

1980 BILL 227

Second Session, 19th Legislature, 29 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 227

THE FARM PENSION ACT

MR. NOTLEY

First Reading ----- **1980-11-14** -----

Second Reading -----

Committee of the Whole -----

Third Reading -----

Royal Assent -----

Bill 227
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THE FARM PENSION ACT

(Assented to , 1980)

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

1. In this Act,

- (a) "Board" means the Farm Pension Board appointed under the authority of this Act;
- (b) "disability plan" means a long term disability income continuance plan, approved by the Board, under which a farmer who, as a result of illness or other disability rendering him unable to continue farming, is entitled to be paid a percentage of his income in accordance with that plan;
- (c) "farmer" means a person who derives his principal source of income from the operation of a farm or employment on a farm and spends 50% or more of his working time on or about the business of a farm;
- (d) "Fund" means the Farm Pension Fund established by section 3(1);
- (e) "income" means the net income from farming;
- (f) "pensionable time" means the portion of a farmer's working life in respect of which he pays contributions to the Fund, under this Act;
- (g) "plan" means the farm pension scheme established by this Act;

2. This Act shall be administered by a Board to be known as the Farm Pension Board, which shall consist of 5 members to be appointed by the Lieutenant Governor in Council, 2 of whom shall be farmers.

Explanatory Notes

1. Definitions.

2. Board.

3. (1) There is hereby established the Farm Pension Fund into which shall be paid any contributions made by farmers pursuant to subsection (2) and any money appropriated to the Fund by an appropriation by the Legislature or by special warrant.

(2) Every farmer who elects to participate in the plan shall make contributions at the rate of 5% of his net income from farming to the Fund to be accounted for as part of the Fund.

4. (1) No contributions may be made under section 3

- (a) by a farmer who has attained the age of 60 years prior to the commencement of his contributions,
- (b) respecting farming after the farmer has attained the age of 65 years,
- (c) after the farmer has made contributions for a total period of 35 years, or
- (d) by a farmer who is receiving benefits under a disability plan unless otherwise ordered by the Board.

(2) Notwithstanding subsection (1) (d), contributions shall be made in accordance with subsection (1) where payments received under the disability plan together with any payments under a rehabilitation program are equal to or exceed the net income from farming received by that farmer immediately prior to his illness or other disability.

5. The Board may establish a disability plan.

6. The Provincial Treasurer, in each year, shall introduce a Bill that proposes the appropriation of sufficient moneys to provide for the payment of all benefits payable under this Act for that year.

7. Subject to the other provisions of this Act, a farmer may elect to retire from farming upon attaining the age of 65 years.

8. A farmer who has attained the age of 55 years may retire at any time prior to attaining the age of 65 years if at that time the sum of his attained age and pensionable service, calculated in each case to the nearest complete month, equals not less than 85 years.

9. (1) The Board may authorize the retirement of a farmer whose pensionable service has not been less than 5 years, and

- (a) who has attained the age of 55 years, or
- (b) who from mental or physical disability or other cause has become incapable of effectively performing his regular duties.

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

3. Fund and contributions.

4. Limit on contributions.

5. Disability plan.

6. Annual appropriation.

7. Retirement age.

8. Long service retirement.

9. Early retirement.

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

(4) For the purposes of sections 11 and 13 normal retirement age means the minimum age the farmer would have had to attain under section 10 to have been eligible for an unreduced pension, with such age expressed in years and months and then rounded to the nearest complete year.

10. Subject to the other provisions of this Act, any farmer who retires and whose pensionable time has not been less than 5 years is entitled upon his retirement to receive from the Fund in monthly payments a normal pension as specified in section 14 or, at his option, an alternative pension of one of the types specified in section 15.

11. (1) Where retirement is authorized under section 9(1)(b), on account of an illness or disability that does not wholly disable the farmer from entering any gainful employment, the Board may grant the farmer a pension, which shall be the actuarial equivalent at his age of retirement of the normal pension that would have been payable to him had he then attained normal retirement age pursuant to section 9(3), as determined by the actuarial tables approved by the Board for that purpose.

(2) The Board, if it is satisfied that a person who has been granted a partial disability pension pursuant to this section has as a result of the illness from which he was suffering at the date of his retirement become completely disabled before he reached the age of 65, may upon application of that person made before he reaches the age of 65 grant him a normal pension as specified in section 14.

(3) Where a person has been granted a total disability pension in an amount determined under section 14 or at his option an alternative pension of one of the types specified in section 15, the Board may from time to time require the person to submit medical evidence of his continuing total disability, and if at any time prior to his attaining normal retirement age pursuant to section 9(3) the Board finds that he is no longer wholly incapable of gainful employment, his pension may be actuarially reduced as provided in subsection (1).

12. Notwithstanding section 11, no farmer shall be entitled to receive a pension payment under this Act where he is entitled to receive or is receiving benefits under a disability plan.

13. (1) Where a retirement is authorized under section 9(1)(a), the Board may determine on its judgment of the merits of the case whether in the circumstances the pension to be paid to the farmer is to be

(a) in an amount determined in accordance with the provisions of section 14, or

(b) in an amount that is the actuarial equivalent at the farmer's age of retirement of the normal pension that

10. Pension entitlement.

11. Partial pensions.

12. Disability benefits.

13. Board's discretion as to amount of pension.

would have been payable to the farmer had he then attained normal retirement age pursuant to section 9(3), as determined by actuarial tables, which may be approved by the Board for the purpose.

(2) The pension payable to a farmer so retiring shall be in such amount as is determined by the Board under subsection (1), subject to the exercise by the farmer of the option of selecting an alternative pension as provided by section 15.

14. (1) The normal pension payable to a farmer upon his retirement shall be an annual amount equal to 2% of his average net income from farming in respect of which he paid for the 5 consecutive years of his farming during which his net farming income was the highest, multiplied by the total number of years of his pensionable time computed to the nearest complete month thereof, or by 35, whichever is the less.

(2) The normal pension of an employee shall be payable to him for his life or, if the employee dies within a period of 5 years after his retirement, it shall then be payable to the beneficiary designated by him for the remainder of the 5 year period.

15. The alternative pensions referred to in this Act shall be of an actuarial value equivalent in each case to that of the normal pension provided for by section 14, and the alternative pensions shall be of the following types:

- (a) a pension payable for the life of the farmer and ceasing at his death;
- (b) a pension payable for the life of the farmer or a term of years certain, whichever is the longer;
- (c) a pension paid during the joint lives of the farmer and a nominee designated by him which, after the death of either, shall continue to be paid in the same amount or in an amount of $\frac{2}{3}$ or $\frac{1}{2}$ thereof, to the survivor for his life;
- (d) such other form of pension or payment as may, upon application of the employee and with the consent of the Board, be deemed best suited to the farmer's circumstances upon his retirement.

16. (1) Before a farmer 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 a farmer whose spouse is entitled to a pension, the Board shall notify in writing the farmer or, in the event of the farmer'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.

17. All pensions shall be paid out of the Fund by the Provincial Treasurer upon the certificate of the Board.

14. Amount of normal pension.

15. Alternate pensions.

16. Notice of choice of alternates.

17. Pensions paid from Fund.

18. (1) Notwithstanding the provisions of this Act, for the purpose of maintaining an approximate parity with the cost of living, the Lieutenant Governor in Council may authorize the Board from time to time to make specific or general adjustments in the amount of pensions or any class thereof, effective from such time as may be specified in the order.

(2) Nothing in subsection (1) empowers the Lieutenant Governor in Council to make specific or general adjustments in the amount of pensions or any class thereof which would have the effect of reducing the amount of a pension to a level below that to which a person becomes entitled, except from the operation of subsection (1), under this Act.

19. When a farmer, before he becomes entitled to receive a pension under this Act, elects to discontinue participation in the pension plan and to receive a return of his contributions, the amount standing to his credit in the records of the Board, including the accrued interest credited on his contributions, shall be paid to him.

20. (1) Where a farmer dies at a time when he is currently making contributions under this Act, or if he had elected to receive a deferred pension and had left on deposit in the Fund the amount he would be entitled to withdraw, the amount standing to the credit of his account in the records of the Board shall be paid to his beneficiary.

(2) The amount payable under this section may be paid in a lump sum, or in such instalments as the Board may direct.

(3) Where the beneficiary of a deceased farmer, or a deceased retired farmer who has elected to receive a deferred pension, is a spouse or a dependent child under the age of 18 years, the beneficiary is also entitled to receive a further sum equal to the amount standing to the credit of the account of the deceased, but that sum shall not exceed an amount that is equal to the accumulated contributions and interest.

(4) Notwithstanding subsection (3), no payment to a beneficiary pursuant to that subsection shall be in an amount greater than the share which is otherwise payable to that beneficiary.

(5) Where the pensionable time of a farmer or a former farmer who had elected to receive a deferred pension, at the date of his death has not been less than 5 years, and where the beneficiary is his spouse, the beneficiary may elect to be paid in lieu of the payments under subsection (3)

- (a) a pension of the same amount as would have been payable if the farmer immediately before his death had retired under the provisions of section 9(1)(b) and had been entitled to exercise and had exercised the option given under section 15 of receiving a pension during the joint lives of himself and his spouse and during the life of the survivor, or

18. Cost of living adjustments.

19. Discontinuation.

20. Lump sum payments on death.

- (b) a pension payable for life or for a term of years certain, whichever is the longer, that is an actuarial value equivalent to that of the pension provided for under clause (a).

21. The Board may make by-laws governing its own proceedings.

22. The Lieutenant Governor in Council may make regulations

- (a) to expand or modify the definition of "farmer" for the purposes of this Act;
- (b) prescribing what evidence of age, occupation or marital status that may be required by the Board for the purposes of this Act;
- (c) to define net income from farming;
- (d) to establish the method and frequency of payment of contributions;
- (e) to set the rate of interest to be charged on late contributions;
- (f) governing the application of this Act in cases not specifically or expressly provided for in this Act;
- (g) any other matters or things convenient or useful in the carrying out of the provisions of this Act.

23. (1) The interest that by this Act any farmer or former farmer has in the Fund or the interest of a farmer or former farmer in any pension or other benefit granted under this Act

- (a) is not subject to garnishee proceedings or attachment or seizure, or any legal process, except in respect of a charge of failure to account for public moneys, and
- (b) is unassignable.

(2) Nothing in subsection (1) shall be construed so as to prevent a farmer

- (a) from authorizing the deduction from his pension payments of premiums for hospitalization or medical insurance, or
- (b) from authorizing the payment of any moneys payable to him under this Act on his ceasing to participate in the plan directly over to another retirement pension plan in which he becomes entitled to participate.

24. The Board shall at the end of each fiscal year prepare a report on the proceedings of the Board and an audited statement of the Fund and shall transmit it to the Provincial Treasurer who shall table it in the Legislative Assembly if it is then sitting, or if it is not then sitting, within 15 days of the commencement of the next sitting.

25. If the persons to whom this Act applies becomes participants under the Canada Pension Plan, the Lieutenant Governor in Council may by regulation alter

- (a) the rate of contributions required under section 5, and

21. By-laws.

22. Regulations.

23. Pension free from attachment.

24. Annual report by Board.

25. Effect of Canada Pension Plan.

(b) the amounts of the pensions payable

in respect of any periods of service during which the employees are participants under the Canada Pension Plan and in conformity with any agreement made between the Governments of Canada and Alberta, and such regulation shall be of the same force and effect as if it were enacted as part of this Act.

26. This Act comes into force on a date to be fixed by Proclamation, which shall not be earlier than the effective date of the first appropriation of money into the Fund by the Legislature pursuant to section 6.