

2008 Bill 34

First Session, 27th Legislature, 57 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 34

EMPLOYMENT PENSION PLANS AMENDMENT ACT, 2008

DR. BROWN

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 34
Dr. Brown

BILL 34

2008

EMPLOYMENT PENSION PLANS AMENDMENT ACT, 2008

(Assented to , 2008)

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

Amends RSA 2000 cE-8

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

2 Section 3 is amended

- (a) in subsection (2) by adding “and Enterprise” after “Finance” wherever it occurs;**
- (b) in subsection (3)**
 - (i) in clause (a) by adding “responsible” before “Minister”;**
 - (ii) in clause (b) by adding “and Enterprise” after “Finance”.**

Explanatory Notes

1 Amends chapter E-8 of the Revised Statutes of Alberta 2000.

2 Section 3 presently reads in part:

(2) The Minister responsible for the pension plans referred to in section 1 of the Public Sector Pension Plans Act, in the capacity as their administrator, and the Minister of Finance, insofar as the Minister of Finance is, or is fulfilling the functions of, trustee of those pension plans (or, in the case of the Public Service Pension Plan, the Public Service Pension Board if it becomes the trustee of that Plan) are bound by this Act to the extent prescribed by regulations made under section 6 of that Act.

(3) Subject to this section, a pension plan referred to in subsection (1) is exempt from the application of this Act so long as

(a) the plan continues to be administered by the Minister referred to in subsection (2), and

(b) the Minister of Finance (or, in the case of the Public Service Pension Plan, the Public Service Pension Board if it becomes the trustee of that Plan) continues to hold the plan's pension fund in trust.

3 Section 6 is amended by adding the following after subsection (3):

(4) No further agreements may be entered into under this section, but this does not preclude the making of amendments to an already-existing agreement.

4 The following is added after section 6:

Agreements with designated jurisdictions - reciprocal arrangements

6.1(1) In this section,

- (a) “agreement” means an existing agreement, the multilateral agreement or an agreement under subsection (6);
- (b) “Alberta legislation” means this Act, without having regard to the legislative effect of this section or section 6;
- (c) “authorized signatory” means an authorized signatory representing the government of a designated jurisdiction, and includes the Minister;
- (d) “existing agreement” means one of the 2 agreements entered into under section 6;
- (e) “Minister” means the Minister responsible for this statute;
- (f) “multilateral agreement” means the contractual arrangement which, as at the time of the introduction into the Legislative Assembly of the Bill whose enactment resulted in the *Employment Pension Plans Amendment Act, 2008*,
 - (i) existed in the form of a draft proposed agreement entitled “Agreement Respecting Multi-jurisdictional Pension Plans”, and
 - (ii) the Minister has indicated an intention to enter into with some or all of the authorized signatories,

3 Closing down of new agreements under section 6.

4 Agreements with designated jurisdictions providing generally for reciprocity.

including any subsequent amendments made to that arrangement that are in force at the time as at which this Act speaks;

- (g) “pension supervisory authority” means the Superintendent’s equivalent in a designated jurisdiction that is a party to an agreement, and includes the Superintendent.

(2) The Minister, with the prior approval of the Lieutenant Governor in Council, may

- (a) enter into the multilateral agreement, and
- (b) enter into arrangements to make amendments to the multilateral agreement under its amending formula.

(3) The Superintendent may agree with a pension supervisory authority to the application of any provisions of the multilateral agreement whose application is optional on the part of a pension supervisory authority.

(4) An existing agreement, to the extent that it applies with respect to a particular designated jurisdiction, continues in force until terminated in accordance with its terms with respect to that jurisdiction and Alberta or until such later date as at which that designated jurisdiction and Alberta have both become effectively subject to the multilateral agreement.

(5) The Legislature, to the extent that lies within its powers, delegates to whichever of the pension supervisory authorities and the authorized signatories are appropriate to the context in question the power to effectuate the multilateral agreement and, subject to regulations made under subsection (7), the multilateral agreement has the force of law with the result in part that, on the coming into effect of the multilateral agreement (or of amendments to it) and with respect to the plans and matters affected,

- (a) the laws of the specified designated jurisdiction that are provided by the applicable provisions of that agreement as applying to Alberta
 - (i) are deemed to be added to the Alberta legislation, and

- (ii) prevail in the event of any inconsistency over all provisions of the Alberta legislation other than regulations made under subsection (7),

and

- (b) provisions of the Alberta legislation that are so provided as not applying to Alberta do not apply and the designated jurisdiction's laws referred to in clause (a) do apply with such prevalence,

according to what the applicable provisions of that agreement provide.

(6) The Minister, with the prior approval of the Lieutenant Governor in Council, may enter into an agreement with one or more designated jurisdictions

- (a) dealing, in a manner that is not inconsistent with this Act, with procedural, administrative, supervisory or substantive pension matters that are not specifically dealt with in the Alberta legislation, and
- (b) providing generally for reciprocity of application and enforcement as between the jurisdictions entering into the agreement,

and subsection (5), as it applies with respect to the multilateral agreement, applies in respect of any such agreement, but no provision of any such agreement, to the extent that that agreement is entered into with a designated jurisdiction that has entered into the multilateral agreement, may be inconsistent with the multilateral agreement.

(7) The Lieutenant Governor in Council, after the Superintendent has consulted with any pension supervisory authorities that may be affected, may make regulations

- (a) providing in any manner for any aspect of the application, implementation or interpretation of provisions of the multilateral agreement relative to provisions of the Alberta legislation, or vice versa,

- (b) making any provision to obviate any doubt as to the consistency between provisions of the multilateral agreement and provisions of the Alberta legislation,
- (c) considered necessary for the effectuation of any provision of any agreement that are not otherwise provided for in this section, and
- (d) respecting the collection, use and disclosure of information with respect to agreements or any particular kind of agreement, including making any provision that is considered necessary or appropriate, on a reciprocal basis, to ensure adherence to the letter of or principles underlying the *Freedom of Information and Protection of Privacy Act* and equivalent legislation of designated jurisdictions entering into agreements.

(8) An agreement is exempt from the *Regulations Act* but, on payment of such reasonable fee as the Minister requests, the Minister shall ensure that the full text of any agreement is made readily available to any person who requests it.

(9) The Superintendent may give such orders to administrators as are considered necessary or appropriate to ensure the effectuating of any agreement, and any such order must be complied with.

(10) Subject to regulations made under subsection (7), the Superintendent

- (a) may collect personal information from another pension supervisory authority pursuant to,
- (b) may provide to the appropriate pension supervisory authority any information, including personal information, whose provision is authorized by, and
- (c) shall provide to the appropriate pension supervisory authority any such information whose provision is required by,

an agreement.

5 Section 7 is amended by adding “responsible for this statute” after “Minister”.

6 Section 14(3)(a)(i) is repealed.

7 Section 15(4)(c.1) is amended by adding “3 most recent” after “the”.

8 Section 24(2) is amended by adding “or whose registration has been exempted by or under this Act” after “Act”.

9 Section 35(4.1) is repealed.

5 Section 7 presently reads:

7 The Superintendent may charge any fees that are established in writing by the Minister with respect to services, information or documents provided by the Superintendent other than in the administration of this Act.

6 Section 14(3) presently reads in part:

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

(a) at the times prescribed and in the form required by the Superintendent,

(i) in the case of a plan for connected individuals, a certificate executed by the administrator stating that the plan has not been terminated and that it complies with this Act, or

7 Section 15(4) 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 that person's agent to examine all or any of the following documents, namely,

(c.1) the financial statements prescribed with reference to section 14(3)(d),

8 Section 24(2) presently reads:

(2) The Superintendent shall cancel the registration of a registered plan that has been terminated and wound up in accordance with this Act.

9 Section 35(4.1) presently reads:

(4.1) Subsections (1) and (2) do not apply where

(a) a member or former member referred to in the relevant subsection has been declared by the body commonly known

10 Section 37(2.1) is amended by adding “and, if so, those excess contributions are not payable until that recomputation is done” **after** “of pension commencement”.

11 Section 39(5.1) is amended by striking out “or after”.

12 Section 46(3) is repealed and the following is substituted:

(3) Subject to subsection (5), a pension plan or, where a benefit has been transferred to a locked-in retirement account or a retirement income arrangement, the locked-in retirement account or retirement income arrangement holding the transferred money, may provide that

- (a) if a member, a former member or the surviving pension partner of a deceased member or former member has a terminal illness or a disability that is likely to shorten that person’s life considerably, that person may, before

as the Canada Revenue Agency under the tax Act to be a non-resident for income tax purposes, or

- (b) on the death of such a member or former member, the benefit would, but for this clause, have to be paid on a locked-in basis to a pension partner who has been so declared a non-resident.*

10 Section 37(2.1) presently reads:

(2.1) Where pension commencement does not take place immediately following the termination of membership or of the plan, then, for the purposes of subsection (2), the plan may provide for the recomputation of the excess contributions as at the date of pension commencement.

11 Section 39(5.1) presently reads:

(5.1) A pension partner who is entitled or potentially entitled to receive a benefit under this section may, before or after the member or former member's death and before the benefit is paid or commences to be paid, waive the benefit in the prescribed form and manner and under prescribed conditions that reflect section 40(4)(b), in which case that person is not entitled to receive any benefits under this section, and if the member or former member has designated or designates that pension partner as the designated beneficiary, then that valid waiver also applies with respect to any benefit that the pension partner would otherwise have received as the designated beneficiary.

12 Section 46(3) presently reads:

(3) Subject to subsection (5), a pension plan or, where a benefit has been transferred to a locked-in retirement account or a retirement income arrangement, the locked-in retirement account or retirement income arrangement holding the transferred money, may provide that if a member, former member or the surviving pension partner of a deceased member or former member has a terminal illness or a disability that is likely to shorten that person's life considerably, that person 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 that person.

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 that person, and

- (b) a former member who has not commenced a pension or the surviving pension partner of a member or a former member who has not commenced a pension is entitled to withdraw all the money to which that person is entitled as a lump sum on providing written evidence that the Canada Revenue Agency has confirmed the person's non-residency for the purposes of the tax Act.

13 Section 82 is amended

- (a) **in subsection (2)(b) by adding** “subject to subsection (2.1),” **before** “the written”;

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

(2.1) Subsection (2)(b) does not apply if subsection (2)(a) has previously been complied with in respect of both the transferor and the transferee fund holders or custodians or one of each.

14 The following is added after section 82:

Order for allocation or splitting of assets and liabilities

82.1 The Superintendent may order or bring about the allocation or splitting of the assets or liabilities or both of a pension plan in any situation where the Superintendent considers that separate tracking of them is necessary.

15(1) Section 6 is repealed at the effective time when neither agreement entered into under that section continues to have any force.

(2) On the repeal of section 6 by subsection (1), section 6.1 is amended

- (a) **in subsection (1)**

13 Section 82(2) presently reads:

(2) A transfer of assets of a plan may not be made from one fund holder or custodian of that plan to another fund holder or custodian 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 or custodian has been filed with the Superintendent and the plan and any relevant amendment to the plan providing for the transfer has been registered, and*
- (b) the written consent of the Superintendent has been obtained.*

14 Allocation and splitting of assets and liabilities on order by Superintendent.

15 Repeal and amendments.

- (i) in clause (a) by striking out “an existing agreement,”;
- (ii) by repealing clause (d);
- (b) by repealing subsection (4).

16 Section 11 is deemed to have come into force on August 10, 2006.

16 Coming into force.

