

1984 BILL 57

Second Session, 20th Legislature, 33 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 57

PUBLIC SERVICE PENSION PLAN ACT

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 57

1984

PUBLIC SERVICE PENSION PLAN ACT

(Assented to _____, 1984)

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

Interpretation

1(1) In this Act,

(a) “benefit” means a retirement benefit, death benefit or benefit on termination under Part 5;

(b) “Board” means the Public Service Pension Plan Board established by section 5;

(c) “contributions” means contributions under the Plan;

(d) “current service contributions” means a participant’s contributions under section 14(1), and includes the corresponding contributions under the former Act;

(e) “employee” means

(i) a person employed by an employer under a contract of service and who satisfies the criteria prescribed for the purposes of this subclause, or

(ii) any other person prescribed to be an employee of an employer,

and includes a member of a corporation referred to in subsection (3);

(f) “employee contributions” means current service contributions, prior service contributions and any part of a sum transferred into the Plan under a reciprocal agreement that is recognized by the Minister as employee contributions;

(g) “employer” means the Government or any person who employs a participant under a contract of service and, in relation to a person who is a participant by virtue of his being a member of a corporation, includes that corporation;

(h) “former Act” means the *Public Service Pension Act* (RSA 1980 cP-35);

(i) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;

(j) “normal pensionable age” means the age specified in section 12;

(k) “participant” means an employee who is a participant of the Plan by virtue of section 11;

- (l) “pension” means a pension under the Plan;
- (m) “Plan” means the pension plan continued by section 2 as the Public Service Pension Plan;
- (n) “prescribed” means prescribed or otherwise provided for by regulations made by the Lieutenant Governor in Council or, where so specified, by the Minister;
- (o) “prior service” means any service recognized or recognizable under the Plan other than that for which current service contributions are made;
- (p) “reciprocal agreement” means an agreement under section 32, and includes an order under section 32(3) and an agreement referred to in section 32(7);
- (q) “salary” means
 - (i) an employee’s gross basic pay for the performance of the regular duties of his employment, excluding, except as prescribed by the Minister, any expense allowance, overtime payment, special remuneration or other similar compensation, or
 - (ii) in the case of an employee falling within a prescribed class of employees, the pay or deemed pay prescribed in respect of that class as salary;
- (r) “service” means a period, being before a person’s normal pensionable age, during which a person is or was employed by an employer, a party to a reciprocal agreement or a public body approved by the Minister, and includes
 - (i) a period of service in the Canadian or allied forces, or in a merchant navy serving the Canadian or allied cause, during World War II or the Korean Conflict,
 - (ii) a period of service as a member of the Legislative Assembly, the Executive Council or the Parliament of Canada, and
 - (iii) any other period prescribed as service;
- (s) “spouse”, with reference to a participant or former participant (in this clause referred to as “X”), means
 - (i) a person who, at the relevant time, was married to X and
 - (A) was not judicially or otherwise separated from X, or
 - (B) if so separated, was wholly or substantially dependent on X,
 - (ii) if there is no person to whom subclause (i) applies, a person of the opposite sex who
 - (A) lived with X
 - (I) for the 5-year period immediately preceding the relevant time, or
 - (II) for the 2-year period immediately preceding the relevant time if there is a child born to that person and X, and

(B) was, during that period, held out by X in the community in which they lived as X's consort, or

(iii) if there is no person to whom subclause (i) or (ii) applies, a person who was married to but separated from X and not dependent on him at the relevant time.

(2) The Lieutenant Governor in Council may, for the purposes of this Act, by regulation define any expression used in this Act but not defined in this section, and the expression has the meaning so defined.

(3) For the purposes of this Act, a member of a corporation that is an employer, as well as being a part of that corporation, shall be deemed to be employed by it.

Public Service Pension Plan

The Plan **2** The pension plan provided for by and under the former Act is continued, subject to this Act and the regulations, as the Public Service Pension Plan.

PART 1

ADMINISTRATION

Division 1

The Minister

Administration of the Plan **3** The Minister shall administer the Plan.

Report to the Legislature **4(1)** The Minister shall prepare and lay before the Legislature a report on the operation of the Plan with respect to each fiscal year.

(2) The report must include a statement of the most recent estimate by the Minister of the actuarial liabilities of the Plan.

(3) The Minister shall conduct an estimate of the actuarial liabilities of the Plan at least once every 5 years.

Division 2

The Public Service Pension Plan Board

Establishment, composition, term of office, etc. **5(1)** There is hereby established a board known as the Public Service Pension Plan Board.

(2) The Board shall consist of not fewer than 5 persons appointed members of the Board by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council shall appoint 1 of the members of the Board from among persons nominated by the Alberta Union of Provincial Employees.

(4) Subject to section 20(1)(b) of the *Interpretation Act*, a member of the Board holds office for the term fixed in relation to him by the Lieutenant Governor in Council.

(5) The Minister may prescribe the remuneration and expenses to be paid to members of the Board.

	(6) The Board may make rules respecting the calling of and the conduct of business at its meetings.
Chairman and vice-chairman	<p>6(1) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman and another member to be the vice-chairman of the Board.</p> <p>(2) The vice-chairman shall act as chairman when the office of chairman is vacant or when the chairman is absent or unable to act.</p>
Support services	7 The Minister shall provide such supplies, services and accommodation as he considers necessary to enable the Board to fulfil its objects from money appropriated by the Legislature.
Objects of the Board	<p>8 The objects of the Board are</p> <p>(a) to conduct appeals under Part 6;</p> <p>(b) to provide advice to the Minister under section 9;</p> <p>(c) where appropriate, to extend time limits and treat benefit choices as revoked under section 10;</p> <p>(d) to exercise and perform any other powers and duties assigned to it by this Act and the regulations;</p> <p>(e) to perform any other duties relating to the Plan that are assigned to it by the Minister.</p>
Advisory functions of the Board	<p>9 The Board may advise the Minister respecting</p> <p>(a) the adequacy of contributions to meet benefits,</p> <p>(b) adjustments to pensions under section 27,</p> <p>(c) the rate of interest payable on contributions,</p> <p>(d) benefits,</p> <p>(e) reciprocal agreements and recognition of prior service,</p> <p>(f) eligibility and participation in the Plan, and</p> <p>(g) the actuarial tables used for the purposes of the Plan.</p>
Board's power to extend time limits, etc.	<p>10(1) Where</p> <p>(a) a person fails to meet a time limit under the Plan,</p> <p>(b) the failure will or could result in a person's obtaining different benefits than he would have obtained had the time limit been met, and</p> <p>(c) the Board is satisfied that the failure results from circumstances that import no material fault on the part of that person,</p> <p>the Board may, on application to it, extend the time limit.</p> <p>(2) Where</p> <p>(a) the circumstances set out in subsection (1)(a), (b) and (c) apply,</p> <p>(b) the benefit has been received or has commenced to be paid, and</p>

(c) the Board is satisfied that a choice, including a deemed choice, that would otherwise be irrevocable under section 39(2) could materially prejudice the best interests of the recipient or his dependants,

the Board may, on application to it, treat that choice as revoked, extend the time limit for making the choice and order any consequential adjustments in the benefits.

PART 2 PARTICIPATION

The participants **11(1)** In this section, "Provincial agency" means a Provincial agency within the meaning of the *Financial Administration Act*.

(2) Subject to any prescribed modifications and conditions, the following are the persons participating in the Plan:

(a) employees appointed to positions in the public service of Alberta;

(b) employees, including employees of a Provincial agency, who immediately before the commencement of this section were participating in the pension plan under the former Act;

(c) other employees of a Provincial agency approval of whose participation in the Plan is prescribed;

(d) members of any other class of employees prescribed as participants.

(3) Subsection (2) does not apply to an employee

(a) who has attained normal pensionable age,

(b) who,

(i) by reason of age, cannot accrue 5 years' pensionable service before attaining normal pensionable age, or

(ii) by reason of age, could accrue that pensionable service only if he had prior service recognized and does not undertake, within such period after commencing his current service as is prescribed by the Minister, to have that prior service recognized;

(c) to whom the *M.L.A. Pension Act*, the *Public Service Management Pension Act*, the *Teachers' Retirement Fund Act* or the *Universities Academic Pension Act* applies,

(d) excluded under section 29(6) of the *Public Service Act*,

(e) who, immediately before the commencement of this section, was not included in the operation of the former Act by virtue of section 42 of that Act, unless she applies to the Minister to be a participant in the Plan,

(f) who is in receipt of a pension in respect of his own pensionable service, or

(g) who falls within any class of employees prescribed as being excepted from the Plan.

(4) The fact that an enactment empowers a Provincial agency to establish 1 or more pension plans for its employees and former employees and their dependants does not preclude the Lieutenant Governor in Council, on the application of the Provincial agency, from prescribing the approval of its employees under subsection (2).

Normal pensionable age

12 The normal pensionable age, for the purpose of the Plan, is 65 years of age.

PART 3 CONTRIBUTIONS

Disposition of contributions

13 All contributions shall be made and remitted to the Provincial Treasurer for disposition under the *Pension Fund Act*.

Participant current service contributions

14(1) Subject to subsection (2), a participant shall, at the intervals prescribed by the Minister, make contributions at the following rate:

(a) where his salary does not exceed the year's maximum pensionable earnings within the meaning of the *Canada Pension Plan (Canada)*, 4.75% of his salary, or

(b) otherwise,

(i) 4.75% of the portion of his salary that is equal to those year's maximum pensionable earnings, and

(ii) 6.25% of the remainder of his salary.

(2) Current service contributions are not to be made after a participant has accumulated 35 years of pensionable service.

(3) An employer or any other person who pays a participant's salary is liable for the remittance of the current service contributions, for which purpose he may withhold those contributions from the salary payments.

Employer contributions

15 As long as and at the same time as a participant is making current service contributions, his employer shall make contributions at a rate equal to the rate applicable to the participant.

PART 4 PENSIONABLE SERVICE

Computation of pensionable service

16(1) Subject to this section, in computing the length of pensionable service that a participant accumulated, the following periods of service, not exceeding 35 years in aggregate, are the periods to be taken into account:

(a) service with an employer in respect of which current service contributions have been made;

(b) prior service with an employer in respect of which the contributions prescribed for that service are made on the terms and conditions prescribed for it;

(c) service that is recognized by the Minister as pensionable service and is transferred into the Plan under a reciprocal agreement, if the contributions prescribed for that service are made on the terms and conditions prescribed for it;

(d) any other prescribed service in respect of which the contributions prescribed for that service are made on the terms and conditions prescribed for it.

(2) Service that is recognized as pensionable under any other pension plan under which a person is or will be entitled to receive or is receiving pension benefits may not be taken into account as pensionable service.

(3) Except as prescribed, service in respect of which contributions made have been returned may not be taken into account.

(4) For the purposes of subsection (1), the regulations may treat only part of the service referred to in that subsection as counting towards a person's pensionable service.

PART 5 BENEFITS

Definition

17 In this Part, "normal pension" means a pension in the amount specified in section 18(2) and in the form specified in section 18(3).

Division 1 Retirement Benefits

Pension on retirement at normal pensionable age

18(1) In this section, "pensionable salary" means a person's average annual salary in the 5 consecutive years of

- (a) his pensionable service, and
- (b) any further service that would be pensionable service but only for its exceeding the 35 year aggregate limit referred to in section 16(1),

over which his average salary was the highest.

(2) A participant who

- (a) ceases to be an employee at normal pensionable age, and
- (b) has accumulated at least 5 years' pensionable service,

becomes entitled to receive a pension in an annual amount equal to the aggregate of

- (c) 2% of his pensionable salary multiplied by the number of years of his pensionable service (if any) occurring before January 1, 1966,
- (d) 1.4% of his pensionable salary to a maximum of the annual average of the year's maximum pensionable earnings within the meaning of the *Canada Pension Plan (Canada)* for the 5 consecutive years immediately preceding his ceasing to be an employee

multiplied by the number of years of his pensionable service occurring after December 31, 1965, and

(e) 2% of his pensionable salary in excess of the annual average of those year's maximum pensionable earnings for those 5 consecutive years multiplied by the number of years of his pensionable service occurring after December 31, 1965.

(3) A pension under subsection (2) is payable for the life of the pensioner or the term of 5 years certain, whichever is the longer.

Alternative forms
of pension

19(1) A person is entitled, as an alternative to taking a pension in the form specified in section 18(3), to select a form of pension from one of the following:

(a) a single life pension, payable only for the life of the pensioner;

(b) a guaranteed term pension, payable for the term selected by him of 10 or 15 years certain or the life of the pensioner, whichever is the longer;

(c) a joint life pension, payable during the joint lives of the pensioner and a nominee designated by him and which, after the death of either, continues to be payable

(i) in the same amount as the amount payable before the death,

(ii) in the amount of 2/3 of it, or

(iii) in the amount of 1/2 of it,

to the survivor for his life.

(2) An alternative form of pension selected under subsection (1) shall be in an amount that is actuarially equivalent to the pension to which it is an alternative form.

Co-ordination of
certain pensions
with C.P.P. and
O.A.S.

20 Notwithstanding anything in the Plan, in the case of pensions commencing before normal pensionable age, the Minister may prescribe bases for co-ordinating pensions with the estimated Canada Pension Plan retirement pension and Old Age Security benefit on an actuarial equivalency basis.

Pension on early
retirement

21(1) A participant

(a) who ceases to be an employee on attaining or having attained the age of 55 years but not normal pensionable age, and

(b) whose combined age and pensionable service amount to not less than 85 years,

becomes entitled to receive a normal pension.

(2) A participant

(a) who ceases to be an employee on attaining or having attained the age of 55 years but not normal pensionable age,

(b) who has accumulated at least 5 years' pensionable service, and

(c) to whom subsection (1) does not apply,
becomes entitled to receive

(d) a benefit referred to in section 30(a) or (b), or

(e) a pension in the form of a normal pension that is actuarially equivalent to the normal pension that would be payable to him if his age were the lower of 85 years less his pensionable service or normal pensionable age.

Pension on late
retirement

22 A former participant who

(a) ceases to be an employee after continuing to be an employee beyond his normal pensionable age, and

(b) has accumulated at least 5 years' pensionable service

becomes entitled to receive a pension in the form of a normal pension that is actuarially equivalent to the normal pension that would have been payable to him at normal pensionable age.

Disability
pensions

23(1) Subject to subsection (3), a person who

(a) has accumulated at least 5 years' pensionable service,

(b) satisfies the Minister as to his total mental or physical incapacity for gainful employment, and

(c) either

(i) ceases to be an employee and a participant as a result of that incapacity, or

(ii) had elected to receive a deferred pension, whose incapacity occurred before his attaining the age of 55 years and who has not yet received any pension payments,

becomes entitled to receive a normal pension.

(2) Subject to subsection (3), a person who

(a) has accumulated at least 5 years' pensionable service,

(b) satisfies the Minister that he

(i) has become incapable of effectively performing his regular duties as a result of his mental or physical incapacity, and

(ii) is not wholly incapacitated from entering into gainful employment, and

(c) either

(i) ceases to be an employee and a participant as a result of that incapacity, or

(ii) had elected to receive a deferred pension, whose incapacity occurred before his attaining the age of 55 years and who has not yet received any pension payments,

becomes entitled to receive a pension in the form of a normal pension that is actuarially equivalent to the normal pension that would

	<p>be payable to him if his age were the lower of 85 years less his pensionable service or normal pensionable age.</p> <p>(3) A person is not entitled to receive any pension if he is entitled to receive or is receiving benefits under a disability plan that complies with the criteria prescribed for disability plans and is filed with the Minister.</p>
Postponement of pension	<p>24(1) A person who is to receive a pension under section 18, 21, 22 or 30(c) may postpone commencement of his pension to any date up to his attaining the age of 70 years.</p> <p>(2) When a pension that was postponed becomes payable, it shall be in an amount that is actuarially equivalent to the pension that would have been payable had the postponement not been made.</p>
Spousal protection	<p>25(1) In this section, “spouse” means the person, if any, who is or was the spouse of a pensioner at the effective date of the commencement of a pension.</p> <p>(2) Notwithstanding anything in this Act except subsection (3) but subject to any prescribed conditions, a person who is to receive a pension and who has a spouse shall be deemed for the purposes of the Plan to have chosen a joint life pension referred to in section 19(1)(c)(ii) with the spouse as the designated nominee.</p> <p>(3) Subsection (2) does not apply where</p> <p>(a) there is filed with the Minister, before the pension commences to be paid, a statutory declaration in the prescribed form by the spouse that</p> <p style="padding-left: 40px;">(i) contains a statement indicating that the spouse is aware of his rights under this section and waiving those rights, and</p> <p style="padding-left: 40px;">(ii) is signed by the spouse in the presence of the person before whom the declaration is administered and outside the immediate presence of the pensioner, or</p> <p>(b) the pensioner has chosen a joint life pension referred to in section 19(1)(c)(i) or (ii) with the spouse as the designated nominee.</p>
Failure to select pension	<p>26 Where a person who is entitled to a choice of pensions is requested in writing by the Minister to make the choice and he fails to do so within 3 months after the request is sent, he shall be deemed for the purposes of the Plan to have chosen a pension in the form of a normal pension.</p>
Pension adjustments	<p>27(1) Notwithstanding anything in this Act, the Lieutenant Governor in Council may by regulation make adjustments in the amounts payable as pensions.</p> <p>(2) No adjustment under subsection (1) may reduce a pension to an amount below that to which the Plan (apart from that subsection) entitles him.</p> <p>(3) A regulation under subsection (1) may be made retroactive to the date specified in the regulation.</p>

Division 2
Death Benefits

Benefit on death before commencement of pension

28 Where a person, other than a pensioner, who has made employee contributions that have not been returned to him dies, an amount equal to the unreturned employee contributions, with interest, shall be

- (a) paid to his surviving spouse, or
- (b) if he has no spouse surviving him, paid to the person entitled to receive any benefit on his death, or, if there are 2 or more such persons entitled, shared equally between them.

Additional payments for spouse or dependent minor

29(1) Where the person entitled to payment under section 28 is

- (a) the surviving spouse of the deceased, or
- (b) a dependent minor child of his,

the spouse or the dependent minor child is also entitled to receive a further amount equal to

- (c) in the case of the surviving spouse or where there is only 1 such child, the employee contributions made by and not previously returned to the deceased, with interest, and
- (d) where there are 2 or more such children, the amount of those contributions, with interest, divided by the number of children so entitled.

(2) Where

- (a) the deceased had accumulated at least 5 years' pensionable service, and
- (b) he had a surviving spouse,

his spouse may elect to be paid, instead of the payments under subsection (1) and section 28,

- (c) the pension that would have been payable if the deceased, immediately before his death, had ceased to be an employee and a participant under the circumstances referred to in section 23(1) and had been entitled to exercise and had exercised the option described in section 19(1)(c)(i) with his spouse as the designated nominee, or
- (d) a pension, payable for the term selected by the spouse of 5, 10 or 15 years certain or the life of the spouse, whichever is the longer, that is actuarially equivalent to the pension provided for under clause (c).

Division 3
Benefits on Termination

Termination after 5 years' pensionable service

30 Where a participant who has accumulated at least 5 years' pensionable service ceases to be an employee before he becomes entitled to receive a pension, he may elect

- (a) to receive an amount equal to the employee contributions made by and not previously returned to him, with interest,

(b) to have the amount specified in clause (a), together with any amount of the employer contributions and interest that are transferable under a reciprocal agreement, transferred to a pension plan that is accepted for registration under the *Income Tax Act* (Canada) and operated by the reciprocating party, or

(c) to receive, when or after he attains the age of 55 years, a pension in the form of a normal pension that is actuarially equivalent to the normal pension that would be payable to him if his age were the lower of 85 years less his pensionable service or normal pensionable age.

Termination
before 5 years'
pensionable
service

31 Where a participant who has accumulated less than 5 years' pensionable service ceases to be an employee, he may elect to receive the benefit specified in section 30(a) or (b).

Division 4

Miscellaneous

Transfer of
pensions under
reciprocal
agreements

32(1) The Lieutenant Governor in Council may prescribe conditions governing the provisions to be included in or excluded from reciprocal agreements entered into or made after the commencement of this section, and the Minister shall ensure that those reciprocal agreements comply with those conditions.

(2) The Minister may enter into a reciprocal agreement with any government, local authority within the meaning of the *Local Authorities Pension Act* or other public body, or any private body which has assumed any of the functions of the Government, whose workers are subject to a pension plan, for the purposes of enabling the transfer of pension entitlements between the Plan and any such plan.

(3) Where the Government is responsible for the other pension plan, the Minister may make an order dealing with any subject-matter that could be dealt with under an agreement with another reciprocating party under subsection (2).

(4) An order under subsection (3) may be retroactive.

(5) The *Regulations Act* does not apply to an order under subsection (3).

(6) An agreement entered into under subsection (2) is not invalid by reason only of its failing to comply with the conditions prescribed under subsection (1).

(7) Until rescinded, reciprocal agreements entered into under the former Act are valid according to their terms in so far as they are not varied by a reciprocal agreement under this section.

Beneficiaries

33(1) Any person on whose death a benefit is payable is a participant for the purposes of section 47 of the *Trustee Act*.

(2) Where a person designates a person to receive a benefit payable on his death, whether beneficially or in a representative capacity, or revokes a designation so made, the designation or revocation may be filed with the Minister.

(3) Where a person designates his estate as being entitled to receive a benefit payable on his death, or makes a designation using words indicative of his estate or of the representative capacity of his personal representative, he shall be deemed to have designated the personal representative of his estate in his representative capacity.

(4) Where

(a) at the date of the death of a person on whose death a benefit is payable, there is no valid designation by him filed with the Minister, or

(b) thereafter, but before any payment is made under subsection (6), there is filed with the Minister a valid revocation by him of a designation filed with the Minister

and no valid designation is filed with the Minister before any such payment is made, then the following is the person entitled to receive any benefit payable on his death:

(c) the deceased's spouse, if he is survived by a spouse, or

(d) the personal representative of the deceased's estate, if there is no surviving spouse.

(5) A benefit shall not be paid by virtue of the operation of subsection (4) until at least 2 months after the date of death.

(6) When a benefit is paid to a surviving spouse or the personal representative of an estate by virtue of the operation of subsection (4) after expiry of the 2 month period referred to in subsection (5), the payment is validly made as against the Government notwithstanding that a designation is filed under the Plan after the payment is made and the person who would have been entitled under the designation has no right to any benefit as a result of the designation.

(7) Where a benefit is paid by virtue of the operation of subsection (4), the Board may not exercise its powers under section 10 in relation to a designation that was not filed before the payment.

(8) A benefit paid on the death of any person other than to the personal representative of a deceased's estate is not part of the estate of the deceased and is not subject to the claims of his creditors.

PART 6

APPEALS

Appeal to
the Board

34(1) A party aggrieved by a decision of the Minister under or in relation to Parts 2 to 5 or the prescribed provisions of the regulations, other than a decision under section 32 or one that could be the subject-matter of an application under section 10, may appeal against that decision to the Board.

(2) A party wishing to appeal to the Board under this section must serve the chairman of the Board with a notice of appeal in the form prescribed by the Minister within 30 days of being notified in writing of the decision appealed against or within such longer period as the Board may, on application, allow.

(3) The notice of appeal must specify the decision appealed against and the grounds of appeal.

(4) The Board may identify persons who may be interested in the appeal and may give directions as to the persons to be served with the notice of appeal, whether or not they are parties.

(5) For the purposes of conducting an appeal under this section, the Board

(a) has all of the duties, powers, privileges and immunities given to a commissioner appointed under the *Public Inquiries Act* by sections 3, 4, 5, 7 and 9 of that Act, and

(b) shall be deemed to be a person for the purposes of section 1(a) of the *Administrative Procedures Act*.

(6) The Board may confirm, vacate or vary the decision appealed against.

(7) The Board shall serve the appellant and persons who received a notice of appeal with a copy of its decision, including the reasons for the decision.

Appeal to the
Court of Queen's
Bench

35(1) A party aggrieved by a decision of the Board under section 34 may, within 30 days of the date of service of the Board's decision on him or such longer period as the Court may allow, appeal to the Court of Queen's Bench on a question of law or jurisdiction.

(2) The procedure in an appeal to the Court of Queen's Bench shall be the same as that provided in the Alberta Rules of Court for applications by originating notice.

(3) The Court of Queen's Bench, on hearing the appeal, may confirm, vacate or vary the decision of the Board or make any order it considers just.

PART 7

MISCELLANEOUS

Advance against
pension

36(1) Where there is a delay in processing a pension beyond 30 days from the effective date of the commencement of the pension, the Provincial Treasurer may advance money to the pensioner against the pension.

(2) An advance under subsection (1) does not constitute the commencement of pension payments for the purposes of this Act.

Actuarial tables

37(1) The actuarial tables to be used for the purposes of the Plan or for particular provisions of the Plan are those adopted by regulations made by the Minister.

(2) The actuarial tables adopted under subsection (1) shall be used to determine actuarial equivalency for the purposes referred to in that subsection.

(3) The *Regulations Act* does not apply to actuarial tables adopted under subsection (1).

Participation statement	<p>38(1) Subject to subsection (2), the Minister shall, on the request of a participant, provide the participant with a statement containing the prescribed information about his participation in the Plan.</p> <p>(2) A participant is entitled to receive a statement with the prescribed information only once in each year.</p>
Exercise of benefit choice	<p>39(1) A person wishing to exercise a choice in relation to a benefit must do so by giving written notice to the Minister indicating the choice.</p> <p>(2) Subject to section 10(2), a choice made, including a choice deemed to be made, in relation to a benefit is irrevocable when, and is not irrevocable until, the benefit is received or commences to be paid.</p>
Payment of benefits	<p>40 The payment of all benefits is guaranteed by the Government.</p>
Liability of benefits to legal process	<p>41 A person's interest in a benefit is not subject to garnishee proceedings, attachment, seizure or any legal process, except in respect of a failure to account for public money within the meaning of the <i>Financial Administration Act</i>.</p>
Prohibition against assignment	<p>42 A person may not assign his interest in a benefit.</p>
Overpayments and deficiencies	<p>43 Any overpayment of benefit paid or underpayment of contribution payable is recoverable by the Provincial Treasurer, with interest, as a debt due to the Government.</p>
Return of money	<p>44 If the Minister finds that a person paid a contribution that was not, or was in excess of what was, payable, the Minister may repay the contribution or the excess, with interest.</p>
Retentions for default	<p>45(1) The Provincial Treasurer may withhold from any benefit payable a sum sufficient to meet any amount by which the person entitled to the benefit is indebted to the Government.</p> <p>(2) The Provincial Treasurer may withhold from any grant payable to an employer under any other Act or any regulation a sum sufficient to meet any amount by which the employer is in default or which he is liable to remit to the Provincial Treasurer under this Act, together with any interest or penalty due on it.</p> <p>(3) The Provincial Treasurer shall apply any money withheld under this section in satisfaction of the debt or liability to the Government.</p>
Rights and obligations under former Act	<p>46(1) No person is entitled to any benefit or other right provided for by or under the former Act except in so far as the benefit or right is provided for by or under this Act.</p> <p>(2) Subsection (1) does not affect the amount of any pension payment of which commenced before the commencement of this section.</p>
Lieutenant Governor in Council regulations	<p>47(1) The Lieutenant Governor in Council may make regulations</p> <ul style="list-style-type: none"> (a) respecting the manner in which benefits are payable, including the commutation of pensions; (b) subject to section 48(b), respecting the allowing and charging of interest;

- (c) modifying the participation in the Plan of any class of person whose circumstances or aspects of whose circumstances do not appropriately lend that class to full participation in the Plan, or modifying the Plan or any part of the Plan as it applies to them;
- (d) respecting the suspension of pensions of pensioners who become employees again and the treatment of those persons for the purposes of the Plan;
- (e) respecting the suspension of pensions where relevant evidence required by or under regulations under section 48(i) is not submitted;
- (f) respecting disability plans and their filing with the Minister;
- (g) respecting the upgrading of partial disability pensions where the disability increases and the reduction of total disability pensions where the disability decreases;
- (h) prescribing or providing for any matter or thing that by this Act may or is to be prescribed by the Lieutenant Governor in Council.

(2) Where the Lieutenant Governor in Council makes regulations under subsection (1)(c), the participation of a class of persons referred to in that clause shall be made as comparable to full participation in the Plan as, in his opinion, is possible having regard to the circumstances of that class.

Ministerial
regulations

48 The Minister may make regulations

- (a) specifying times by and the manner in which contributions must be remitted;
- (b) respecting the charging of interest or a penalty when contributions are overdue;
- (c) fixing and otherwise respecting the computing of rates of interest;
- (d) requiring employers periodically to
 - (i) report to the Minister on any matters relevant to their or their employees' participation in the Plan, and
 - (ii) submit to the Minister a certificate by their auditors stating that the employers have complied with their obligations under the Plan during the relevant period;
- (e) respecting the calculation of benefits;
- (f) respecting the times that constitute the effective dates for the commencement of pensions;
- (g) respecting the times when terms of years certain are to be treated as commencing or continuing;
- (h) adopting actuarial tables;
- (i) respecting the submission of evidence of age, marital status, the existence or identity of a spouse, mental or physical incapacity for gainful employment, the fact of a person's being alive or

any other fact relevant to determining eligibility for a benefit or the continuation of a pension or any other matter for which evidence is required;

(j) respecting the type of evidence required for the purposes of clause (i).

Application of regulations

49 Regulations under this Act may apply generally or with respect to particular components of the Plan.

PART 8

CONSEQUENTIAL, TRANSITIONAL, REPEALS AND COMMENCEMENT

Consequential

50(1) *The Alberta Educational Communications Corporation Act is amended in section 8(6) by striking out “, the Public Service Pension Act”.*

(2) Section 4(3) of the Alberta Home Mortgage Corporation Act is repealed.

(3) Section 5(3) of the Alberta Housing Act is repealed.

(4) Section 7 of the Alberta Opportunity Fund Act is repealed and the following is substituted:

7 Subject to regulations under the *Public Service Pension Plan Act*, the *Public Service Management Pension Act* applies with all necessary modifications to the Managing Director and employees of the Company, and the Company shall pay into the General Revenue Fund the contributions required to be made under section 5 of that Act, together with an equal amount from the funds of the Company as its contribution.

(5) Section 6(4) of the Alcoholism and Drug Abuse Act is repealed.

(6) Section 14 of the Health Unit Act is repealed.

(7) Part 3 of the Schedule to the Legislative Assembly Act is amended by striking out “Public Service Pension Board” and substituting “Public Service Pension Plan Board”.

(8) Section 11(g) of the Local Authorities Pension Act is amended by striking out “Pension Act” and substituting “Pension Plan Act”.

(9) Section 9 of the Oil Sands Technology and Research Authority Act is repealed and the following is substituted:

9 Where by an order of the Lieutenant Governor in Council under the *Public Service Management Pension Act*, that Act is made applicable to any members and employees of the Authority, the Authority shall pay to the Provincial Treasurer for deposit in the General Revenue Fund the contributions required to be made under section 5 of that Act together with an equal amount from the funds of the Authority as its contribution.

(10) Section 5(1)(d) of the Pension Fund Act is amended by adding “Plan” after “Pension”.

(11) *Section 8 of the Petroleum Marketing Act is repealed.*

(12) *Section 17(1)(e) of the Provincial Court Judges Act is amended by striking out “Public Service Pension Act” and substituting “Public Service Pension Plan Act”.*

(13) *The Public Service Act is amended*

(a) *by repealing section 19 and substituting the following:*

19(1) Subject to subsection (2), every employee must retire on attaining the age of 65 years.

(2) The Minister may authorize

- (a) the continuation of the employee’s employment, or
- (b) his reappointment

for such period after he has attained the age of 65 years as the Minister specifies.

(3) A person receiving a pension under any of the pension Acts, as defined in section 5(1) of the *Pension Fund Act*, may be re-employed under this Act for such period as the Minister specifies.

(b) *by repealing section 29(6) and substituting the following:*

(6) The contract of employment may exclude the employee from the Public Service Pension Plan.

(14) *The Public Service Management Pension Act is amended*

(a) *in sections 2(5), 13(2), 14(c), 36(2) and 38 by striking out “Public Service Pension Act” wherever it occurs and substituting “Public Service Pension Plan Act”;*

(b) *in section 38(b) by striking out “Public Service Pension Board” and substituting “Minister in respect of his administration of the Public Service Pension Plan”.*

(15) *The Universities Academic Pension Act is amended*

(a) *in section 2(e) by striking out “Public Service Pension Act” and substituting “Public Service Pension Plan Act”;*

(b) *in section 39(3) by striking out “subsection (1), the Public Service Pension Act” and substituting “subsection (1), the Public Service Pension Plan Act”.*

Transitional

51(1) *The Public Service Pension Board shall transfer to the Minister all the documents that were filed with it under the former Act by participants, former participants and other persons entitled to or claiming benefits under that Act.*

(2) *Documents referred to in subsection (1) shall be deemed to have been filed with the Minister under this Act.*

Temporary provisions

52(1) *Notwithstanding section 14(1)(a) and (b), the 4.75 and 6.25 percentages of salary specified in those clauses as being contributions payable shall be reduced to*

- (a) 3.75% and 5.25% respectively in the calendar year 1985,*
- (b) 4.00% and 5.50% respectively in the calendar year 1986,*
- (c) 4.25% and 5.75% respectively in the calendar year 1987, and*
- (d) 4.50% and 6.00% respectively in the calendar year 1988.*

(2) Contributions subject to the reductions under this section are nevertheless current service contributions.

Repeal

53 *The Public Service Pension Act is repealed.*

Coming
into force

54 *This Act comes into force on Proclamation.*