

1984 BILL 87

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Second Session, 20th Legislature, 33 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 87**

**PUBLIC SERVICE MANAGEMENT PENSION PLAN ACT**

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THE PROVINCIAL TREASURER

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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# BILL 87

1984

## PUBLIC SERVICE MANAGEMENT PENSION PLAN ACT

(Assented to \_\_\_\_\_, 1984)

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**Schedule**

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 Management Pension Plan Board established by section 5;
- (c) “contributions” means contributions under the Plan, and includes contributions under the former Act that are of a nature corresponding to those in question;
- (d) “current service contributions” means a participant’s contributions under section 14(1), and includes contributions under section 14(4);
- (e) “employee” means
  - (i) a person who holds a position designated as a management position or who is designated as an employee by an order of the Minister, and
    - (A) is employed by an employer on a full-time continuous basis, or
    - (B) is employed by an employer under a contract of service and satisfies the criteria prescribed for the purposes of this subclause, or
  - (ii) any other person prescribed to be an employee of an employer,and, where so prescribed, includes a member of a corporation that is an employer, but does not include
  - (iii) a person to whom the *M.L.A. Pension Act*, the *Teachers’ Retirement Fund Act* or the *Universities Academic Pension Act* applies, or
  - (iv) any other prescribed person;
- (f) “employer” means the Government or any person who employs a participant or otherwise occupies an employer or former employer relationship in relation to a participant and, in relation to a person who is a participant by virtue of his being a member of a corporation, includes that corporation;

- (g) “former Act” means the *Public Service Management Pension Act*;
- (h) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
- (i) “normal pensionable age” means the age specified in section 12;
- (j) “participant” means a person who is a participant of the Plan by virtue of section 11;
- (k) “pension” means a pension under the Plan;
- (l) “pensionable service” means service in respect of which contributions have been made under section 14 or 16;
- (m) “Plan” means the pension plan continued by section 2 as the Public Service Management 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 other than that for which current service contributions are made;
- (p) “reciprocal agreement” means a reciprocal or any other agreement entered into under section 32(2), and includes an order under section 32(3);
- (q) “salary” means
- (i) an employee’s gross basic pay and the monetary value, as assessed by the Minister, of any non-monetary advantage declared by the Minister to be a perquisite, that is received 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 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” means

(i) a person who, at the relevant time, was married to a participant or former participant and

(A) was not judicially or otherwise separated from him, or

(B) if so separated, was wholly or substantially dependent on him,

(ii) if there is no person to whom subclause (i) applies, a person of the opposite sex who

(A) lived with the participant or former participant

(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 the participant or former participant, and

(B) was, during that period, held out by the participant or former participant in the community in which they lived as his consort, or

(iii) if there is no person to whom subclause (i) or (ii) applies, a person who was married to but separated from the participant or former participant 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.

### **Public Service Management 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 Management 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 Management Pension Plan Board**

Establishment,  
composition,  
term of office,  
etc.

**5(1)** There is hereby established a board known as the Public Service Management 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 participants.

(4) 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

**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.

(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.

Support services

**7** The Minister shall provide such supplies, services and accommodation as he considers necessary to enable the Board to fulfil its objects.

Objects of  
the Board

**8** The objects of the Board are

(a) to conduct the hearing of appeals under Part 6;

(b) to provide advice to the Minister under section 9;

(c) where appropriate, to extend time limits and treat benefit choices as revoked under section 10;

(d) to exercise and perform any other powers and duties assigned to it by this Act and the regulations;

(e) to perform any other duties relating to the Plan that are assigned to it by the Minister.

Advisory  
functions of the  
Board

**9** The Board may advise the Minister respecting any matters relating to the Plan, including

(a) the adequacy of contributions to meet benefits,

(b) adjustments to pensions under section 27,

(c) rates of interest for the purposes of the Plan,

(d) benefits,

(e) reciprocal agreements,

(f) recognition of prior service,

- (g) eligibility and participation in the Plan, and
- (h) the actuarial tables prescribed or to be prescribed by the Minister.

Board's power to extend time limits, etc.

**10(1) Where**

- (a) a person fails to meet a time limit under the Plan,
- (b) the failure will or could result in a person's obtaining different benefits than those he would have obtained had the time limit been met, and
- (c) the Board is satisfied that the failure results from circumstances that import no material fault on the part of that person,

the Board may, on application to it, extend the time limit.

**(2) Where**

- (a) the circumstances set out in subsection (1)(a), (b) and (c) apply,
- (b) the benefit has been received or has commenced to be paid, and
- (c) the Board is satisfied that a choice, including a deemed choice, that would otherwise be irrevocable under section 40(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)** Subject to any prescribed modifications and conditions, the following are the persons who are to participate in the Plan:

- (a) employees appointed to positions in the public service of Alberta;
- (b) employees who immediately before the commencement of this section were participating in the pension plan under the former Act;
- (c) employees of a corporation listed in the Schedule;
- (d) employees of any other prescribed Provincial corporation or Provincial committee, as defined in the *Financial Administration Act*, or of another prescribed public body;
- (e) members of any other class of employees prescribed to be participants.

**(2)** Subsection (1) 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, or

(ii) by reason of age, could accrue 5 years' 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) who is in receipt of a pension in respect of his own pensionable service,

(d) who does not satisfy conditions prescribed as being necessary for participation, or

(e) who falls within any class of employees prescribed as being

(i) excepted, or

(ii) withdrawn

from the Plan.

(3) Where a class of employees is prescribed as being withdrawn from participation in the Plan, the Lieutenant Governor in Council may attach terms and conditions applicable to that particular withdrawal.

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

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 rate of 5% 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.

(4) An employer shall, on behalf of a participant, make contributions for the purposes of subsection (1) in such circumstances as are prescribed.

Employer contributions

**15(1)** Except as prescribed, as long as and at the same time as a participant is making current service contributions, his employer shall make contributions at the rate of 9% of the participant's salary.

(2) An employer shall make such contributions in respect of prior service as are prescribed.

**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) where the contributions required by subsection (2) have been made and the terms and conditions prescribed in relation to the service in question have been satisfied,

(i) prior service with an employer,

(ii) service that is recognized as pensionable service and is transferred into the Plan under a reciprocal agreement,

(iii) service that would be pensionable service but for subsection (4),

(iv) service that a deceased referred to in section 29(2) could, when alive, have had taken into account as pensionable service on payment of the required contributions, and

(v) any other service.

(2) Contributions for service described in subsection (1)(b) shall be made in the amount and on the terms and conditions prescribed in relation to the service in question.

(3) Except as prescribed, 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.

(4) Service in respect of which contributions made have been returned may not be taken into account.

(5) 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**

Interpretation

**17** In this Part,

(a) "actuarially equivalent" means equivalent in accordance with the appropriate actuarial tables prescribed by the Minister;

(b) "employee contributions" means

(i) current service contributions,

(ii) any contributions for prior service made by a participant, and

(iii) any part of a sum transferred into the Plan under a reciprocal agreement that is recognized by the Minister as employee contributions;

(c) “matrimonial property order” means a matrimonial property order within the meaning of the *Matrimonial Property Act*, or a similar order enforceable in Alberta of a court outside Alberta, that affects the payment or distribution of a person’s benefits;

(d) “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) in the case of a person whose service includes at least 5 years’ pensionable service with an employer or a party to a reciprocal agreement, his average annual salary in the 5 consecutive years of

(i) his pensionable service, and

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

with an employer or party to a reciprocal agreement over which his average salary was the highest, or

(b) in the case of any other person, such amount as is prescribed.

(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 2% of his pensionable salary multiplied by the number of years of his pensionable service.

(3) A pension under subsection (2) is payable for the life of the pensioner.

(4) Where a former participant receiving a pension in the form specified in subsection (3) dies leaving a surviving spouse to whom he was married or with whom he lived for at least 5 years before his death, the pension is payable to that spouse for life in an amount equal to 3/4 of the pension that was payable to him.

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 guaranteed term pension, payable for the term selected by him of 5, 10, 15 or 20 years or the life of the pensioner, whichever is the longer;

(b) 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) As a further alternative, the Minister may, on the application of the person entitled, allow that person to select a pension in a form not described in subsection (1) but that the Minister considers is best suited to the person's circumstances.

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

(4) The term under a guaranteed term pension under the Plan may not end later than the day before the pensioner's 86th birthday.

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

becomes entitled to receive a normal pension or a benefit referred to in section 30(b).

(2) Where a participant

(a) ceases to be an employee before attaining the age of 55 years, and

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

the Lieutenant Governor in Council, on the recommendation of the Minister, may authorize the payment of a pension to the participant, in which event he becomes entitled to receive whichever of a normal pension or a pension in the form of a normal pension and in an amount that is actuarially equivalent to the normal pension that would be payable to him if his age were 55 years, that the Minister, on the merits of the case, considers appropriate.

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

Disability pensions

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

**23(1)** Subject to subsection (3), a person who, before attaining the age of 55 years,

- (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 under section 30(c),

becomes and, subject to regulations under section 48(1)(j), is entitled to receive a normal pension.

(2) Subject to subsection (3), a person who, before attaining the age of 55 years,

- (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 under section 30(c),

becomes and, subject to regulations under section 48(1)(j), is entitled to receive a pension in the form of a normal pension and in an amount that is actuarially equivalent to the normal pension that would be payable to him if his age were 55 years.

(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 satisfies the criteria prescribed for disability plans and is filed with the Minister.

Postponement of pension

**24(1)** A person who is to receive a pension under section 18, 21(1), 22 or 30(c) may postpone commencement of his pension to any date up to his attaining the age of 70 years.

(2) When a pension that was postponed becomes payable, it shall be in the form of a normal pension and in an amount that is actuarially equivalent to the normal pension or the pension in the form of a

normal pension that would have been payable had the postponement not been made.

Spousal  
protection

**25(1)** In this section,

(a) “pensioner” includes a prospective pensioner;

(b) “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.

(2) Notwithstanding anything in this Act except subsection (3), 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 normal pension, if he was married to or lived with that spouse for at least 5 years before the commencement of the pension.

(3) Subsection (2) does not apply where

(a) there is filed with the Minister, before the pension commences to be paid,

(i) a statutory declaration in the form prescribed by the Minister by the spouse that

(A) contains a statement indicating that the spouse is aware of his rights under this section and waiving those rights, and

(B) 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

(ii) a matrimonial property order, or

(b) the pensioner has chosen a joint life pension referred to in section 19(1)(b)(i) or (ii) with the spouse as the designated nominee.

Failure to  
select pension

**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.

Benefit  
adjustments

**27(1)** Notwithstanding anything in this Act, the Lieutenant Governor in Council may by regulation, for the purpose of maintaining approximate parity with the cost of living, make adjustments in the amounts payable as pensions.

(2) No adjustment under subsection (1) may reduce a person’s pension to an amount below that to which the Plan, apart from that subsection, entitles him.

(3) Notwithstanding sections 21 and 23, where a participant ceases to be an employee under the circumstances specified in any of those sections, the Lieutenant Governor in Council may, on the recommendation of the Minister, grant additional benefits on the terms and conditions stipulated in the order.

**Division 2**  
**Death Benefits**

Benefit on death before commencement of pension

**28** Where a person, other than a pensioner, who has employee contributions in the Plan 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 persons so entitled, shared equally between them.

Additional payments for spouse or dependent minor

**29(1) Where**

- (a) the person entitled to payment under section 28 is
  - (i) the surviving spouse of the deceased, or
  - (ii) a dependent minor child of his, and
- (b) the deceased has accumulated at least 5 years' pensionable service or died while he was an employee,

the spouse or the dependent minor child is also entitled to receive a further amount equal, in the case of the surviving spouse or where there is only 1 such child, to the current service contributions and any other prescribed employee contributions not previously returned to the deceased, with interest, and where there are 2 or more such children, to the amount of those contributions, with interest, divided by the number of children so entitled.

(2) Where the deceased had accumulated at least 5 years' pensionable service and had a surviving spouse entitled to payment under section 28, his spouse may elect to be paid, instead of the payments under subsection (1) and section 28,

- (a) 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)(b)(i) with his spouse as the designated nominee, or
- (b) subject to section 19(4), a pension, payable for the term selected by the spouse of 5, 10, 15 or 20 years or the life of the spouse, whichever is the longer, that is actuarially equivalent to the pension provided for under clause (a).

**Division 3**  
**Benefits on Termination**

Termination after 5 years' pensionable service

**30(1) 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 choose**

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

(b) to have the amount specified in clause (a), together with any other money that is 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 other party to the agreement, or

(c) to receive, when he attains the age of 55 years, a normal pension.

(2) Subsection (1) does not apply to a person entitled to a pension under section 21(2).

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 or particular 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 or any other agreement with any government, local authority within the meaning of the *Local Authorities Pension Act* or other public body, or any private body that has assumed any of the functions of an employer or any of whose functions an employer has assumed, any of whose workers is 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 party under subsection (2).

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

(5) 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).

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 per-

sonal 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) after his death, 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, the person entitled to receive any benefit payable on his death is the deceased's spouse, if he is survived by a spouse, or 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 otherwise 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.

(9) The right of any person under section 47 of the *Trustee Act* or this section to a benefit is subject to any rights given by Division 1 or 2 to any other person.

Matrimonial  
property orders

**34** Subject to section 42, the right of any person to receive a benefit is subject to the rights of a spouse or former spouse of his arising under a matrimonial property order.

## PART 6

### APPEALS

Appeal to the  
Board

**35(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, 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

**36(1)** A party aggrieved by a decision of the Board under section 35 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

**37(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

**38** The actuarial tables to be used for the purposes of the Plan or for particular provisions of the Plan are those prescribed by the Minister.

Participation  
statement

**39** The Minister shall, once in each year, provide each participant with a statement containing the information prescribed by the Minister about the participant's participation in the Plan.

Exercise of benefit choice	<p><b>40(1)</b> 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	<b>41</b> The payment of all benefits is guaranteed by the Government.
Liability of benefits to legal process	<b>42</b> A person's interest in a benefit is not subject to garnishee proceedings, attachment, seizure or any legal process, except pursuant to section 46 or in respect of a failure to account for public money within the meaning of the <i>Financial Administration Act</i> .
Prohibition against assignment	<b>43</b> A person may not assign his interest in a benefit.
Overpayments and deficiencies	<b>44</b> 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.
Return of money	<b>45</b> 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.
Retentions for default	<p><b>46(1)</b> 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 under the Plan.</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><b>47(1)</b> 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 benefit payment of which commenced before the commencement of this section.</p> <p>(3) A person who was in receipt of a pension immediately before the commencement of this Act continues, subject to this Act and the regulations, to be entitled to receive that pension.</p>
Lieutenant Governor in Council regulations	<p><b>48(1)</b> The Lieutenant Governor in Council may make regulations</p> <p>(a) withdrawing a class of employees from participation in the Plan and attaching general terms and conditions to a withdrawal;</p> <p>(b) respecting the manner in which benefits are payable, including the commutation of pensions;</p> <p>(c) respecting the allowing of interest, except for overdue benefit payments;</p>

- (d) respecting the charging of interest, except for overdue contributions;
- (e) 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;
- (f) respecting the suspension of pensions of pensioners who become engaged to work for an employer or a former or successor employer again and the treatment of those persons for the purposes of the Plan, including the linkage of the separate periods of pensionable service and the repayment of amounts received as pension, with interest;
- (g) respecting the suspension of pensions where relevant evidence required by or under regulations under section 49(i) or (j) is not submitted;
- (h) prescribing circumstances under which persons referred to in section 21(2) may be granted pensions;
- (i) respecting disability plans and their filing with the Minister;
- (j) respecting the upgrading of partial disability pensions where the disability increases and the reduction or elimination of total or partial disability pensions where the disability decreases or terminates;
- (k) prescribing 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)(e), 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

#### **49 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) respecting the allowing of interest when benefit payments are overdue;
- (d) fixing and otherwise respecting the computing of rates of interest;
- (e) 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 an independent auditor's report stating that the employers have complied with their obligations under the Plan during the relevant period;

- (f) respecting the calculation of benefits;
- (g) respecting the times that constitute the effective dates for the commencement of pensions;
- (h) respecting the times when guaranteed terms of years are to be treated as commencing or continuing;
- (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);
- (k) prescribing any matter or thing that by this Act may or is to be prescribed by the Minister.

Application of regulations

**50(1)** Regulations under this Act may be made to apply generally or with respect to particular components of the Plan.

(2) An order or regulation under or by reference to sections 1(1)(e) or (q)(i), 11, 27(1) or 32(1) is, if so provided in the order or regulation, effective from a date prior to that on which it would otherwise have been effective.

## PART 8

### CONSEQUENTIAL, TRANSITIONAL, REPEALS AND COMMENCEMENT

Consequential

**51(1)** *Part 3 of the Schedule to the Legislative Assembly Act is amended by striking out "Public Service Management Pension Board" and substituting "Public Service Management Pension Plan Board".*

(2) *The M.L.A. Pension Act is amended*

(a) *in section 1(1)(c)(ii) by striking out "section 1(k) of the Public Service Management Pension Act" and substituting "section 1(r) of the Public Service Management Pension Plan Act";*

(b) *in section 3(2) by striking out "section 15 of the Public Service Management Pension Act" and substituting "section 16 of the Public Service Management Pension Plan Act";*

(c) *in sections 3(3), 8(2)(a) and 13(4)(a) by striking out "section 21 of the Public Service Management Pension Act" and substituting "section 19 of the Public Service Management Pension Plan Act";*

(d) *in section 17 by striking out "Pension Act" and substituting "Pension Plan Act".*

Transitional

**52(1)** *The Public Service Management Pension Board shall transfer to the Minister all the documents that were in its possession under the former Act, and documents filed with that Board in relation to partic-*

*ipants shall be deemed for the purposes of this Act to have been filed with the Minister.*

*(2) An order, regulation or resolution made by the Public Service Management Pension Board under the former Act shall, to the extent that it can be made applicable to and is consistent with this Act, be deemed to be a regulation under this Act, until it is replaced by an equivalent regulation under this Act.*

*(3) Notwithstanding section 32 or anything to the contrary in this Act, subsisting reciprocal agreements entered into under the former Act are valid according to their terms until rescinded in so far as they are not varied by a reciprocal agreement under that section.*

Repeal      **53** *The Public Service Management Pension Act is repealed on Proclamation.*

Coming into force      **54** *This Act comes into force on Proclamation.*

#### **SCHEDULE**

##### **Section 11(1)(c) corporations**

- 1** The Alberta Opportunity Company.
- 2** The Alberta Oil Sands Technology and Research Authority.
- 3** The Alberta Petroleum Marketing Commission.