

1992 BILL 31

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Fourth Session, 22nd Legislature, 41 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 31**

**EMPLOYMENT PENSION PLANS AMENDMENT ACT, 1992**

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MRS. BLACK

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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## BILL 31

1992

### EMPLOYMENT PENSION PLANS AMENDMENT ACT, 1992

(Assented to \_\_\_\_\_, 1992)

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

1 *The Employment Pension Plans Act is amended by this Act.*

2 *Section 1(1) is amended*

- (a) *in clause (b)(i)(B) by adding "the board of trustees referred to in section 5.1 or, if there is no such board," after "plan,";*
- (b) *by adding the following after clause (b):*
  - (b.1) "assets", in relation to a pension plan, includes its surplus assets;
- (c) *by adding the following after clause (d):*
  - (d.1) "collective agreement" has the meaning assigned to it by the *Labour Relations Code*;
- (d) *by repealing clause (m)(i) and substituting the following:*
  - (i) in relation to a multi-employer plan, an employee's employment with his employer
    - (A) for which the employer is contractually required to make

## Explanatory Notes

**1** This Bill will amend chapter E-10.05 of the Statutes of Alberta, 1986.

**2** Adds new, and alters existing, definitions. Section 1(1) presently reads in part:

*1(1) In this Act,*

*(b) "administrator" means*

*(i) subject to subclause (ii), in relation to*

*(A) a multi-employer plan, the body referred to in section 5(1), or*

*(B) any other plan, the employer,*

*or*

*(ii) where a person has been appointed administrator of a plan by the Superintendent under section 53(1) or (2), that person;*

*(m) "employment" means*

*(i) in relation to a multi-employer plan, an employee's employment with his employer for which the employer is required by the plan to make contributions to that plan on the employee's behalf, and*

contributions to that plan on the employee's behalf, or

- (B) in respect of which benefits are otherwise provided under the plan,

and

- (e) *in clause (r) by striking out "company" and substituting "business";*

- (f) *by adding the following after clause (s):*

- (s.1) "locked-in retirement account" means an RRSP that meets the prescribed conditions;

- (g) *in clause (x) by adding " , and includes any benefits that are ancillary to those payments and future rights to any such payments or ancillary benefits" after "person";*

- (h) *by adding the following after clause (y):*

- (y.1) "pension fund" means the assets of a pension plan;

- (i) *by adding the following after clause (ee):*

- (ee.1) "retirement income arrangement" means

- (i) a retirement income fund within the meaning of the *Income Tax Act* (Canada) that is registered under that Act and that meets the prescribed conditions, or

- (ii) any other arrangement prescribed to be a retirement income arrangement;

- (j) *in clause (gg) by striking out "(1)" and substituting "(2)";*

- (k) *by adding the following after clause (nn):*

- (nn.1) "trade union" has the meaning assigned to it by the *Labour Relations Code*;

- (ii) *in any other case or, notwithstanding subclause (i), where the Superintendent gives his approval under section 23(3) in respect of a multi-employer plan, an employee's employment with his employer;*
- (r) *"insurance company" means a corporation authorized to carry on life insurance business in Canada;*
- (x) *"pension" means a series of payments that continues for the life of a former member, whether or not it is thereafter continued to any other person;*
- (gg) *"solvency tests" means the tests for the solvency of pension plans referred to in section 38(1);*

3 Section 3 is amended

- (a) by renumbering it as section 3(1);
- (b) in subsection (1), by striking out “and” at the end of clause (b) and by adding the following after clause (c):
  - (d) to provide in effect that where pension plans are or, but for the application of a provision under clause (a), would require to be registered both under this Act and under legislation of one or more other jurisdictions in Canada that is substantially similar to this Act, either
    - (i) this Act or any part of it is not to apply, and the substantially similar legislation of that other jurisdiction or of any of those other jurisdictions, as the case may be, is to apply, to those plans, or
    - (ii) this Act or any part of it is to apply, and the substantially similar legislation of the other jurisdiction or jurisdictions is not to apply, to them,

and

- (e) to establish conditions for the non-application and the application, as provided for pursuant to clause (d)(i) or (ii), of the laws referred to in that subclause.
- (c) by adding the following after subsection (1):
- (2) An agreement under subsection (1) is exempt from the *Regulations Act*.
  - (3) Where the agreement makes provision in accordance with subsection (1)(d), either
    - (a) this Act or the part of it that the agreement provides is not to apply does not apply to the affected plans and the substantially similar legislation of another jurisdiction

**3** Section 3 presently reads:

*3 The member of the Executive Council charged by the Lieutenant Governor in Council with responsibility for this Act may enter into an agreement with the government of a designated province or of Canada*

- (a) to provide for the reciprocal registration and examination of pension plans and the reciprocal enforcement of specified laws affecting plans,*
- (b) to authorize the authorized representative of that government to perform any of the Superintendent's functions, authorities and duties under this Act, and*
- (c) to provide for the performance by the Superintendent of any of that representative's functions, authorities and duties under the laws governing pension plans of that government's jurisdiction.*

that the agreement provides is to apply to those plans does apply to them instead, or

(b) vice versa,

depending on what the agreement provides.

4 *Section 5(2) is amended by striking out “within the meaning of the Labour Relations Code”.*

5 *The following is added after section 5:*

Administrators  
of single  
employer  
plans

**5.1** A pension plan that is not a multi-employer plan may have a board of trustees constituted to administer the plan if there is a collective agreement between the employer and a trade union that represents members of the plan, and if that agreement

- (a) requires that there be a board of trustees for the plan and places full authority and responsibility for the administration of the plan on the board of trustees,
- (b) sets out, whether specifically or generally, some or all of the terms to be included in the plan, and
- (c) contains provisions that have the effect of limiting the employer's responsibilities and authority with respect to the plan to remitting contributions in accordance with the agreement and, if applicable, having the right to make appointments to the board of trustees.

6 *Section 6 is amended by adding the following after subsection (5):*

**(6)** The administrator shall ensure that any agreement relating to the investment of the pension fund of the



**4** Section 5(2) presently reads:

*(2) Where a multi-employer plan is established, or maintained pursuant to contributions required, under a collective agreement within the meaning of the Labour Relations Code, the number of members of the board of trustees or similar body representing members of the plan must not be less than the number representing employers.*

**5** Addition of provision to allow for boards of trustees to act as administrators of single employer pension plans.

**6** Addition of provision to section 6 dealing with agreements respecting investments.

plan does not contain any provision that a pension plan is prohibited by this Act from containing.

*7 Section 7 is amended*

- (a) in subsection (3)(c) by striking out “at the times prescribed” and substituting “within the prescribed period after a request to the administrator is made in writing by the Superintendent”;*
- (b) by repealing subsection (5) and substituting the following:*

**(5)** The Superintendent may exempt the administrator from the requirement of subsection (3) to file an actuarial valuation report if the Superintendent considers that compliance with subsection (3)(b)(ii) is sufficient to enable the Superintendent to determine whether the plan will meet the solvency tests.

**(6)** Subsection (3)(b)(ii) does not apply to the extent that an actuarial valuation report is filed which in effect contains the required cost certificate.

**7** Section 7 presently reads in part:

*(3) Subject to this section, the administrator shall file with the Superintendent,*

*(b) in the case of a plan that contains a defined benefit provision, at the times prescribed or on the request of the Superintendent,*

*(i) actuarial valuation reports that*

*(A) contain the prescribed information,*

*(B) are prepared by a Fellow of the Canadian Institute of Actuaries or such other person as is prescribed, on the basis prescribed and on the basis of actuarial assumptions and methods that are adequate and appropriate and that are in accordance with generally accepted actuarial principles, and*

*(C) provide for contributions that are sufficient to meet the solvency tests,*

*and*

*(ii) cost certificates signed by a person referred to in subclause (i)(B) and in the form required by the Superintendent, containing the prescribed information and information necessary for the Superintendent to be able to determine whether the plan will meet the solvency tests,*

*and*

*(c) at the times prescribed and where contributions to or benefits from a plan are determined by the provisions of a collective agreement or arbitration award, a copy of those provisions and of any amendments to them.*

8 Section 8 is amended

(a) in subsection (4),

- (i) by repealing clause (d);
- (ii) in clause (e) by striking out “most recent return” and substituting “3 most recent returns”;
- (iii) by repealing clause (f) and substituting the following:
  - (f) the 2 most recent cost certificates, or to the extent that section 7(6) applies, the 2 latest actuarial valuation reports, filed under section 7(3)(b), and

(b) by adding the following after subsection (4):

(4.1) Where it is proposed that surplus assets of a pension plan will be paid or transferred to an employer, the administrator shall, within the period prescribed and without charge, permit any person entitled to a benefit or such a person’s agent to examine any provision of the plan that is or ever was in force.

(c) in subsection (5),

- (i) by striking out “or” at the end of clause (a);
- (ii) by adding the following after clause (a):
  - (a.1) in the case of a multi-employer plan established or maintained pursuant to contributions required under a collective agreement and where the person requests that it take place at the establishment of any trade union that represents members of the plan that is nearest to the residence of the person requesting the examination, at that establishment,

*(5) An actuarial valuation report need not be filed if compliance with subsection (3)(b)(ii) is sufficient to enable the Superintendent to determine whether the plan will meet the solvency tests.*

**8** Enhances disclosure requirements. Also, section 8 presently reads in part:

*(4) Within 30 days after a written request to that effect and without charge, the administrator shall permit any person entitled to a benefit or his agent to examine*

- (a) a provision of the plan that was in force on any date included in a period during which that person or the person through whom the benefit derives was a member or, where that person is a former member, that otherwise affects his benefits,*
- (b) any document that concerns conditions of that person's employment and that contains provisions relating to the plan,*
- (c) any trust deed or agreement, insurance contract, by-law or resolution relating to the plan,*
- (d) any agreement relating to the investment of the pension fund of the plan,*
- (e) the most recent return filed under section 7(3)(a),*
- (f) the most recent cost certificate filed under section 7(3)(b), and*
- (g) any other prescribed document.*

*(5) Unless agreement to a different effect is reached between the administrator and the person requesting the examination, the examination shall take place during regular working hours*

- (a) where the person requests that it take place at the establishment of the administrator that is nearest to that person's residence, at that establishment, or*
- (b) where no such request is made, at the place where the plan is administered.*

(a.2) in the case of a multi-employer plan not established or maintained pursuant to contributions required under a collective agreement and where the person requests that it take place at the establishment of any participating employer that is nearest to that person's residence, at that establishment, or

(iii) in clause (b) by striking out "such request" and substituting "request referred to in clauses (a) to (a.2)";

(d) by adding the following after subsection (6):

(6.1) The administrator of a pension plan shall, within 30 days of receiving a written request from a trade union whose membership includes or consists of members or former members of the plan, provide to the trade union or allow a representative of the trade union to obtain a copy of any document that may be examined under subsection (4) by a person entitled, on payment of a reasonable charge.

9 Section 9(1)(b) is amended by adding "or until such later date as they cease to be required in order to comply with section 8(4)" after "operative".

10 Section 10 is amended by adding "but subject to section 38(4) and (5)" after "law".

**9** Section 9 presently reads in part:

*9(1) An administrator or a non-administrator employer shall retain records relating to a pension plan for a period of at least 3 years after*

*(a) in the case of records affecting a person who received a benefit, the date when the benefit*

*(i) ceased to be paid, in the case of a continuing benefit, or was paid, in any other case, or*

*(ii) was previously insured through an insurance company,*

*and*

*(b) in the case of other records, the date when they ceased to be operative.*

**10** Section 10 presently reads:

*10 Where a multi-employer plan has been established by or under a trust, then, notwithstanding any other law, the participating*

*11 The heading to Part 2 is repealed and the following is substituted:*

## **PART 2**

### **FILING, REGISTRATION AND AMENDMENT**

*12 Section 12(1)(a) is amended*

- (a) by adding “and” at the end of subclause (iii);*
- (b) by repealing subclause (iv).*

*13 Section 13 is amended*

- (a) in subsection (2) by striking out “the plan” and substituting “any document so referred to that the new document replaces”;*
- (b) in subsection (3) by striking out “register the amendment” and substituting “register an amendment to the plan”;*
- (c) by adding the following after subsection (3):*
  - (4) The administrator shall ensure that an amendment to a document referred to in section 12(1)(a)(ii) to (v) does not contain any provision that**



*employers of the plan are bound by the instrument establishing the trust and by any amendments to that instrument, whether or not they were parties to any agreement pursuant to which the trust was established or amended.*

**11** The heading to Part 2 presently reads:

**PART 2**  
**REGISTRATION AND AMENDMENT OF PENSION PLANS**

**12** Section 12(1) presently reads in part:

*12(1) The administrator of a pension plan shall apply for registration of the plan by filing with the Superintendent, not later than 60 days after the establishment of the plan, an application accompanied by*

- (a) a certified copy of*
  - (i) the plan,*
  - (ii) any document that creates the plan or under which the plan is constituted,*
  - (iii) any trust deed or agreement, insurance contract, by-law or resolution relating to the plan,*
  - (iv) any agreement relating to the investment of the pension fund of the plan, and*
  - (v) any other prescribed document that relates to the administration of the plan,*

**13** Section 13 presently reads:

*13(1) Where an amendment is made to a pension plan that is registered or in respect of which an application for registration is pending or to any document referred to in section 12(1)(a)(ii) to (v), the administrator shall file a certified copy of the amendment with the Superintendent within 60 days after the amendment is made.*

*(2) Where a new document referred to in section 12(1)(a)(ii) to (v) is executed, the document is deemed to be an amendment to the plan for the purposes of this Act.*

*(3) The Superintendent shall register the amendment filed with him for registration and issue to the administrator a notice of registration in respect of the amendment if it complies with this Act and the administrator has complied with this Act in respect of the amendment.*

a pension plan is prohibited by this Act from containing.

*14 Section 14 is amended*

(a) *in subsections (1)(b) and (2)(b) by striking out “subject to sections 18(6) and 19(3),”;*

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

(3) An administrator shall not administer a pension plan in a manner that reflects an amendment to a document referred to in section 12(1)(a)(ii) to (v) unless the amendment has been filed with the Superintendent.

(4) If the Superintendent considers that a portion but not the whole of an amendment to a plan complies with this Act, he may notify the administrator for the purposes of subsection (2)(b) that he refuses to register only the offending portion, in which case the administrator shall administer the plan in a manner that reflects the non-offending portion of the amendment.

*15 Section 15 is amended by renumbering it as section 15(1) and by adding the following after subsection (1):*

(2). An amendment to a document referred to in section 12(1)(a)(ii) to (v) may be made effective from a date before it is filed with the Superintendent.

*16 Section 18 is amended by repealing subsections (3) to (6).*

**14** Section 14 presently reads:

*14(1) An administrator shall not administer a pension plan unless*

- (a) the plan is registered, or*
- (b) subject to sections 18(6) and 19(3), the application for registration has been duly made and the Superintendent has not notified the administrator in writing that he refuses to register the plan.*

*(2) An administrator shall not administer a pension plan in a manner that reflects an amendment to it unless*

- (a) the amendment is registered, or*
- (b) subject to sections 18(6) and 19(3), the amendment has been duly filed for registration and the Superintendent has not notified the administrator in writing that he refuses to register the amendment.*

**15** Section 15 presently reads:

*15 A pension plan or an amendment to a plan may be made effective from a date before its registration or the application for its registration.*

**16** Section 18 presently reads:

*18(1) If the Superintendent refuses to register a pension plan or a plan amendment filed for registration or cancels a registration under section 17(1), he shall forthwith serve on the administrator a written notification of that fact containing the reasons for his decision.*

*(2) In the case of a cancellation of registration, the notification must specify the date referred to in section 17(1).*

*(3) The administrator may, within 60 days after service of the notification of the refusal or cancellation, serve on the Superintendent a notice of objection containing the reasons for the objection and all relevant facts.*

*17 Section 19 is amended*

- (a) in subsection (1) by striking out “an administrator has served a notice of objection under section 18(3) and the Superintendent has subsequently notified the administrator that he will not register the plan or amendment or reinstate the registration, as the case may be” and substituting “the Superintendent has served a notification under section 18(1)”;*
- (b) in subsection (2) by striking out “18(4)” and substituting “18(1)”;*
- (c) by repealing subsection (3).*

*18 Section 20(3)(c) is amended by striking out “36(2)” and substituting “36(1.1) and (2)”.*

*(4) On receipt of the notice of objection, the Superintendent shall forthwith reconsider the refusal or cancellation and rescind, vary or confirm his previous decision, and he shall thereupon serve on the administrator a written notification of that decision.*

*(5) The notification under subsection (4) must be accompanied by reasons, unless the decision is to register the plan or amendment or to rescind the cancellation.*

*(6) Where an administrator who has been served a notification under subsection (1) serves a written notice on the Superintendent stating that he intends to serve a notice of objection under subsection (3), he may, notwithstanding the Superintendent's decision, administer the plan or administer the plan in a manner that reflects the amendment until the matter is dealt with under subsection (4) or the period referred to in subsection (3) expires without the notice of objection's having been served, whichever occurs first.*

**17** Section 19 presently reads:

*19(1) Where an administrator has served a notice of objection under section 18(3) and the Superintendent has subsequently notified the administrator that he will not register the plan or amendment or reinstate the registration, as the case may be, the administrator may, by originating notice supported by an affidavit, appeal to the Court of Queen's Bench for an order requiring the Superintendent to register the plan or amendment or reinstate the registration.*

*(2) A copy of the originating notice and of the affidavit must be filed with the clerk of the Court of Queen's Bench and served on the Superintendent within 60 days after the service of the notification under section 18(4) or such longer period as the Court allows, and the application shall be made returnable within 90 days after the filing of the originating notice.*

*(3) Where an administrator who has been served a notification under section 18(4) serves a written notice on the Superintendent stating that he intends to appeal under this section, he may, notwithstanding the Superintendent's decision, administer the plan or administer the plan in a manner that reflects the amendment until the Court disposes of the matter or the 60-day period referred to in subsection (2) expires without the appeal's having been made, whichever occurs first.*

**18** Section 20(3) presently reads in part:

*(3) Notwithstanding subsections (1) and (2) but subject to subsections (4) and (5), a plan is not required to include or incorporate*

*(c) sections 21(2), 22(3), (4), (6), (7) and (8), 23(3), 26(6), 27(2), 30(6), 32(6)(a), 34(1) and (4), 36(2), 38(1) and (4) and 40(4).*

19 Section 22 is amended

- (a) in subsection (1) by striking out “time” and substituting “of the prescribed times”;
- (b) by repealing subsection (2)(b) and substituting the following:
  - (b) the employee has earned in respect of his employment at least 35% of the Year’s Maximum Pensionable Earnings in each of the 2 consecutive calendar years occurring immediately before
    - (i) the employee’s completion of the employment referred to in clause (a)(i) or (ii), as the case may be, or
    - (ii) the year in which the employee applies to become a member of the plan.
- (c) by adding the following after subsection (8):

(9) For the purposes of subsection (1), different employers in a multi-employer plan may have different prescribed classes of employees covered by the plan.

20 The following is added after section 22:

Cessation and  
suspension of  
membership

**22.1(1)** A member of a pension plan is not entitled to cease to be a member except on his termination of membership.

(2) A pension plan may provide that a member may suspend membership in the plan while continuing to do work or provide a service in an employment covered by the plan.

(3) Where a pension plan allows a member to suspend membership,

- (a) it may also provide that there will be no further accrual of benefits during the suspension, and

**19** Section 22 presently reads in part:

*22(1) A pension plan that has not been terminated must cover a prescribed class of employees of the employer, and each employee of that employer who falls within that prescribed class is entitled to become a member of the plan on or at any time after the date specified in subsection (2).*

*(2) The date referred to in subsection (1) is the first day of the month following the month in which both the following requirements have been fulfilled:*

*(a) either*

*(i) in the case of a multi-employer plan respecting which the Superintendent has not given his approval under section 23(3), the end of any period of 2 consecutive fiscal years of the plan in which the employee has completed at least 350 hours of employment, or*

*(ii) in the case of any other plan, the employee has completed 2 years of continuous employment with the employer,*

*and*

*(b) the employee has earned in respect of his employment on and after January 1, 1985 at least 35% of the Year's Maximum Pensionable Earnings in each of 2 consecutive calendar years.*

**20** Cessation and suspension of membership.

- (b) it must also provide that the suspended member has the right to lift the suspension at any of the times prescribed.

(4) Subject to subsection (5), where a person's membership in a plan is suspended, the suspended member is not entitled to receive or transfer any benefits from the plan until the termination of his membership or of the plan.

(5) A plan may provide that a suspended member who would be entitled to receive a pension if he were terminating membership may elect to transfer its commuted value to a locked-in retirement account in accordance with the conditions specified in and prescribed in relation to section 30(1) and (2) if that commuted value exceeds the amount prescribed in relation to commuted value for the purposes of section 37(1), as if the suspended member were a former member.

*21 Section 27(11) is amended by striking out "section 55(4), that a member" and substituting "sections 22.1(4) and (5) and 55(4), that a member who has not reached pensionable age".*

*22 Section 28 is amended by adding the following after subsection (4):*

(5) Interest need not be applied under this section to contributions made in the circumstances described in section 29(6) if payment of those contributions is permitted only for members of the plan who, if they terminated their membership in the plan, would have vested benefits under the plan.



**21** Section 27(11) presently reads in part:

*(11) A plan may provide, subject to section 55(4), that a member may receive, on the termination of his membership or of the plan itself while employed in Alberta and if an entitlement to receive a pension is then vested in him, the commuted value of,*

- (a) if the member has not completed 5 years of continuous employment, his full pension in respect of his membership, and*
- (b) if the member has completed 5 years of continuous employment but has not both completed 10 years of continuous employment and attained the age of 45 years, his pension in respect of his membership before January 1, 1987.*

**22** Addition of provision to section 28 creating exemption from interest crediting in case of section 29(6) voluntary contributions.

23 *Section 29 is amended*

(a) *in subsection (2)(d) by striking out “transferred to an insurance company” and substituting “if the plan so provides, transferred to an insurance business”;*

(b) *by adding the following after subsection (6):*

(7) Where subsection (1) applies and the plan is amended to provide in effect that benefits on or after the date of the amendment will be determined for all or some members under a defined contribution provision, then subsection (1) shall be applied with respect to the benefits accrued up to the date when the amendment becomes effective so far as it relates to those members.

(8) This section does not apply with respect to additional voluntary contributions.

24 *Section 30 is amended*

(a) *in subsection (1)(a)(iii) by adding “except with respect to a pension or any portion of a pension arising under a defined contribution provision” after “pensionable age”;*

(b) *in subsection (2),*

(i) *by striking out “be made to” and substituting “be made”;*

(ii) *in clause (a)*

(A) *by adding “to” before “another”;*

(B) *by adding “or permitted” after “required”;*

**23** Limitations on applicability of minimum employer contribution provisions. Also section 29 presently reads in part:

*29(1) Where a member was required to make contributions in order to attain a pension under a defined benefit plan, not more than ½ of the commuted value of the pension in respect of his membership on and after January 1, 1987 may be provided by his contributions, with interest, made on or after that date.*

*(2) Where, on the termination of a member's membership in a defined benefit plan, on the termination of such a plan or on the commencement of a member's pension from such a plan, while employed in Alberta, the value of his contributions made on or after January 1, 1987, with interest, exceeds ½ of the commuted value of the pension in respect of his membership on and after January 1, 1987, the amount of the excess shall, at the option of the member, be*

- (a) returned to the member,*
- (b) transferred to another pension plan, if and to the extent that plan permits the transfer,*
- (c) transferred to an RRSP,*
- (d) transferred to an insurance company to purchase a deferred pension, or*
- (e) if and to the extent that the plan so provides, used to increase the amount of the pension.*

**24** Section 30 presently reads:

*30(1) Where*

- (a) a member terminated his membership in a pension plan, or his plan was terminated,*
  - (i) on or after January 1, 1987,*
  - (ii) while he was employed in Alberta, and*
  - (iii) before the date that was 10 years before his reaching pensionable age,*

*and*

- (b) an entitlement to receive a pension has vested in him,*

*he may make a transfer, in the manner and to the extent prescribed, of the whole of the commuted value of his pension in respect of his membership on and after the initial qualification date in accordance*

- (iii) *in clause (b) by striking out “an RRSP” and substituting “to a locked-in retirement account”;*
- (iv) *by repealing clause (c) and substituting the following:*
  - (c) *if the plan so provides,*
    - (i) *to an insurance business to purchase a deferred pension that is not commutable, that will not commence earlier than the earliest date that the pension could have commenced under the plan and that will be in the form referred to in clause (a), or*
    - (ii) *to a retirement income arrangement.*
- (c) *in subsection (3),*
  - (i) *by striking out “A” and substituting “Subject to subsection (3.1), a”;*
  - (ii) *by striking out “any period of” and substituting “the period of the last”;*
- (d) *by adding the following after subsection (3):*

**(3.1)** The plan may provide that if the member's employment after the period referred to in subsection (3) has resulted in the accrual of further benefits under the plan, subsection (3) only applies if, applying the terms of the plan, a termination of membership occurred on or before the date of the administrator's receipt of an application for the transfer under that subsection.

**(3.2)** The application referred to in subsection (3.1) must not be received earlier than the end of the period referred to in subsection (3).

*with subsection (2).*

*(2) The transfer may be made to*

- (a) another pension plan, if and to the extent that plan permits the transfer, on the condition that the eventual payment from the other plan be made only in the form of a pension that would otherwise be required by this Act or a benefit referred to in section 37(3),*
- (b) an RRSP on the conditions prescribed under section 62(1)(d), or*
- (c) an insurance company to purchase a deferred pension that is not commutable, that will not commence earlier than the earliest date that the pension could have commenced under the plan and that will be in the form referred to in clause (a).*

*(3) A member of a multi-employer plan who has not completed at least 350 hours of employment during any period of 2 consecutive completed fiscal years of the plan may, in the manner and to the extent prescribed in relation to subsection (1), make the transfer referred to in that subsection.*

*(4) A multi-employer plan may provide that a member who is no longer employed by any participating employer or in a class of employees referred to in section 22(1) that is covered by the plan may, in the manner and to the extent prescribed in relation to subsection (1), make the transfer referred to in that subsection.*

*(5) Notwithstanding subsections (1), (3) and (4), the plan may provide that if the commuted value of the pension does not exceed the prescribed amount, the member must make the transfers referred to in those subsections.*

*(6) On making the transfer under subsection (1), (3) or (4), the member is not entitled to any further benefits in respect of his membership before the transfer.*

*(7) A pension plan may, where a member terminated his membership in that plan due to his becoming a member of another plan to which his employer was required to contribute on his behalf and the first-mentioned plan has not been terminated, postpone his entitlement to transfer the commuted value of his pension under subsection (1) until he has terminated his membership in that other plan or that other plan is terminated, whichever occurs first.*

- (e) *in subsection (6) by adding “or, where applicable, the period of his membership that was subject to the transfer” after “before the transfer”.*

25 *Section 31 is amended*

- (a) *by repealing subsection (4) and substituting the following:*

(4) The surviving spouse may transfer the whole of the commuted value of the pension in accordance with the conditions specified in and in relation to section 30(1) and (2), but the plan may provide that the spouse must make the transfer or that the spouse may only make the transfer if the deceased would have been entitled to make a transfer,

- (a) if a member, had he terminated membership in the plan immediately before dying, or
- (b) if a former member, had he been a member and had he terminated membership in the plan immediately before dying.

- (b) *by adding the following after subsection (5):*

(6) A plan must provide that if a spouse dies before pension commencement without having elected or become entitled to make the transfer under subsection (4), an amount equal to at least the amount of the member's contributions with interest is to be paid to the spouse's designated beneficiary or, if there is no such person living, the spouse's estate.

(7) A surviving spouse may commute any part of a pension payable to the spouse that arises from

- (a) if the plan so provides, the member's and the employer's contributions made before 1987, or
- (b) additional voluntary contributions,

if the applicable condition specified in subsection (8) is met.

**25** Adds further provisions to section 31 dealing with pre-retirement survivor benefits. Also section 31 presently reads in part:

*(4) The surviving spouse may transfer the whole of the commuted value of the pension in accordance with the conditions specified in and in relation to section 30(1) and (2), but the plan may provide that the spouse must make the transfer.*

(8) The condition referred to in subsection (7) is that the deceased would have had the right to commute the part of the pension,

- (a) if a member, had he terminated membership in the plan immediately before dying, or
- (b) if a former member, had he been a member and had he terminated membership in the plan immediately before dying.

26 *Section 32 is amended*

- (a) *in subsection (4) by adding “or that is payable in accordance with section 34(2)” after “with this section”;*
- (b) *by adding the following after subsection (6):*

(7) Where an additional amount of pension is payable from pension commencement other than by way of an adjustment of pension pursuant to section 34(2) and the plan provides for that additional amount to cease at the date when a pension becomes available or when receipt of the pension occurs under the *Canada Pension Plan* (Canada), the *Quebec Pension Plan* (Quebec) or the *Old Age Security Act* (Canada), then that additional amount of pension is exempt from this section.

27 *Section 34 is amended*

- (a) *in subsection (2) by adding “or, if he predeceases his spouse and the spouse is to continue to receive the pension, to that spouse,” after “payable to him”;*
- (b) *by adding the following after subsection (2):*

(2.1) The plan may only make provision under subsection (2), so far as it relates to a member or former member who has a spouse, if the administrator receives a statement by the spouse, on or before the election under subsection (2), that complies with section 32(4).



**26** Adds further exemption from section 32. Also, section 32(4) presently reads:

*(4) The former member may receive a pension that does not comply with this section if the administrator received a statement by the spouse before pension commencement and in the prescribed form that*

- (a) stated that the spouse had reviewed the information referred to in section 8(1)(d) and was aware of the spousal entitlements under this section,*
- (b) waived those entitlements, and*
- (c) was signed by the spouse in the presence of a witness and outside the presence of the member or former member.*

**27** Adds qualification to section 34(2). Also section 34(2) presently reads:

*(2) A pension plan may provide that a member or former member may, on or before his pension commencement, elect to receive a pension the amount of which is adjusted by reference to benefits payable under CPP, QPP or OAS, so long as the pension payments payable to him after his benefits under OAS and either CPP or QPP have commenced are not less than the amount prescribed for monthly pension payments in relation to section 37(1).*

28 Section 35(7) is amended by striking out “before” and substituting “not later than the end of the calendar year in which”.

29 Section 36 is amended by adding the following after subsection (1):

(1.1) Where a person becomes entitled to have benefits transferred from a pension plan, the transfer shall be made within 60 days after the event giving rise to the transfer or the completion and filing of all documents required to authorize the transfer, including any evidence required under section 61, whichever is the later.

30 Section 37 is amended

(a) in subsection (3)

(i) by striking out “A” and substituting “Subject to subsection (5), a”;

(ii) by striking out “an RRSP, the RRSP” and substituting “a locked-in retirement account or a retirement income arrangement, the locked-in retirement account or retirement income arrangement”;

(iii) by adding “terminal illness or a” after “has a”;

(b) in subsection (4) by adding “terminal illness or the” after “The”;

(c) by adding the following after subsection (4):

(5) A member or former member who has a right to elect to convert a pension or part of a pension under subsection (3) and who has a spouse may make that election only if the administrator has received a statement by the spouse in the prescribed form that

(a) states that the spouse is aware of the spousal entitlements under the plan,

(b) waives those entitlements, and

**28** Section 35 presently reads in part:

*(7) A pension must commence before a member or former member who is to receive it attains the age of 71 years.*

**29** Adds provision to section 36 requiring transfer within certain period.

**30** Adds further provisions dealing with permitted variations in benefits. Also, section 37 presently reads in part:

*(3) A pension plan or, where a benefit has been transferred to an RRSP, the RRSP holding the transferred money, may provide that if a member, former member or the surviving spouse of a deceased member or former member has a mental or physical disability that is likely to shorten considerably his life expectancy, he may, before payment of the pension commences, elect to convert the pension or part of it on the prescribed basis to a payment or series of payments for a fixed term to him.*

*(4) The degree of mental or physical disability required by subsection (3) must be certified by a medical practitioner.*

(c) was signed by the spouse in the presence of a witness and outside the presence of the member or former member.

(6) Subsection (5) does not apply if the administrator, before the conversion, receives an order referred to in section 60 affecting the pension.

(7) In subsections (5) and (6), "administrator" includes a person who administers a locked-in retirement account or a retirement income arrangement.

(8) A pension plan may provide that instead of receiving payments in the form of a pension, a member may elect to receive payments under a retirement income arrangement, but any provision of a plan made under this subsection is subject to the prescribed conditions.

(9) Where an application is made to the Superintendent along with evidence that a sum was transferred by a member or former member of a plan to a locked-in retirement account in an amount that,

(a) when combined with the money in all the person's other locked-in retirement accounts, is not sufficient to purchase a pension or a retirement income arrangement commencing at the pensionable age under that plan or, where applicable, the pension plan from which any of the money was originally transferred, or

(b) would have been commutable under subsection (1) under the provisions of the plan from which it was transferred but was not commuted,

the Superintendent may allow the amount or amounts in the locked-in retirement account or accounts to be commuted.

*31 Section 38 is amended by repealing subsection (4) and substituting the following:*

(4) A participating employer's liability in respect of funding the benefits of

**31** Section 38 presently reads in part:

*(4) A participating employer's liability in respect of funding the benefits of a multi-employer plan is limited to the amount that he is contractually required to contribute to the plan.*

- (a) a multi-employer plan, or
- (b) a pension plan, other than a multi-employer plan, that is established, and maintained pursuant to contributions required, under a collective agreement and whose administrator is a board of trustees,

is limited to the amount that he is contractually required to contribute to the plan.

(5) None of the provisions of this Act or of any instrument establishing a trust in relation to a plan respecting the funding of benefits shall be treated as enlarging a participating employer's liability as limited by subsection (4).

32 *Section 39(1)(b)(i) is amended by adding "or a corporation incorporated by or under a statute of Parliament or of the Legislature of a province to provide pensions to employees" after "corporation".*

33 *Section 40 is amended by adding the following after subsection (4):*

(5) Money that an employer is required to pay into a pension fund shall be treated as accruing on a daily basis.

34 *The following is added after section 40:*

Trust  
arrangement  
for  
contributions

**40.1(1)** Where an employer receives or withholds money from an employee under an arrangement whereby the employer will pay the money into a pension fund as the employee's contributions under the pension plan, the employer holds the money in trust for

**32** Section 39 presently reads in part:

*39(1) The pension fund of a pension plan must be held by*

- (a) an insurance company under a contract for insurance,*
- (b) a trust in Canada governed by a written trust agreement under which the trustees are*
  - (i) a trust corporation, or*
  - (ii) 3 or more individuals at least 3 of whom reside in Canada and at least 1 of whom is not a significant shareholder, partner or employee of the employer or a proprietor of the business of the employer,*

**33** Addition of provision to section 40 respecting accrual of employer contributions on a daily basis.

**34** Trust arrangement for contributions, security for payment of contributions due by employer and registration of claim for contributions.

the employee until the employer pays the money into the pension fund.

(2) An employer who is required to pay contributions to a pension fund holds in trust for the beneficiaries of the pension plan an amount equal to the employer contributions due and not paid into the pension fund.

(3) Where a pension plan is terminated or wound up in whole or in part, an employer who is required to pay contributions to the pension fund holds in trust for the members, former members and beneficiaries of the pension plan an amount equal to employer contributions accrued to the date of the termination or winding-up but not yet due.

(4) Subsections (1), (2) and (3) apply whether or not the money has been kept separate and apart from other property of the employer.

(5) Subsections (1) to (4) apply in respect of money to be paid to an insurance business that guarantees benefits under a pension plan.

Deemed trust  
for unremitted  
contributions

**40.2(1)** In this section, “security interest” has the meaning given to it in the *Personal Property Security Act*.

(2) Subject to subsection (3) and section 40.3, money held by an employer in respect of a member, former member or beneficiary of a plan subject to a trust under section 40.1 is secured by a security interest on the property and assets of the employer to a maximum of \$5000 whether or not that property or those assets are subject to other security interests and is payable, without registration or other perfection of that security interest, in equal priority to claims or rights under section 113 of the *Employment Standards Code* as applied with respect to the money so held.

(3) This section and sections 40.1 and 40.3 apply notwithstanding any other Act but with the same force as sections 113 and 114 of the *Employment Standards Code*.

(4) The security interest under this section may be enforced by the administrator, who may commence and conduct a proceeding to enforce it.





Registration  
of claim for  
contributions

**40.3(1)** If the administrator of a pension plan makes a written claim on an employer on behalf of any person entitled to a benefit under the plan for payment of an amount held subject to a trust under section 40.1, the administrator may file that claim in a land titles office.

**(2)** The registration of the claim creates a secured charge in favour of the administrator, on behalf of the person entitled to the benefit, for the amount payable under section 40.1 set out in the claim, against all estates and interests in land owned or held by the employer.

**(3)** The secured charge has the same priority it would have if it were a mortgage registered against the estates and interests in the land.

**(4)** On payment of the money that is the subject of the secured charge, the plan administrator shall have the registration under this section discharged.

*35 Section 42(1) is amended by striking out “38(1)” and substituting “38(2)”.*

*36 Section 45 is amended*

*(a) by adding the following after subsection (2):*

**(2.1)** The suspension of all members of a plan constitutes a termination of the whole of the plan.

*(b) in subsection (5) by striking out “permits” and substituting “does not prohibit”;*

**35** Section 42(1) presently reads:

*42(1) Subject to sections 38(1) and 40(1), a pension plan containing a defined benefit provision must provide on the prescribed basis, or on such other basis as the Superintendent considers reasonable and equitable in the circumstances and consents to in writing, for*

- (a) the reduction of benefits, and*
- (b) the methods of allocation and distribution of the assets of the plan and the priorities for determining the benefits of persons entitled to them,*

*in the event that the assets of the plan are not sufficient to pay all benefits in the winding-up of the plan.*

**36** Addition of provisions respecting events constituting termination. Also, section 45 presently reads in part:

*(2) Subject to this section, the suspension or cessation of employer contributions to a pension plan or of the crediting of benefits*

- (a) where the suspension or cessation affects only a specific and identifiable class or group of members, constitutes a termination of the part of the plan that is applicable to that class or group, or*

- (c) *in subsection (7) by striking out “on the adoption of that other plan”;*
- (d) *by adding the following after subsection (7):*

(7.1) Notwithstanding subsection (6), where

- (a) all the members of a trade union that holds the right to bargain collectively within the meaning of the *Labour Relations Code* on behalf of those of its members who are members of a multi-employer plan, cease to be members of that plan, and
- (b) all or a specific and identifiable class or group of the persons referred to in clause (a) do not become members of another plan,

there is a termination of that part of the plan that relates to those persons who do not become members of another plan.

- (e) *by repeating subsection (8) and substituting the following:*

(8) A termination under subsection (1) takes effect when the remedy under section 19 has been exhausted or the time limit for appealing under section 19 has expired without the appeal's having been made.

37 *Section 50 is amended*

- (a) *by renumbering it as section 50(1);*
- (b) *in subsection (1) by striking out “Where” and substituting “Subject to subsection (2), where”;*
- (c) *by adding the following after subsection (1):*

(2) Subsection (1) shall not in itself be construed as entitling any person affected by the partial termination to share in any distribution of the surplus assets on the partial termination of the plan, but the plan may provide such entitlements.

*(b) where it affects all members, constitutes a termination of the whole of the plan.*

*(5) Subsection (2) does not apply to the extent that surplus assets are used to provide employer contributions, so long as the plan permits that use.*

*(6) Except where the Superintendent gives his approval under section 23(3), the cessation or suspension of contributions by a participating employer to a multi-employer plan does not in itself constitute a termination of the part of the plan that relates to that employer and his employees unless the plan provides that it does so, but the plan may not make any such provision to the extent that it would conflict with subsection (7).*

*(7) Where all or a specific and identifiable class or group of the members of one plan become members of another plan on the adoption of that other plan,*

*(a) years of continuous employment under one of those plans count as years of continuous employment under the other plan, and*

*(b) the original plan or the part of it that affects that class or group shall not be treated as terminated for the purposes of this section.*

*(8) A termination under subsection (1) takes effect when the remedies under sections 18 and 19 have been exhausted or the time limit for making an objection under section 18 or appealing under section 19, as the case may be, has expired without the objection's or appeal's having been made.*

**37** Section 50 presently reads:

*50 Where only part of a pension plan is terminated, the entitlements of members and former members affected by the partial termination are not less than those to which they would have been entitled had the whole of the plan been terminated on the date of the partial termination.*

38 *Section 53 is amended*

- (a) *in subsection (1) by adding “or no administrator who is able or willing” after “no administrator”;*
- (b) *by adding the following after subsection (4):*

**(5) An administrator appointed under this section**

- (a) may amend the plan, and
  - (b) on giving notice to a fund holder or investment adviser for the plan, may substitute that administrator as the party to any contract with that other person in place of the person representing the plan who was previously a party to the contract.
- (6) On the taking effect of subsection (5)(b), for the purposes of the laws relating to contract, the administrator shall be treated as the party to the contract in place of the person representing the plan who was previously the party to it.**

39 *Section 55(2) is amended by adding “and there is deemed to be no cessation of employment” after “break in employment”.*

40 *Section 56 is amended by adding the following after subsection (2):*

**38** Addition of provisions respecting Superintendent-appointed administrators. Also, section 53 presently reads in part:

*53(1) Where the administrator cannot be located or is insolvent or there is no administrator to undertake the winding-up, the Superintendent may appoint a person to be the administrator for the purposes of the winding-up and may direct that administrator to allocate and distribute the assets of the plan.*

**39** Section 55(2) presently reads:

*(2) Irrespective of whether the successor employer has or has not assumed responsibility for the accrued benefits of the predecessor employer's plan and notwithstanding the change in employer, for the purposes of determining*

- (a) the length of employment with respect to any eligibility condition of the successor employer's plan for the purposes of section 22,*
- (b) whether a pension vests in a member under a plan of either employer, or*
- (c) whether the commuted value of a pension under a plan of either employer is locked in under section 27,*

*the employee's employment with both employers shall be taken into account on the basis that the change in employers does not in itself effect any break in employment.*

**40** Amendment of plans to effect benefit reductions to ensure continued registration under tax laws.

(3) Notwithstanding anything in this Act, a pension plan may be amended at any time to reduce the benefits provided under a defined benefit provision of the plan in respect of a member but only if and to the extent that such an amendment is necessary to avoid the revocation of the plan's registration under the *Income Tax Act* (Canada).

41 *Section 57 is amended*

- (a) *in subsections (1)(a) and (3) by adding "22.1(5)," after "section";*
- (b) *in subsection (2)(a) by adding "to the plan" after "amendment";*
- (c) *by adding the following after subsection (5):*

(6) Where money has been transferred pursuant to section 22.1(5), 30, 31(4) or 55(4), the money is held under the pension plan, locked-in retirement account, retirement income arrangement or pension with an insurance business that holds it subject to the same conditions imposed by or under sections 27, 31 and 32 as would have applied had the transfer not been made.

42 *The following is added after section 58:*

Return of  
contributions

**58.1(1)** Notwithstanding anything in this Act, the administrator of a pension plan may, on making a written request to the Superintendent accompanied by sufficient information supporting the request and on receiving the Superintendent's prior written approval, return a contribution made under the plan by a member



**41** Addition of provision respecting transfers. Also, section 57 presently reads in part:

*57(1) A transfer of assets of a pension plan may not be made from that plan to another plan unless*

- (a) the transfer is made pursuant to section 29(2), 30, 31(4) or 55(4),*
- (b) a copy of a transfer agreement relating to the transfer has been filed under section 16(2), or*
- (c) the written consent of the Superintendent has been obtained.*

*(2) A transfer of assets of a plan may not be made from one fund holder of that plan to another fund holder of that plan, other than by way of providing benefits under the plan, unless*

- (a) the contract or trust agreement of the other fund holder has been filed with the Superintendent and the plan and any relevant amendment providing for the transfer has been registered, or*
- (b) the written consent of the Superintendent has been obtained.*

*(3) Notwithstanding subsection (1), an administrator shall not, without the consent of or being directed to do so by the Superintendent, transfer money out of the plan under section 30, 31(4) or 55(4) or to insure a benefit through an insurance company, if the transfer would impair the solvency of the plan.*

**42** Addition of new section dealing with return of contributions.

or by an employer to the person who made the contribution, but only if and to the extent that the return is necessary to avoid the revocation of the plan's registration under the *Income Tax Act* (Canada).

(2) Unless a plan prohibits it, an administrator may return any amount of contributions made to the plan by an employer or by an employee to that person resulting from a mistake if

- (a) the administrator, within 180 days after the end of the fiscal year in which the erroneous contribution was made, notified the Superintendent in writing of the circumstances behind the mistake, and
- (b) the Superintendent has given written notice stating that, following the return, the plan will, in the Superintendent's opinion, continue to meet the solvency tests.

43 Section 59(1) is amended by adding "22.1(5)," after "section".

44 Section 60 is amended by adding "or to transfer a benefit from" after "under".

45 Section 61 is amended by adding "or to transfer a benefit from" after "under".

**43** Section 59(1) presently reads:

*59(1) Subject to subsection (2), benefits, money that has been transferred under section 29(2), 30, 31(4) or 55(4) or pursuant to a similar transfer made before January 1, 1987 and money earned by such transferred money may not be assigned, charged, alienated or anticipated and are exempt from execution, seizure or attachment, and any transaction purporting to assign, charge, alienate or anticipate benefits or any such money is void.*

**44** Section 60 presently reads:

*60 Subject to section 59(1), the entitlement of any person to receive a benefit under a pension plan is subject to entitlements arising under 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.*

**45** Section 61 presently reads:

*61 A person claiming to be entitled to receive a benefit under a pension plan has the onus of proving to the satisfaction of the administrator that he is so entitled, and the administrator may require the claimant to provide such evidence, including evidence by way of affidavit, declaration or certificate, as the administrator requires to have the claim established.*

46 *Section 62(1) is amended*

- (a) *in clause (c),*
  - (i) *by striking out “and for” and substituting “, for”;*
  - (ii) *by adding “, for written notices under section 58(c), for file searches and for the copying of documents held by the Superintendent” after “registration”;*
- (b) *by repealing clause (d) and substituting the following:*
  - (d) *respecting the conditions under which transfers of money under section 22.1(5), 30, 31(4) and 55(4) and any subsequent transfers of money so transferred are to be made to ensure that the eventual payment will be made in the form of a pension that would otherwise be required or permitted by or under this Act or a benefit referred to in section 37(3);*
- (c) *in clause (g) by adding “or, if the first-mentioned plan is a multi-employer plan, covered by another multi-employer plan in Canada where the other multi-employer plan has a transfer agreement referred to in section 16(1) with the first-mentioned plan” after “by that plan”;*
- (d) *in clause (i)*
  - (i) *by striking out “auditing of” and substituting “auditing of the plan, the fund or”;*
  - (ii) *by striking out “audited reports on investments” and substituting “reports on any of those audits”;*
- (e) *in clause (k) by adding “or any benefit, contribution, money or other thing” after “particular plan”;*
- (f) *by adding the following after clause (k):*
  - (k.1) *making alternative provision as to matters exempted under clause (k);*

**46** Section 62(1) presently reads in part:

*62(1) The Lieutenant Governor in Council may make regulations*

- (c) governing fees for the filing of returns under section 7(3)(a) and for applications for registration;*
- (d) respecting the conditions on which transfers of money to an RRSP under sections 30, 31(4) and 55(4) and any subsequent transfers to an RRSP of money so transferred are to be made to ensure that the eventual payment from the RRSP be made only in the form of a pension that would otherwise be required by this Act or a benefit referred to in section 37(3);*
- (g) notwithstanding sections 22 to 24, respecting the benefits and membership of a former member of a pension plan who has commenced to receive his pension and recommences work or service in an employment covered by that plan;*
- (i) respecting the investment of assets of plans and requiring the auditing of investments and the submission of lists of investments, audited reports on investments and copies of investment policies and procedures in relation to pension plans;*
- (k) exempting any employees or plans or any class of them or any particular plan from the application of the whole or any part of this Act;*

**47 Section 65(2) is amended**

- (a) by adding “or full compliance with” after “breach of”;**
- (b) in clause (a)(ii) by adding “22.1(5),” after “section”.**

**48 Section 67(2) is amended by adding “, whether or not the corporation has been prosecuted or convicted of the offence” after “provided for the offence”.**

**49 Section 69 is amended**

- (a) by repealing subsections (2) to (8);**
- (b) by adding the following after subsection (8):**

**47** Section 65(2) presently reads:

*(2) An authorized person may, at any reasonable time and for the purpose of determining whether or not there has been a breach of this Act or of a pension plan,*

*(a) inspect the records*

*(i) respecting a pension plan, that are kept by an administrator, a non-administrator employer, a fund holder or any other person, or*

*(ii) respecting any money that has been transferred under section 30, 31(4) or 55(4), that are kept by any person responsible for an RRSP or by an insurance company responsible for providing a pension, that is holding any such money,*

*that are relevant to the making of that determination, and*

*(b) by written notice served on a person referred to in clause (a), demand that he provide or produce to the authorized person, within such reasonable period as is stipulated in the notice,*

*(i) those records for the purposes of the inspection, or*

*(ii) any information that is relevant to the making of that determination, in a form acceptable to the authorized person and whether or not in connection with an inspection under this subsection.*

**48** Section 67(2) presently reads:

*(2) Where a corporation is guilty of an offence against this Act, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable to the penalty provided for the offence.*

**49** Section 69 presently reads:

*69(1) Notwithstanding section 3, subsisting reciprocal agreements entered into under the former Act between the Government and other governments are valid according to their terms until rescinded, in so far as they are not varied by an agreement under that section.*

*(9) Notwithstanding section 20(1) and (2) or any other provision of this Act, amendments that are required to bring a pension plan that was a registered plan immediately before the commencement of the Employment Pension Plans Amendment Act, 1992 into compliance with this Act following the amendments enacted by section 24(a) of that Act or, if applicable, section 30(c) of that Act insofar as it incorporates a new section 37(5) into this Act may be filed for registration with the Superintendent the next time the plan is amended following that commencement, but in any case not later than December 31, 1993.*

*(10) Section 20(4) applies to the plan referred to in subsection (9).*

*(11) For the purposes of section 4, subsection (9) of this section is a prescribed provision of this Act.*

*50 Section 113(4) of the Employment Standards Code is amended by adding "but with the same force as sections 40.1, 40.2 and 40.3 of the Employment Pension Plans Act" after "other Act".*

*51(1) Section 2, insofar as it relates to clauses (d) and (g) of that section and sections 23 and 31, insofar as they add sections 29(7) and 38(5) respectively to the Employment Pension Plans Act, are deemed to have come into force on January 1, 1987.*

*(2) Sections 2(f) and (i), 7(a), 8(b), 19(a), 20, 24(b)(iii) and (iv), 30, 41(a) and (c), 43, 46(a), (b), (c) and (d), 47(b) and 49(b) come into force on Proclamation.*



*(2) Where a pension plan was established before January 1, 1987, the administrator shall ensure that the copies referred to in section 12(1)(a) have been filed with the Superintendent before March 2, 1987.*

*(3) The administrator of a pension plan established before January 1, 1987 shall ensure that*

*(a) in respect of each amendment made before January 1, 1987, the copy referred to in section 13(1) has been filed with the Superintendent before March 2, 1987, and*

*(b) a certified copy of each transfer agreement within the meaning of section 16(1) relating to the plan and entered into before January 1, 1987 is filed with the Superintendent before March 2, 1987.*

*(4) Notwithstanding section 20(1) and (2) or any other provision of this Act, amendments that are required to bring into compliance with this Act a pension plan that immediately before January 1, 1987 was registered under the former Act may be filed for registration with the Superintendent at any time during 1987, but section 20(4) applies to the plan.*

*(5) For the purposes of section 4, subsection (4) of this section is a prescribed provision of this Act.*

*(6) Where a pension plan was terminated before January 1, 1987, the entitlement referred to in section 25 is vested in each person who was a member immediately before the termination.*

*(7) Subject to any regulations made with reference to section 42(1), the pension payable under subsection (6), other than the portion accruing from additional voluntary contributions, must not be less than the pension payable under section 26(1), (2) or (4).*

*(8) Documents filed under the former Act and referred to in this section shall be deemed for the purposes of this Act to be filed under this Act.*

## **50 Consequential amendment.**

## **51 Commencement.**