required for the purposes of carrying out the business and affairs of the Public Service Pension Administration.*

(4) Section 5(2) presently reads in part:

*(2) No contributions may be made under subsection (1)*

*(b) after the employee has attained the age of 65 years, or*

(5) Section 11(2) presently reads:

*(2) In order to determine whether an employee is incapable of effectively performing his regular duties by reason of mental or physical disability or by reason of any other cause, the Board may require the employee to be examined by a medical officer of The Workers' Compensation Board who shall submit a report as to the employee's incapacity.*

Additionally, handicapped employees who cannot qualify to participate in a disability plan will not be eligible for a disability pension.

(b) by adding the following after subsection (3):

(4) This section does not apply to persons employed by the Government or the Legislative Assembly through a special placement program for handicapped persons unless they are eligible to participate in a disability plan.

(6) Section 14 is repealed and the following is substituted:

**14(1)** For the purposes of this Act, pensionable service includes

(a) any period of service in respect of which contributions have been made in accordance with *The Superannuation Act*, *The Public Service Management Pension Act* or section 5 of this Act;

(b) any period of service that may be recognized as pensionable service under the terms of a reciprocal agreement made pursuant to section 35;

(c) any period of service with the Government where an employee was not a contributor under this Act, if there is paid into the Fund at the rate and on the terms that the Board directs, contributions on the salary paid to him during that service by the Government, together with interest at the rate fixed pursuant to section 7, to the date of completion of payment in full;

(d) any period of authorized leave of absence with or without pay or any period when an employee has received or is receiving benefits under a disability plan, if payment of contributions and interest is made in an amount that the Board by regulation may prescribe;

(e) any period of service referred to in section 2(e) which is not otherwise included as pensionable service pursuant to this subsection, if there is paid into the Fund within the time periods, at the rate and upon the terms that the Board directs, contributions on the salary paid to the employee by the Government at the time the Board receives a written request from the employee as to the amount required to effect payment with respect to that service, calculated as if that salary were actually paid to him during the service, together with interest at a rate prescribed by the Board, and payable until the date of completion of payment in full.

(2) Notwithstanding subsection (1), any period of service that is recognized for pension purposes by any other pension plan under which a member is entitled to receive or is receiving pension benefits may not be counted as pension-

(6) This amendment consolidates the provisions of the previous section and provides for payments on prior service to be based on current salary rather than starting salary unless arrangements for payment are made within the time specified in the proposed section 15(4).

able service under this Act unless the Board otherwise orders and then only upon such terms and conditions as the Board may direct.

(3) Notwithstanding subsection (1), pensionable service may not include more than 35 years of service.

(4) Notwithstanding subsection (1), in the case of a person who is in the employ of the University Hospital Board, any period of service with an approved hospital under *The Alberta Hospitals Act* may be considered pensionable service with the University Hospital Board if that person pays into the Fund an amount directed by the Board.

(5) Notwithstanding subsection (1), where

(a) an employee is in the employ of the Government on January 1, 1978 and has made payment in full with respect to his prior service,

(b) an employee has made arrangements for payment with respect to his prior service that are satisfactory to the Board, before January 1, 1979, or

(c) an employee

(i) has, prior to January 1, 1979, requested the Board to advise him as to the amount required to effect payment with respect to his prior service, and

(ii) has made arrangements for payment with respect to his prior service that are satisfactory to the Board within 90 days of being so advised by the Board,

subsection (1)(e) does not apply.

(7) *Section 22 is repealed and the following is substituted:*

**22(1)** Before an employee attains the age of 65 years or within a reasonable time after receipt of an application for early retirement or of notification of the death of an employee whose spouse is entitled to a pension, the Board shall notify in writing the employee or, in the event of the employee's death, the spouse, as to the choice of benefits that person is entitled to.

(2) Where the person notified is required to make a choice and fails to make that choice within 3 months after being notified by the Board, the Board may, in its discretion, select for that person a normal pension or an alternative pension or payment referred to in section 21.



(7) Section 22 presently reads:

*22. (1) The Board, not less than 90 days before an employee attains the age of 65 years, shall notify him in writing as to the normal and alternative pensions from which the employee may make a selection, and if the employee does not select an alternative pension prior to his attaining the age of 65 years, the Board may, in its discretion, select for him a normal pension or one of the alternative pensions referred to in section 21.*

*(2) Where a former employee dies or has elected to take early retirement and has not made a selection from the pension options available to him, the Board shall in its discretion select a normal pension or one of the alternative pensions or the payment referred to in section 21.*

(8) *Section 26 is repealed and the following is substituted:*

**26(1)** Where the service of an employee whose pensionable service is less than 5 years is terminated before that employee becomes entitled to receive a pension under this Act, he may elect

(a) to be paid the amount of contributions by him and the interest credited thereon, standing to his credit in the records of the Board as provided by section 25,

(b) to have the amount specified in clause (a) transferred to a pension or retirement savings plan accepted for registration under the *Income Tax Act* (Canada), or any other fund or plan satisfactory to the Board, or

(c) to have the amount specified in clause (a), together with at least an equal amount contributed by the Government and the interest credited thereon, to which that person is entitled under a reciprocal agreement entered into pursuant to section 35, transferred to a pension plan accepted for registration under the *Income Tax Act* (Canada) and operated by the reciprocating party.

(2) Where the service of an employee whose pensionable service is not less than 5 years is terminated before that employee becomes entitled to receive a pension under this Act, he may elect

(a) to receive the type of benefit specified in subsection (1), or

(b) to receive a deferred pension as provided in this section after he attains the age of 55 years.

(3) Subject to section 18, a deferred pension under this section shall at the option of that person be

(a) a normal pension as determined under section 20, or

(b) an alternative pension of any of the types specified in section 21.

(4) A person who has elected to receive a deferred pension under this section may at any time thereafter, by written request, receive instead the payment specified in subsection (1), in which case his election to receive a deferred pension is thereupon void.

(5) Where a person is entitled to a deferred pension and becomes mentally or physically disabled for gainful employ-

(8) This provision will up-date the existing section and make provision for the transfer of pension benefits.

ment prior to attaining the age of 55 years, he may apply for an immediate pension in accordance with section 17.

*(9) Section 35(3)(a)(ii) is amended by adding “at least” after “a Government contribution”.*

*(10) Section 37(b)(iii) is repealed.*

*4 This Act comes into force on January 1, 1978.*

(9) Section 35(3)(a) presently reads:

*(3) An agreement made under this section may provide*

*(a) in the case of the transfer of a person from the employment of or service with the Government or the Legislative Assembly, that*

*(i) the amount of the person's contributions and interest thereon standing to the credit of his account in the records of the Board at the time of transfer of his contributions, and*

*(ii) a Government contribution equal to the amount in the person's account under subclause (i),*

*be transferred from the General Revenue Fund to the pension fund of the other party to the agreement,*

(10) Section 37(b)(iii) presently reads in part:

*37. Subject to such modifications and exceptions and upon such terms and conditions as may be ordered by the Lieutenant Governor in Council, the provisions of this Act may be applied to*

*(b) employees of*

*(iii) The Civil Service Association of Alberta,*