

1983 BILL 26

First Session, 20th Legislature, 32 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 26

~~WIDOWS' PENSION ACT~~

~~LAW REVISION DIVISION~~

MRS. EMBURY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 26
Mrs. Embury

BILL 26

1983

WIDOWS' PENSION ACT

(Assented to _____, 1983)

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

Definitions

1 In this Act,

- (a) "Department" means the Minister's department;
- (b) "Minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
- (c) "widow" means a person whose spouse is deceased and includes a widower;
- (d) "widow's pension" means a monthly pension authorized to be paid under this Act and the regulations.

Delegation
of power

2 The Minister may in writing delegate any power, duty or function conferred or imposed on him by this Act or the regulations to any employee of the Department or any member, officer or employee of an agent of the Crown in right of Alberta.

Payment of pension

3(1) The Minister may pay a widow's pension in an amount prescribed in the regulations to or for the benefit of a person who is eligible under this Act and the regulations to receive the pension.

(2) A person is eligible to receive a widow's pension if she satisfies the Minister

(a) that she is a widow,

(b) that she is a Canadian citizen or a permanent resident within the meaning of that term in the *Immigration Act, 1976* (Canada), other than a person whose application for landing has been sponsored,

(c) that she is ordinarily resident in Alberta,

(d) that she is 55 years of age or older but less than 65 years of age,

(e) that her income, other than income exempted under the regulations, is less than the maximum amount prescribed in the regulations, and

(f) that she otherwise fulfils the requirements of this Act and the regulations.

(3) Notwithstanding subsection (2), a person is not eligible for a widow's pension if she is receiving a handicap benefit under the *Assured Income for the Severely Handicapped Act*.

Application

4(1) A widow who wishes to apply for a widow's pension, or another person on her behalf, shall complete and forward ~~an application in the prescribed form to the Minister.~~ to the Minister an application in a form satisfactory to him

(2) The Minister may require an applicant and a person who is receiving a widow's pension to provide him with any information he considers necessary in order to determine the person's entitlement to a pension or the amount of the pension.

(3) A person who receives a widow's pension shall forthwith give the Minister notice in writing of any change in income, marital status or type or place of residence that affects her eligibility to the pension or the amount of the pension.

(4) A person who contravenes subsection (3) is guilty of an offence and liable to a fine of not more than \$1000.

Discontinuance, suspension or variation of pension

5 The Minister may

(a) alter the amount of a widow's pension or suspend or discontinue a widow's pension if he is satisfied that

(i) the person receiving it

(A) fails to provide information or provides incomplete or false information required to determine her eligibility

for a pension or the amount of a pension, either at the time of making application or after that time, or

(B) fails to realize or collect income to which she is entitled, or

(ii) the income of the person receiving the pension has changed so as to alter her eligibility for the pension or the amount of it;

(b) discontinue a widow's pension if the person receiving it

(i) marries,

(ii) ceases to be ordinarily resident in Alberta, or

(iii) becomes a resident in an institution designated in the regulations.

Recovery of
overpayments

6(1) Where a person receives a widow's pension for which she is not eligible or receives an overpayment on a widow's pension, the pension or the overpayment, as the case may be, is a debt owing to the Crown and may be recovered in the same way as if it were an overpayment as defined in the *Maintenance and Recovery Act*, and Part 3 of that Act applies.

(2) If a person receives a widow's pension for which she is not eligible, or an overpayment on a widow's pension, creating a debt under subsection (1) in an amount not exceeding \$1000, then

(a) if the person is receiving funds under the *Social Development Act*, section 17 of the *Social Development Act* applies to the repayment of the widow's pension for which the person is not eligible or the overpayment as if that pension or overpayment were a social allowance under that Act, or

(b) if the person is not receiving funds under the *Social Development Act*, the Minister may deduct from further widow's pension payments for which the person is otherwise eligible monthly amounts equal to 10% of the monthly amount of the pension payable under the regulations until the full amount of the pension for which the person is not eligible or the overpayment is repaid, but in no case may the monthly amount of the pension be reduced to less than \$10.

(3) If a person who receives a widow's pension is under an obligation under

(a) the *Senior Citizens Benefits Act* to repay all or part of a benefit,

(b) the *Social Development Act* to repay all or part of a social allowance, or

(c) the *Assured Income for the Severely Handicapped Act* to repay all or part of a handicap benefit

in an amount not exceeding \$1000 in the aggregate, the Minister may deduct from further widow's pension payments for which the person is otherwise eligible monthly amounts equal to 10% of the monthly amount of the widow's pension payable under the regulations, until the full amount required to be repaid is repaid, but in no case may the monthly amount of the pension be reduced to less than \$10.

Appointment
of trustee

7(1) If a person who is eligible to receive a widow's pension is unable to conduct her own affairs, the Minister may appoint a trustee to ensure that the widow's pension is expended for the benefit of the widow.

(2) A trustee appointed under subsection (1) shall, when required by the Minister, make returns showing the amount of any widow's pension received by him, the amount that has been expended for the benefit of the widow and the balance remaining with the trustee, and shall, if required by the Minister, remit any balance to the Minister.

(3) If the trustee appointed under subsection (1) is an officer or employee of an institution or other place of care in which the widow is maintained, the trustee shall pay to that institution or other place of care that part of the widow's pension that is considered by the Minister to be a reasonable sum for the maintenance of the widow, but the Minister shall require the trustee to make available to the widow the amount that has been provided for her personal use.

(4) Notwithstanding anything in this section, when a trustee of the estate of a person is appointed under the *Dependent Adults Act*, the trustee so appointed shall be a trustee for the purposes of this Act and references in this Act to a trustee shall be deemed to be references to the trustee so appointed.

Appeal

8(1) A person affected by a decision of the Minister respecting a widow's pension, or a person on that person's behalf, may request the Minister to appoint an appeal panel to hear an appeal from the decision.

(2) A request under this section shall be made in writing and shall be served on the Minister within 30 days from the date the person receives notice of the Minister's decision and of his right of appeal.

(3) Within 30 days of being served with a request under subsection (2) the Minister shall appoint an appeal panel to hear the appeal.

(4) The Minister may with respect to an appeal panel appointed under subsection (3)

(a) prescribe the terms of office of its members,

(b) designate a chairman, vice-chairman and secretary,

(c) authorize, fix and provide for the payment of expenses to its members, and remuneration to those members who are not employees of the Government, and

(d) prescribe the number of members of the appeal panel that constitutes a quorum.

Appeal procedure **9**(1) The *Administrative Procedures Act* applies to proceedings of an appeal panel.

(2) The Minister shall set the time within which the appeal panel is to hear an appeal and render a decision and he may extend that time.

(3) An appeal panel may, subject to this Act and the regulations, confirm, reverse or vary the decision appealed from, and the decision of the appeal panel is final.

Regulations **10** The Lieutenant Governor in Council may make regulations

(a) respecting the amounts to be included in and exempted from the determination of the income of a person who applies for or receives a widow's pension;

(b) respecting ^{the circumstances under which a person is eli}~~the manner of determining a person's eligibility~~ for a widow's pension, including the manner of determining the amount of a pension a person is eligible for;

(c) respecting the dates on which a person's eligibility for a widow's pension commences and terminates;

(d) designating institutions for the purposes of section 5(b)(iii);

~~(e) prescribing the form and content of applications and other forms.~~

11(1) *The Alberta Health Care Insurance Act is amended by this section.*

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

(z.1) “widow’s pension” means a widow’s pension under the *Widows’ Pension Act*.

(3) *Section 3 is amended by repealing subsection (2) and substituting the following:*

(2) The Minister shall, in accordance with the regulations, provide extended health benefits to a registrant and his dependants if

- (a) the registrant or his spouse is 65 years of age or older, or
- (b) the registrant is receiving a widow’s pension.

(4) *The following is added after section 28:*

28.1(1) No subscription is payable under an optional contract if the subscriber is receiving a widow’s pension.

(2) Subsection (1) applies to an optional contract

- (a) if the subscriber is receiving the widow’s pension at the time the contract is issued, or
- (b) on the date the subscriber is first paid a widow’s pension, if that date occurs after the contract is issued.

(3) The exemption from liability for the payment of subscriptions under subsection (1) ceases at the end of the 2nd month following the month in which

- (a) the death of the subscriber who was receiving the widow’s pension occurs, or
- (b) the subscriber becomes ineligible for the widow’s pension,

whichever occurs first.

(5) *Section 37 is amended by repealing subsection (3) and substituting the following:*

(3) Subsection (2) does not apply if

- (a) the registrant or his spouse is 65 years of age or over, or
- (b) the registrant is receiving a widow’s pension

at the time of enrolment.

Explanatory Notes

11(1) This section will amend chapter A-24 of the Revised Statutes of Alberta 1980.

(2) Definition.

(3) Section 3(2) presently reads:

(2) The Minister shall, in accordance with the regulations, provide extended health benefits to a registrant and his dependants if the registrant or his spouse is 65 years of age or over.

(4) Exemption.

(5) Section 37(3) presently reads:

(3) Subsection (2) does not apply if the registrant or spouse is 65 years of age or over at the time of enrolment.

12(1) *The Assured Income for the Severely Handicapped Act is amended by this section.*

(2) *Section 6(3) is amended by striking out “\$500” and substituting “\$1000”.*

(3) *Section 9 is amended*

(a) in subsection (2) by striking out “\$500” and substituting “\$1000”;

(b) in subsection (3)

(i) by striking out “\$500” and substituting “\$1000”;

(ii) by adding the following after clause (a):

(a.1) the Widows’ Pension Act,

13(1) *The Health Insurance Premiums Act is amended by this section.*

(2) *The following is added after section 4:*

4.1(1) *No registrant who is receiving a widow’s pension under the Widows’ Pension Act is liable for the payment of premiums, other than premiums that are payable before this section becomes effective with respect to that registrant, on behalf of himself or any of his dependants.*

(2) *This section is effective with respect to a registrant*

(a) on the date the registration becomes effective, if the registrant is receiving a widow’s pension at that time, or

(b) on the date the registrant is first paid a widow’s pension, if that date occurs after the effective date of registration.

12(1) This section will amend chapter A-48 of the Revised Statutes of Alberta 1980.

(2) Section 6 presently reads in part:

6(1) A person who receives a handicap benefit shall notify the Director forthwith of any material change in his handicap and in his or his spouse's income.

(3) A person who contravenes subsection (1) is guilty of an offence and liable to a fine of not more than \$500.

(3) Section 9 presently reads in part:

(2) Notwithstanding subsection (1), if a person receives a handicap benefit to which he is not entitled or an overpayment of the amount of the handicap benefit to which he is entitled, not exceeding \$500, the Director may deduct from further handicap benefit payments to which the person is otherwise entitled monthly amounts not exceeding 10% of the maximum amount of the handicap benefit prescribed in the regulations until the full amount of the handicap benefit to which he is not entitled or the overpayment has been repaid.

(3) If a debt not exceeding \$500 is due to the Crown and recoverable under

(a) the Blind Persons Act,

(b) the Disabled Persons Act,

(c) the Social Development Act, or

(d) regulations under the Disabled Persons' Pensions Act

from a person to whom or for whose benefit a handicap benefit is paid under this Act, the Director may deduct from further handicap benefit payments to which the person is otherwise entitled monthly amounts not exceeding 10% of the maximum amount of the handicap benefit prescribed in the regulations until the full amount of the debt so due has been repaid.

13(1) This section will amend chapter H-5 of the Revised Statutes of Alberta 1980.

(2) Exemption.

(3) The exemption from liability for the payment of premiums under subsection (1) ceases at the end of the 2nd month following the month in which

(a) the death of the registrant who was receiving the widow's pension occurs, or

(b) the registrant becomes ineligible for the widow's pension, whichever occurs first.

14(1) *The Alberta Income Tax Act is amended by this section.*

(2) *Section 10 is amended*

(a) *in subsection (1)(a) by adding “, a widow renter assistance grant” after “homeowner refund”;*

(b) *in subsection 15(d) by adding “, widow renter assistance grants” after “homeowner refunds”.*

15(1) *The Property Tax Reduction Act is amended by this section.*

(2) *Section 3(1) is amended by adding the following after clause (m):*

(n) “widow renter” means a person who is receiving a widow's pension under the *Widows' Pension Act* and who, exclusively or in company with others, occupies as a normal place of residence for a total of not less than 120 days in the year one or more residences, not being

(i) a nursing home,

(ii) an auxiliary hospital, or

(iii) an active treatment hospital,

and for whom or on whose behalf rent is paid in respect of that occupation;

(o) “widow renter assistance grant” means a widow renter assistance grant made pursuant to this Part.

(3) *Section 9 is amended*

(a) *in subsection (2) by adding “or received a widow's pension under the *Widows' Pension Act* in that year” after “year”;*

(b) *in subsection (3)*

14(1) This section will amend chapter A-31 of the Revised Statutes of Alberta 1980.

(2) Section 10 presently reads in part:

10(1) This section does not apply to

(a) an individual who has applied for or received a homeowner refund or a senior citizen renter assistance grant under the Property Tax Reduction Act for the same taxation year;

(15) The Lieutenant Governor in Council may make regulations

(d) prescribing any additional rules regarding eligibility or ineligibility for credits under this section for the purpose only of preventing 2 or more homeowner refunds or senior citizen renter assistance grants under the Property Tax Reduction Act or credits under this section being paid to the same individual or his spouse with respect to the same taxation year;

15(1) This section will amend chapter P-19 of the Revised Statutes of Alberta 1980.

(2) Definition.

(3) Section 9 presently reads in part:

(2) If the homeowner or one of the homeowners of a residence or farm land was 65 years of age or older in that year, the property education tax reduction and homeowner refund to the homeowner shall be in an amount determined by regulation.

(i) in clause (a) by adding “or received a widow’s pension under the *Widows’ Pension Act* in the month in which he died” after “died”;

(ii) in clause (b) by adding “or received a widow’s pension under the *Widows’ Pension Act* in that year” after “year”.

(4) *The following is added after section 20:*

Division 3

Widow Renter Assistance Grants

20.1(1) No person who receives for any year

- (a) a homeowner refund, or
- (b) a renter assistance credit,

is eligible to apply for or receive a widow renter assistance grant in respect of that same year.

(2) No person who applies for and receives a widow renter assistance grant for any year is eligible to apply for or receive an additional widow renter assistance grant in respect of that same year.

20.2(1) Except as otherwise provided by this Act or the regulations, every person who

- (a) is a resident of Alberta, and
- (b) at any time during a year qualifies as a widow renter,

is entitled to a widow renter assistance grant for that year in an amount determined by the regulations.

(2) Except as otherwise provided in this Act and the regulations, every individual who

- (a) is a resident of Alberta,
- (b) is in receipt of a widow’s pension under the *Widows’ Pension Act*, and
- (c) during a period or periods totalling at least 120 days in any year

(i) occupies, exclusively or in company with others, as a normal place of abode, one or more mobile units of which he is the owner, and

(ii) rents the land or space on which the mobile unit or units are located during that period or periods, whether the rent is paid by him or on his behalf,

is entitled to a widow renter assistance grant for that year in an amount determined by the regulations.

(3) When an estate is deemed to be a homeowner by virtue of section 8(4), then subsection (2) of this section only applies to that owner in a year if

(a) the deceased person was 65 years of age or older in the month in which he died, or

(b) the mentally incompetent person was 65 years of age or older in that year.

(4) Widow renter assistance grants.

20.3 A widow renter assistance grant is payable on application to the Minister in accordance with the regulations.

20.4 If a widow renter dies, his entitlement to a widow renter assistance grant for the year in which he dies continues and the grant is payable to his estate, but this provision shall not be construed so as to extend his actual length of residence required to qualify for a widow renter assistance grant under this Act.

(5) *Section 22(1)(a) and (b) are amended by striking out “or senior citizen renter assistance grant” wherever it occurs and substituting “, senior citizen renter assistance grant or widow renter assistance grant”.*

(6) *Section 24 is amended*

(a) *in clause (c) by adding “or widow renter” after “renter”;*

(b) *in clause (g) by adding “or widow renter assistance grant” after “grant”;*

(c) *in clause (h) by striking out “or senior citizen renter assistance grants” and substituting “, senior citizen renter assistance grants or widow renter assistance grants”;*

(d) *in clause (i) by striking out “or senior citizen renter assistance grants” and substituting “, senior citizen renter assistance grants or widow renter assistance grants”;*

(e) *in clause (k) by adding “or widow renter assistance grant” after “grant”;*

(f) *in clause (l) by adding “or widow renter assistance grants” after “grants”;*

(g) *in clause (n) by striking out “or senior citizen renter assistance grants” and substituting “, senior citizen renter assistance grants or widow renter assistance grants”;*

(h) *by adding the following after clause (o):*

(o.1) *prescribing the circumstances under which a widow renter is ineligible to apply for a widow renter assistance grant;*

(i) *in clause (q) by adding “or widow renter assistance grant” after “assistance grant”;*

(j) *in clause (r) by adding “or widow renter assistance grant” after “assistance grant”.*

16(1) *The Senior Citizens Benefits Act is amended by this section.*

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

(1.1) *Notwithstanding subsection (1)(b), on and after May 1, 1983 a benefit payable by virtue of subsection (1)(b) may be paid only to a person who*

(5) Consequential.

(6) Consequential.

16(1) This section will amend chapter S-12 of the Revised Statutes of Alberta 1980.

(2) Section 2 presently reads in part:

2(1) In accordance with the regulations the Minister may, out of money voted by the Legislature for the purpose, pay benefits in those amounts that may be prescribed by the regulations to every person who is a resident of Alberta and who

- (a) is receiving such a benefit as of May 1, 1983, and
- (b) is not eligible to receive a widow's pension under the *Widows' Pension Act*.

(3) *Section 6 is amended by striking out "\$500" and substituting "\$1000".*

17(1) *The Social Development Act is amended by this section.*

(2) *Section 13(2) is amended by striking out "\$500" and substituting "\$1000".*

(3) *Section 17 is amended*

(a) in subsection (2) by striking out "\$500" and substituting "\$1000";

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

(3) If a debt not exceeding \$1000 is due to the Crown and recoverable under

(a) the *Assured Income for the Severely Handicapped Act*,
or

(b) the *Widows' Pension Act*

from a person to whom or for whose benefit a social allowance is paid under this Part, the Director may deduct from further social allowance payments to which the person is otherwise entitled monthly amounts not exceeding 10% of the value of the basic necessities of that person or his dependant until the full amount of the debt is repaid.

18 This Act comes into force on May 1, 1983.

(a) is receiving a pension and a supplement, or

(b) is over the age of 60 and under the age of 65 and is receiving a spouse's allowance under section 17.31 of the Old Age Security Act (Canada).

(3) Section 6 presently reads:

(6) A person who knowingly receives a benefit that he is not entitled to receive under this Act and the regulations is guilty of an offence and liable to a fine of not more than \$500 and in default of payment to imprisonment of not more than 3 months.

17(1) This section will amend chapter S-16 of the Revised Statutes of Alberta 1980.

(2) Section 13 presently reads:

13(1) A person who is receiving a social allowance shall notify the Director forthwith of any changes in his circumstances that differ from his circumstances as previously reported.

(2) A person who contravenes subsection (1) is guilty of an offence and liable to a fine of not more than \$500.

(3) Section 17 presently reads in part:

(2) Notwithstanding subsection (1), if a person receives a social allowance to which he is not entitled or an overpayment of the amount of the social allowance to which he is entitled, not exceeding \$500, the Director may deduct from further social allowance payments or handicap benefit payments to which that person is otherwise entitled, monthly amounts not exceeding 10% of the value of the basic necessities of that person or his dependant until the full amount of the overpayment has been repaid.