

1985 BILL 50

Third Session, 20th Legislature, 34 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 50

PENSION PLAN STATUTES AMENDMENT ACT, 1985

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 50

1985

PENSION PLAN STATUTES AMENDMENT ACT, 1985

(Assented to _____, 1985)

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

Public Service Management Pension Plan Act

1(1) The Public Service Management Pension Plan Act is amended by this section.

(2) Section 1(2) is amended by striking out "in this section".

(3) Section 4(1) is amended by striking out "Legislature" and substituting "Legislative Assembly".

(4) The following is added after section 10(2):

(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.

(5) Section 17(b) is amended by striking out "and" at the end of subclause (ii), by adding ", and" at the end of subclause (iii) and by adding the following after subclause (iii):

Explanatory Notes

Public Service Management Pension Plan Act

1(1) This section will amend chapter P-34.1 of the Statutes of Alberta, 1984.

(2) Section 1(2) presently reads:

(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) Section 4(1) presently reads:

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.

(4) Board powers respecting benefit choices.

(5) Section 17(b) presently reads:

17 In this Part,

(b) "employee contributions" means

(iv) any contributions made under section 16(2) for service described in section 16(1)(b)(iii) that are recognized by the Minister as employee contributions;

(6) *Section 20 is amended by striking out “normal pensionable age” and substituting “the age of 65 years”.*

(7) *Section 23(3) is amended by striking out “is entitled to receive or”.*

(8) *Section 25 is amended*

(a) by repealing subsection (1)(b) and substituting the following:

(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.

(b) in subsection (2) by adding “and section 18(4)” after “subsection (3)”;

(c) in subsection (3) by striking out “, or” at the end of clause (a) and repealing clause (b).

(9) *Section 28(b) is amended by striking out “, or, if there are 2 or more persons so entitled, shared equally between them”.*

- (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;*

(6) Section 20 presently reads:

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.

(7) Section 23(3) presently reads:

(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.

(8) Section 25 presently reads:

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.

(9) Section 28 presently reads:

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.

(10) Section 29(1) is amended

(a) by striking out “, in the case of the surviving spouse or where there is only 1 such child,”;

(b) by striking out “, 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”.

(11) Section 33 is amended

(a) in subsection (4)(b) by striking out “(6)” and substituting “(5)”;

(b) by repealing subsection (5);

(c) in subsection (6) by striking out “after expiry of the 2-month period referred to in subsection (5)”;

(d) by renumbering subsections (6), (7), (8) and (9) as subsections (5), (6), (7) and (8) respectively.

(12) Section 40(2) is amended by adding “and (3)” after “section 10(2)”.

(10) Section 29 presently reads:

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).*

(11) Section 33(4), (5) and (6) presently read:

(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.*

(12) Section 40(2) presently reads:

(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.*

(13) Section 45 is amended by striking out “may” and substituting “shall”.

(14) Section 48(1) is amended

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

(d.1) respecting rates of interest;

(b) by adding the following after clause (j):

(j.1) 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;

(15) Section 49(d) is repealed.

(16) Section 50(2) is amended by striking out “sections” and substituting “section”.

(17) The following is added after section 51(1):

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

Public Service Pension Plan Act

2(1) The Public Service Pension Plan Act is amended by this section.

(2) Section 1(2) is amended by striking out “in this section”.

(3) Section 4(1) is amended by striking out “Legislature” and substituting “Legislative Assembly”.

(4) The following is added after section 10(2):

(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,

(13) Section 45 presently reads:

45 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.

(14) Regulation making powers.

(15) Section 49(d) presently reads:

49 The Minister may make regulations

(d) fixing and otherwise respecting the computing of rates of interest;

(16) Singularizing “sections”.

(17) Consequential.

Public Service Pension Plan Act

2(1) This section will amend chapter P-35.1 of the Statutes of Alberta, 1984.

(2) Section 1(2) presently reads:

(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) Section 4(1) presently reads:

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.

(4) Board powers respecting benefit choices.

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.

(5) *Section 17(b) is amended by striking out "and" at the end of subclause (ii), by adding ", and" at the end of subclause (iii) and by adding the following after subclause (iii):*

(iv) any contributions made under section 16(2) for service described in section 16(1)(b)(iii) that are recognized by the Minister as employee contributions;

(6) *Section 20 is amended by striking out "normal pensionable age" and substituting "the age of 65 years".*

(7) *Section 23(3) is amended by striking out "is entitled to receive or".*

(8) *Section 25(1)(b) is repealed and the following is substituted:*

(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.

(9) *Section 28(b) is amended by striking out ", or, if there are 2 or more persons so entitled, shared equally between them".*

(10) *Section 29(1) is amended*

(a) *by striking out " , in the case of the surviving spouse or where there is only 1 such child,";*

(b) *by striking out " , 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".*

(5) Section 17(b) presently reads:

17 In this Part,

(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;

(6) Section 20 presently reads:

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.

(7) Section 23(3) presently reads:

(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.

(8) Section 25(1)(b) presently reads:

25(1) In this section,

(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.

(9) Section 28 presently reads:

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.

(10) Section 29 presently reads:

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

(11) Section 33 is amended

(a) in subsection (4)(b) by striking out “(6)” and substituting “(5)”;

(b) by repealing subsection (5);

(c) in subsection (6) by striking out “after expiry of the 2-month period referred to in subsection (5)”;

(d) by renumbering subsections (6), (7), (8) and (9) as subsections (5), (6), (7) and (8) respectively.

(12) Section 40(2) is amended by adding “and (3)” after “section 10(2)”.

(13) Section 45 is amended by striking out “may” and substituting “shall”.

(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, 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)(c)(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).

(11) Section 33(4), (5) and (6) presently read:

(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.

(12) Section 40(2) presently reads:

(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.

(13) Section 45 presently reads:

45 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.

(14) Section 48(1) is amended

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

(c.1) respecting rates of interest;

(b) by adding the following after clause (h):

(h.1) 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;

(15) Section 49(e) is repealed.

Commencement

3 This Act comes into force on Proclamation.

(14) Additional regulation making power.

(15) Section 49(e) presently reads:

49 The Minister may make regulations

(e) fixing and otherwise respecting the computing of rates of interest;

Commencement

3 Coming into force.