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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 47

SPECIAL FORCES PENSION PLAN ACT

THE PROVINCIAL TREASURER

First Reading
Second Reading
Committee of the Whole
Third Reading
Royal Assent

BILL 47

1985

SPECIAL FORCES PENSION PLAN ACT

(Assented to _____, 1985)

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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 Special Forces 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);
- (e) “employee” means
 - (i) a police officer employed by a local authority on a full-time continuous basis,
 - (ii) a police officer or former police officer who is on a leave of absence from a local authority’s police force or in receipt of benefits under its disability plan and is prescribed to be an employee of a local authority, or
 - (iii) any other person employed by a local authority in a position prescribed by the Minister who immediately before the commencement of this section was participating in the pension plan under the former Act,but does not include any person prescribed not to be an employee;
- (f) “employer” means a local authority that employs a participant or occupies a former employer relationship in relation to a participant;
- (g) “former Act” means the *Special Forces Pension Act*;
- (h) “local authority” means
 - (i) a body any of whose workers participate or are eligible to participate in the Local Authorities Pension Plan, or
 - (ii) any other body that employs police officers and is prescribed to be a local authority;
- (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 a person who is a participant of the Plan by virtue of section 11;
- (l) “pension” means a pension under the Plan;

- (m) “pensionable service” means service in respect of which contributions have been made under section 14 or 16;
- (n) “Plan” means the pension plan continued by section 2 as the Special Forces Pension Plan;
- (o) “police officer” means a peace officer who is a member of a police force with authority to enforce federal and provincial statutes in force in Alberta generally, excluding a person acting solely as a special constable or auxiliary constable;
- (p) “potential service” means a period that a participant could have served as a police officer until he attained normal pensionable age had he not become totally incapacitated, mentally or physically, for gainful employment or had he not died;
- (q) “prescribed” means prescribed or otherwise provided for by regulations made by the Lieutenant Governor in Council or, where so specified, by the Minister;
- (r) “prior service” means any service other than that for which current service contributions are made;
- (s) “reciprocal agreement” means a reciprocal or any other agreement entered into under section 32(2), and includes an order under section 32(3);
- (t) “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;
- (u) “service” means a period, being before a person’s normal pensionable age, during which a person is or was employed by a local authority, 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 peacetime military service in the Canadian Forces,
 - (iii) potential service prescribed by the Minister, and
 - (iv) a period prescribed as service during which a person is
 - (A) on a leave of absence, or
 - (B) in receipt of benefits under a disability plan;

(v) "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, and the expression has the meaning so defined.

(3) To the extent that a person is or was employed by a commission as defined in the *Police Act*, he shall, to that extent and for the purposes of this Act, be deemed to be or to have been employed by the local authority that established the commission.

Special Forces 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 Special Forces Pension Plan.

PART 1

ADMINISTRATION

Division 1

The Minister

Administration of the Plan

3 The Minister shall administer the Plan.

Report to the Legislative Assembly

4(1) The Minister shall prepare and lay before the Legislative Assembly 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 Special Forces Pension Plan Board

Establishment, composition, term of office, etc.

5(1) There is hereby established a board known as the Special Forces 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 and another from among persons nominated by the employers.

(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.

(3) Where

- (a) a benefit choice has been made, and
- (b) the Board is satisfied that
 - (i) the choice communicated to the Minister was not that which the person making the choice actually intended, and
 - (ii) the application mentioned in this section does not result from a change in a person's circumstances affecting the choice,

the Board may, on application made to it within 3 months from the date when the benefit was received or commenced to be paid, treat the choice as revoked, substitute for it the choice that, in the Board's opinion, the person originally intended to make 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 falling within section 1(1)(e)(i) or (ii) in or with respect to a police force that has been brought under the Plan
 - (i) by regulation made under subsection (2), or
 - (ii) under the former Act;
 - (b) employees falling within section 1(1)(e)(iii).
- (2) The Minister shall, on application by a local authority in respect of its police force and with the consent of the police association, by regulation bring that police force under the Plan.
- (3) 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, or
 - (d) who falls within any class of employees prescribed as being excepted from the Plan.

Normal pensionable age **12** The normal pensionable age, for the purpose of the Plan, is 60 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*.

Current service and current employer contributions **14(1)** Subject to subsection (2), a participant and his employer shall, at the intervals prescribed by the Minister, make contributions at an aggregate rate of 14% of the participant's salary, and the Minister shall take the division between current service contributions and employer contributions to be that reported to him by the employer.

(2) Current service contributions and employer contributions under subsection (1) are not to be made after a participant has accumulated 35 years of pensionable service.

(3) The employer is liable for the remittance of the current service contributions, for which purpose he may withhold those contributions from the salary payments.

Prior service contributions by employer

15 An employer shall make contributions in respect of a leave of absence in such circumstances and in such amounts 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 person 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) subject to section 29(5), potential service;
- (c) 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 a local authority,
 - (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)(c) shall be made in the amount and on the terms and conditions prescribed in relation to the service in question.

(3) 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.

(6) Notwithstanding subsection (1)(b), potential service is not to be taken into account in computing the length of pensionable service that a person accumulated for the purposes of determining whether a person is entitled to a benefit.

**PART 5
BENEFITS**

Definitions

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,
 - (iii) any part of a sum transferred into the Plan under a reciprocal agreement that is recognized by the Minister as employee contributions, and
 - (iv) any contributions made under section 16(2) for service described in section 16(1)(c)(iii) that are 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 receivable under 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 a local authority 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 a local authority 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 or the term of 5 years, whichever is the longer.

(4) Notwithstanding subsection (2), any pension payable in the form specified in subsection (3) shall be reduced, on the first day of the month following the date the pensioner becomes or would have become 65 years of age, to the amount specified in subsection (2) less 0.6% of that part of his pensionable salary that does not exceed 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.

(5) Notwithstanding subsection (3), where a former participant receiving a pension in the form specified in that subsection dies leaving a surviving spouse to whom he was married or with whom he lived for at least 5 years before his death,

(a) the pension is payable to that spouse for life in an amount equal to 65% of the pension that would have been payable to the former participant had he continued to live, and

(b) if the surviving spouse is more than 10 years younger than the deceased, the pension payable to the surviving spouse shall be reduced by 1% for each year or part of a year of the age difference that is in excess of 10 years.

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, 15 or 20 years 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 $\frac{2}{3}$ of it, or

(iii) in the amount of $\frac{1}{2}$ 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) A pension in an alternative form shall be reduced at the time and in the manner specified in section 18(4).

(5) 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 the age of 65 years, 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 who ceases to be an employee

(a) on attaining or having attained the age of 55 years but not normal pensionable age and having accumulated at least 5 years' pensionable service, or

(b) having accumulated at least 25 years' pensionable service, irrespective of his age,

becomes entitled to receive a normal pension.

(2) A participant who

(a) ceases to be an employee on attaining or having attained the age of 50 years but not 55 years, and

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

becomes entitled to receive a benefit described in subsection (3).

(3) The benefits referred to in subsection (2) are

(a) one referred to in section 30(a), (b) or (c),

(b) where the Minister gives his approval in writing, 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, or

(c) where the prescribed circumstances apply, a normal pension.

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 and in an amount 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, 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(h), 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(h), 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 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 time

(i) when he makes his choice as to the form of pension pursuant to a request by the Minister under section 26, or

(ii) if he does not make that choice, when he is deemed under that section to have chosen the pension mentioned in that section.

(2) Notwithstanding anything in this Act except subsection (3) and section 18(4) and (5), 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 there is filed with the Minister, before the pension commences to be paid,

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

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

(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

(b) a matrimonial property order.

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.

Pension
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.

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,

(b) if he has no spouse surviving him, paid to his dependent minor child or shared equally between his minor dependent children surviving him, or

(c) if he has no spouse or dependent minor children surviving him, paid to the person entitled to receive any benefit on his death.

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

- (a) a pension in the form and in the amount that would be payable to a surviving spouse under section 18, and
- (b) if there are surviving dependent minor children in addition to the surviving spouse, an additional pension in the amount of 10% of the amount of the normal pension of the deceased for the benefit of each surviving dependent minor child, but payable in respect of no more than 3 such children, until the end of the month in which the child dies or attains the age of 18 years, whichever event first occurs.

(3) If there is no surviving spouse but there are surviving dependent minor children, the children's legal guardian may elect to be paid, instead of the payments under subsection (1) and section 28, a pension in the amount of 15% of the amount of the normal pension of the deceased for the benefit of each dependent minor child but payable in respect of no more than 4 such children, and the pension payments in respect of a surviving dependent minor child shall cease at the end of the month in which the child dies or attains the age of 18 years, whichever event first occurs.

(4) If the surviving spouse remarries, the entitlement of the surviving spouse to the pension under subsection (2)(a) ceases at the end of the month in which the remarriage occurs and the spouse is then entitled to receive a lump sum payment equivalent to 24 monthly pension payments as full settlement.

(5) Potential service shall be excluded from the computation of a pension under subsection (2) or (3) unless the deceased had accumulated at least 10 years' pensionable service through service as a member of a police force in Alberta.

(6) References in this section to the amount of the normal pension of the deceased are references to the amount of pension that a deceased would have received had he commenced to receive a pension immediately before his death, using the formula specified in section

18(2) and, subject to subsection (5), taking into account potential service from the date of his death.

(7) If the deceased's surviving spouse is not the legal guardian of the surviving dependent minor children, then, notwithstanding subsection (2)(b), the pension payable under that clause shall be paid to the children's legal guardian for their benefit.

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 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.

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 Plan Act* or other public body, 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 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) after his death but before any payment is made under subsection (5), 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) When a benefit is paid to a surviving spouse or the personal representative of an estate by virtue of the operation of subsection (4), 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.

(6) 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.

(7) 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.

(8) 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>40(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) and (3), 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	41 The payment of all benefits is guaranteed by the Government.
Liability of benefits to legal process	42 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	43 A person may not assign his interest in a benefit.
Overpayments and deficiencies	44 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	45 If the Minister finds that a person paid a contribution that was not, or was in excess of what was, payable, the Minister shall repay the contribution or the excess, with interest.
Retentions for default	<p>46(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 under the Plan to the Government or an employer.</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 or, as the case may be, pay it to the employer for application in satisfaction of the debt or liability to the employer.</p>
Rights and obligations under former Act	<p>47(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 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>48 The Lieutenant Governor in Council may make regulations</p> <p>(a) respecting the manner in which benefits are payable, including the commutation of pensions;</p>

- (b) respecting the allowing of interest, except for overdue benefit payments;
- (c) respecting the charging of interest, except for overdue contributions;
- (d) respecting rates of interest;
- (e) 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;
- (f) respecting the suspension of pensions where relevant evidence required by or under regulations under section 49(h) or (i) is not submitted;
- (g) respecting disability plans and their filing with the Minister;
- (h) 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;
- (i) prescribing the death benefit payable where a person who is entitled to a pension, or who would be so entitled but for its postponement, dies before making a choice as to the form of pension to be taken;
- (j) prescribing any matter or thing that by this Act may or is to be prescribed by the Lieutenant Governor in Council.

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) 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;
- (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 guaranteed terms of years are to be treated as commencing or continuing;

(h) 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;

(i) respecting the type of evidence required for the purposes of clause (h);

(j) 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 section 1(1)(e), (t)(i) or (u)(iii), 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, REPEAL AND COMMENCEMENT

Consequential

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

(2) *Section 5(1)(e) of the Pension Fund Act is amended by adding "Plan" after "Pension".*

(3) *Section 2(2) of the Police Officers Collective Bargaining Act is amended by adding "Plan" after "Pension".*

Transitional

52(1) *The Special Forces 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 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 Special Forces 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, the subsisting reciprocal agreement entered into under the former Act with respect to the Local Authorities Pension Plan is valid according to its terms until rescinded in so far as it is not varied by a reciprocal agreement under that section.*

Repeal

53 *The Special Forces Pension Act is repealed.*

Coming into force

54 *This Act comes into force on Proclamation.*