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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 18

POOLED REGISTERED PENSION PLANS ACT

THE ASSOCIATE MINISTER OF FINANCE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 18

2013

POOLED REGISTERED PENSION PLANS ACT

(Assented to , 2013)

Table of Contents

Introductory Provisions

- 1 Interpretation
- 2 Purposes underlying the legislation
- 3 Application of the legislation

Part 1

Administration of the Legislation

- 4 Part 1 definition
- 5 Administration and enforcement by the Superintendent
- 6 Association of supervisory authorities
- 7 Bilateral agreement with designated jurisdiction
- 8 Multilateral agreements with designated jurisdictions
- 9 Legal effect and prevalence of bilateral and multilateral agreements
- 10 Exemption of agreements from Regulations Act, and publication

Part 2

Licensing, Registration and Preliminary and General Plan Matters

- 11 Licences for pooled pension plan administrators
- 12 Change in administrator's name or address
- 13 Change of administrator by Superintendent
- 14 Registration and filing of pooled pension plans
- 15 Registration and filing of amendments
- 16 Contracts between administrators and employers
- 17 Initial notifications to employees from employers/administrator

- 18 Plan compliance with the legislation
- 19 Notifications to and from the Superintendent

Part 3 The Plan

Division 1 Administration of Plan

- 20 Administrator's role and degree of care
- 21 Superintendent's direction to call and hold meeting
- 22 Information requiring filing
- 23 Participating employer withdrawal from plan
- 24 Provision of information to members
- 25 Records of account holders' shares in plan assets
- 26 Notification to Superintendent of non-compliance respecting remittances
- 27 Charging of fees, etc.

Division 2 Employer Responsibilities and Rights

- 28 Member equality within classes
- 29 Requirement of participating employer to file information
- 30 Requirement of participating employer to inform administrator of needed information
- 31 Asset separation requirement and deemed trust
- 32 Security interest in amounts required to be kept separate

Division 3 Members and Other Beneficiaries

- 33 Automatic membership in plans
- 34 Exemption based on religious beliefs
- 35 Transfer of membership class to new plan
- 36 Termination of membership
- 37 Death of member and surviving pension partner rights

Division 4 Contributions

- 38 Contribution rates and adjustments
- 39 Deductions from remuneration, and remittances
- 40 Sex discrimination prohibition for contributions

**Division 5
Investments**

- 41 Pooling and investment of plan's assets, generally
- 42 Investment options and choices

**Division 6
Variable Payments**

- 43 Election to receive variable payments
- 44 Death of member receiving variable payments
- 45 Transferability in case of variable payments

**Division 7
Plan Disclosure Requirements**

- 46 Plan requirements to provide information

**Division 8
Locking In, Unlocking and Attachment of Shares**

- 47 Division 8 definition
- 48 Plan provisions on locking in, unlocking and voidness
- 49 Legislative provisions on locking in and unlocking
- 50 Transfer of shares
- 51 Exemptions from execution, seizure and attachment
- 52 Transfers from pension plan registered under EPPA, and results
- 53 Voidness

**Division 9
Termination and Winding-up of Plans**

- 54 Power to terminate plan
- 55 Termination by action of the Superintendent
- 56 Termination by action of the administrator
- 57 Effect and consequences of any termination

**Division 10
Missing Persons**

- 58 Missing person — meaning
- 59 Transfer to unclaimed property regime
- 60 Confirmation and application of legislation
- 61 Personal information treatment
- 62 Entitlement to claim under unclaimed property legislation

Division 11
Marriage Breakdown

- 63 Definitions for Division 11
- 64 Prevalence of this Division in relation to shares
- 65 Application of matrimonial property orders and agreements
- 66 Division and distribution of shares
- 67 Valuations
- 68 Transfer of non-member pension partner's allocation
- 69 Evidence of entitlement to allocation
- 70 Bar against further claims
- 71 Application to Court for clarification, etc.
- 72 Fees

Part 4
Objections, Appeals and Enforcement

- 73 Notice of objection and reconsideration
- 74 Appeal to Alberta Employment Pension Tribunal
- 75 Appeal to the Court
- 76 Directions for compliance
- 77 Court order for compliance
- 78 Institution by Superintendent of legal proceedings
- 79 Examination of records, etc., and requirement of information
- 80 Protection against proceedings

Part 5
Miscellaneous Provisions

- 81 Electronic records
- 82 Electronic signatures
- 83 Offences
- 84 Penalties
- 85 Regulations
- 86 Consequential amendments
- 87 Coming into force

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

Introductory Provisions

Interpretation

1(1) In this statute,

- (a) “account” means a member’s account in a pooled pension plan and, where the member has died, includes the account whose legal ownership has passed, pending disposition from the plan, to a legal survivor;
- (b) “administrator” means, in relation to a pooled pension plan or proposed plan, the licence holder whose plan it is or an entity designated by the Superintendent under section 13(1);
- (c) “analogous legislation” means the legislation of a designated jurisdiction that is the equivalent in that jurisdiction of this Act;
- (d) “bilateral agreement” means an agreement under section 7 that is or is to be in force in Alberta;
- (e) “class” means a class of employees, within the meaning of clause (i)(i), employed by an employer and, where there is no distinction as to such classes as between all such employees employed by that employer, means all such employees;
- (f) “contract” means, with respect to a plan, the applicable contractual agreement between an administrator and an employer, that is referred to in section 16(1);
- (g) “Court” means the Court of Queen’s Bench;
- (h) “designated jurisdiction” means Canada or a prescribed province outside Alberta;
- (i) “employee” means
 - (i) an individual who holds a position or office, including the office of director of a corporation, that entitles him or her to receive a fixed or ascertainable

stipend or remuneration for the work in that position or office, or

- (ii) a self-employed individual, in the capacity referred to in section 3(2)(a);
- (j) “employer” means
 - (i) in relation to an employee within the meaning of clause (i)(i), the person who employs that employee, and includes a corporation of which an individual is a director and the successors of any such person, or
 - (ii) a self-employed individual, in or as treated as being in the capacity referred to in section 3(2)(b);
- (k) “file” means provide in writing to the Superintendent;
- (l) “legal survivor” means, in relation to a deceased member,
 - (i) the surviving pension partner or, in the case of variable payments, the pension partner referred to in section 44(1), or
 - (ii) the designated beneficiary, being, if there is no surviving pension partner, the beneficiary within the meaning of section 71(1)(b) of the *Wills and Succession Act* written notice of whose designation has been given to the administrator, or the personal representative of the deceased’s estate if there is neither, who is holding an account pending the final disposition from the plan of the share that belonged to the deceased;
- (m) “licence” means a document issued or to be issued under section 11(1);
- (n) “member” means, in relation to a plan, an employee who holds a portion of the plan’s assets, or an individual referred to in section 50(1)(c);
- (o) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (p) “multilateral agreement” means an agreement under section 8 that is or is to be in force in Alberta;

- (q) “participating employer” means an employer who is participating in the plan in question;
- (r) “pension partner” means, in relation to another individual,
 - (i) an individual who, at the relevant time, was married to that other individual and had not been living separate and apart from that other individual for 3 or more consecutive years, or
 - (ii) if there is no individual to whom subclause (i) applies, an individual who, immediately preceding the relevant time, had lived with that other individual in a conjugal relationship
 - (A) for a continuous period of at least 3 years, or
 - (B) of some permanence, if there is a child of the relationship by birth or adoption;
- (s) “pension scheme” means a plan, scheme or arrangement organized and administered to provide to its beneficial participants a series of periodic payments payable potentially until their deaths;
- (t) “pooled pension plan” or “plan” means a pension scheme that is or is to be registered, and includes one registered under analogous legislation and the assets in such a pension scheme;
- (u) “prescribed” means prescribed or otherwise provided for by the regulations;
- (v) “registered” means registered under section 14(1) or, in the case of plan amendments, section 15(2), except where used in those subsections;
- (w) “self-employed individual” means an individual who
 - (i) is required to report self-employed earnings under and within the meaning of the *Canada Pension Plan* (Canada), or
 - (ii) is employed by an employer who is not a participating employer or is any other individual referred to in section 50(1)(c);

- (x) “share” means the portion of the overall assets in a plan that is allocated to a member or, temporarily, to a legal survivor and that is or should be contained in that person’s account, in whatever form (including money) that that portion takes, and includes any part of or right or interest in such a portion, unpaid variable payments, earnings on its investments and, where applicable, the proceeds of liquidating its investments;
- (y) “Superintendent” means the Superintendent of Pensions appointed under section 4 of the *Employment Pension Plans Act* and includes the Deputy Superintendent so appointed;
- (z) “surviving pension partner” means the individual, if any, who, immediately before a member’s death, was the member’s pension partner;
- (aa) “this Act” includes the regulations;
- (bb) “variable payments” means variable payments under Division 6.

(2) References in this Act to any statute are to be taken to include references to regulations, if any, made under that statute.

(3) The Lieutenant Governor in Council may, for the purposes of this statute or specified provisions of this statute, by regulation define any expression used but not defined in this statute, in which case the expression has the meaning so defined.

(4) A reference in this Act generally to the performing of any act is to be treated as including a reference to an omission so to act.

(5) It is not intended that this Act be construed in pari materia with any other pension legislation.

Purposes underlying the legislation

2(1) The primary purpose of this Act is to provide a legal framework for the establishment, administration and operation of a kind of pension scheme that accepts and invests contributions by eligible employed or self-employed participants, or both, in order to provide them with a means of saving for retirement income on a pooled low-cost basis, as an alternative to other retirement income savings schemes.

(2) It is the intent of this Act that it provide for pooled pension plans that are acceptable for registration as such, and remain so acceptable and non-revocable, under section 147.5 of the *Income Tax Act* (Canada) and related provisions, and to any extent that this Act is inconsistent with that intent, the applicable provisions of that statute prevail over this Act.

Application of the legislation

3(1) This Act applies, and applies only, in respect of individuals who are or are to be members of a pooled pension plan and

- (a) are employed by employers who participate in the plan, or
- (b) are self-employed individuals,

and, secondarily and if applicable, persons with rights deriving from those members.

(2) This Act applies to self-employed individuals in such a manner that, except as specified or as prescribed, such an individual has the entitlements, rights, obligations and liabilities that both

- (a) an employee within the meaning of section 1(1)(i)(i), and
- (b) that employee's employer within the meaning of section 1(1)(j)(i)

have under this Act.

(3) Sections 16(3) and (5), 17, 23, 28, 31, 32, 33, 34, 35, 36(1) and 39(1) and any other prescribed provisions, and any reference in any provision to a class, do not apply with respect to self-employed individuals.

(4) The *Employment Pension Plans Act* does not apply to pooled pension plans except to the extent that any of its provisions are incorporated in this Act.

Part 1 Administration of the Legislation

Part 1 definition

4 In this Part, "supervisory authority" means an authority in a designated jurisdiction that is prescribed as having powers under

the analogous legislation of that jurisdiction that are analogous to the Superintendent's under this Act.

Administration and enforcement by the Superintendent

5(1) The Superintendent is responsible for the administration and enforcement of this Act.

(2) The Superintendent may

- (a) conduct studies, surveys and research programs and compile statistical and other information relating to plans and their establishment, administration and operation,
- (b) disclose information collected under clause (a) and sections 14(2), 15 and 22, or any of them, to any government, government agency or regulatory body of a designated jurisdiction, and
- (c) for the purposes of implementing a bilateral or multilateral agreement, collect information from and disclose information to a supervisory authority that is a party to that agreement.

(3) The Superintendent may make any approval or any kind of permission given by the Superintendent under this Act subject to any terms and conditions considered appropriate.

Association of supervisory authorities

6 The Minister may, with the prior approval of the Lieutenant Governor in Council, enter into an agreement with the relevant authorities for designated jurisdictions respecting the establishment and operation in Canada of an association of supervisory authorities.

Bilateral agreement with designated jurisdiction

7 The Minister may, with the prior approval of the Lieutenant Governor in Council, enter into an agreement with the appropriate authority of a designated jurisdiction

- (a) to authorize the supervisory authority of that jurisdiction to exercise any of the Superintendent's powers under this Act,

- (b) to authorize the Superintendent to exercise any powers of that supervisory authority under its analogous legislation, and
- (c) otherwise respecting any matters relating to any authorization referred to in clause (a) or (b) or both.

Multilateral agreements with designated jurisdictions

8(1) The Minister may, with the prior approval of the Lieutenant Governor in Council, enter into an agreement with the appropriate authorities of 2 or more designated jurisdictions respecting any matters relating to pooled pension plans that are subject to this Act or the analogous legislation of those jurisdictions.

(2) A multilateral agreement may, among other things,

- (a) limit the application of this Act as it applies to a particular plan, and adapt this Act as it applies to that plan,
- (b) limit the application of analogous legislation of a jurisdiction that is a party to the agreement as it applies to a particular plan, and adapt that legislation as it applies to that plan,
- (c) exempt a plan from the application of this Act or such analogous legislation,
- (d) provide for the administration and enforcement of this Act or such analogous legislation, or both,
- (e) authorize a supervisory authority of such a jurisdiction or the association referred to in section 6 to exercise any of the Superintendent's powers and perform any of his or her duties under this Act,
- (f) authorize the Superintendent or that association to exercise any powers and perform any duties of such a supervisory authority under its analogous legislation,
- (g) authorize the Superintendent or such a supervisory authority to exercise any powers and perform any duties of that association,

- (h) establish requirements, in addition to the requirements of this Act and such analogous legislation, with respect to a plan, an administrator or an employer, and
- (i) confer powers on the Superintendent.

Legal effect and prevalence of bilateral and multilateral agreements

9(1) The provisions of a bilateral or multilateral agreement (including any amendments made to it), other than those prescribed as excluded from the application of this subsection, have the force of law in Alberta and are enforceable as if those provisions formed part of this statute.

(2) The provisions of a bilateral or multilateral agreement that have the force of law in Alberta prevail over any provision of this Act to the extent of any inconsistency or conflict between them.

Exemption of agreements from Regulations Act, and publication

10(1) Bilateral and multilateral agreements, including amendments made to them, are exempt from the *Regulations Act*.

- (2)** The Minister shall have published in the Gazette,
- (a) before a bilateral or multilateral agreement, or an amendment made to it, comes into effect in Alberta, that agreement or amendment, as the case may be, and a notice of the date it is to come into effect in Alberta, and
 - (b) a notice of the effective date when Alberta is to withdraw from a bilateral or multilateral agreement or when such an agreement is to be terminated,

and the Minister shall also ensure that each such agreement and amendment are accessible to the public on the Minister's website or by any other means that the Minister considers appropriate.

Part 2 Licensing, Registration and Preliminary and General Plan Matters

Licences for pooled pension plan administrators

11(1) The Superintendent may in writing issue a licence authorizing a corporation that is empowered at law to act as a trustee for the purposes of this Act and is resident in Canada for the purposes of the *Income Tax Act* (Canada) to be an administrator of pooled pension plans, if the prescribed terms and conditions are met.

(2) The Superintendent may make a licence subject to the terms and conditions stipulated in it.

(3) Notwithstanding section 183 of the *Loan and Trust Corporations Act*, the Lieutenant Governor in Council may by regulation empower any corporation or category of corporations resident in Canada for the purposes of the *Income Tax Act* (Canada) to act as a trustee or to perform trust functions for the purpose of exercising and performing the trusteeship role under this Act.

Change in administrator's name or address

12 An administrator shall file a notice of any change in the administrator's name or address within 30 days after the change.

Change of administrator by Superintendent

13(1) If the current administrator is insolvent or unable to act as administrator or the Superintendent considers that it is in the best interests of the members, the Superintendent may order that administrator to transfer each plan that it administers and all of its assets to an entity designated by the Superintendent.

(2) The entity, on its designation, becomes the new administrator of all the plans transferred to it under subsection (1) and, as such, has all the contractual rights and obligations that the former administrator had.

Registration and filing of pooled pension plans

14(1) The Superintendent may register as a pooled pension plan under this Act a pension scheme described in section 2(1) that is to

be administered by an administrator, but may not register a pension scheme that is or is to be registered under the *Employment Pension Plans Act* or any equivalent legislation of any other jurisdiction or any other prescribed pension scheme.

(2) An administrator who wishes to have a pension scheme registered must file

- (a) a copy of the pension scheme,
- (b) a copy of the contract and every other document that creates or supports the pension scheme, and
- (c) a declaration, signed by the administrator, that the pension scheme complies with this Act.

(3) The Superintendent shall register, and issue a certificate of registration in respect of, a pension scheme if, and only if,

- (a) the administrator has filed the documents required by subsection (2), and
- (b) the Superintendent considers that the scheme complies with this Act.

(4) If the Superintendent declines to register a pension scheme, he or she shall forthwith give notice to the administrator of the particulars based on which subsection (3) is considered not to be met.

(5) An administrator shall not accept any memberships in a pension scheme that is to be registered, before its registration.

(6) A plan's registration may be ended pursuant to section 55(4) or 76(7).

Registration and filing of amendments

15(1) An administrator who wishes to have an amendment to a plan registered must, within 60 days after the amendment is made and in the form and manner directed by the Superintendent, file a copy of the amendment and a declaration, signed by the administrator, that the plan as amended complies with this Act.

(2) The Superintendent shall register, and issue a certificate of registration in respect of, the filed plan amendment if, and only if,

the Superintendent considers that the plan, as amended by the amendment, complies with this Act.

(3) If the Superintendent declines to register the filed plan amendment, he or she shall give notice to the administrator of the particulars based on which subsection (2) is considered not to be met.

(4) Amendments that are made to a plan but not registered are not part of the plan for the purposes of this Act.

(5) An administrator shall, within 60 days after a change is made to any document that creates or supports a plan, file a copy of the change and a declaration, signed by the administrator, that the document, as changed, complies with this Act.

Contracts between administrators and employers

16(1) An administrator shall not commence to administer a plan to the extent that it applies with respect to specific employees and their employer (including a self-employed individual) without first having entered into a contractual agreement with that employer providing for that plan's administration by that administrator and that employer's participation in the plan.

(2) An administrator shall, before entering into a contract, provide proof to the employer with whom the contract is to be made that the administrator has a valid licence and that the plan is accepted for registration under section 147.5 of the *Income Tax Act* (Canada).

(3) Except as prescribed,

- (a) an administrator shall not directly or indirectly give or offer, or agree to give or offer, an employer an inducement to enter into a contract, and
- (b) an employer shall not directly or indirectly demand or accept, or offer or agree to accept, an inducement from an administrator to enter into a contract.

(4) A contract must provide, among other things, for

- (a) the amounts or rates of the employee contributions initially decided on by the administrator under section

38(1) and the employer contributions, if any, that are initially to be remitted to the administrator,

- (b) the frequency with which contributions have to be remitted to the administrator, and
- (c) the consequences if the employer does not comply with the provisions of the contract respecting remittances of contributions.

(5) The negotiation, in itself, of the terms of a contract that, if entered into, will be in accordance with the intent of this Act is not to be considered an inducement to enter into that contract.

Initial notifications to employees from employers/administrator

17(1) At least 30 days before entering into a contract to provide or make available a plan to a class, an employer shall give notice in writing to each employee in that class of

- (a) the employer's intention to enter into the contract,
- (b) any business relationships the employer has with the administrator,
- (c) the right of any such employee to object to being a member on the ground of religious belief, and
- (d) whether it is the administrator or the employer who has to give the notice under subsection (2).

(2) As soon as practicable after the contract is entered into, whichever of the administrator and the employer is specified under subsection (1)(d), or the employer if subsection (4) applies, shall provide a written notice to each employee in the class.

(3) As soon as practicable after an employer contracts to employ an employee who is in a class that comprises members, the employer shall provide a written notice to and in respect of that employee.

(4) A participating employer who provides or makes available an existing plan to a class of employees and enters into a contract to provide or make available a new plan to that class shall, as soon as practicable after the establishment of the new plan, provide a written notice to those employees.

- (5) A notice given under subsection (2), (3) or (4) must
- (a) inform each employee of his or her prospective membership,
 - (b) except in the case of a notice under subsection (4), inform each such employee of the right to terminate his or her membership under section 36(1), and
 - (c) include the prescribed information.

Plan compliance with the legislation

18 An administrator shall ensure that the plan at all times complies with this Act.

Notifications to and from the Superintendent

19(1) All notifications relating to this Act to be provided to the Superintendent must be filed and all those from the Superintendent to another person must be provided in writing.

(2) A notification required or allowed to be filed must be filed in the form and manner that the Superintendent directs.

**Part 3
The Plan**

**Division 1
Administration of Plan**

Administrator's role and degree of care

20(1) An administrator shall administer the plan in accordance with this Act and as a trustee for the plan's members.

(2) In the administration of the plan, the administrator shall exercise the degree of care that a reasonable and prudent person would exercise in dealing with the property of another person and the diligence and skill that the administrator ought to possess, taking into consideration the business (within the context of this Act) of an administrator.

(3) Notwithstanding section 183(1) of the *Loan and Trust Corporations Act*, an administrator may act as a trustee for the purposes of this Act provided that it would be, in the absence of

that subsection and is, apart from this subsection, allowed by law to act as a trustee.

Superintendent's direction to call and hold meeting

21(1) An administrator shall call and hold a meeting, within the period specified in the notice, to consider any matters set out in a notice from the Superintendent requiring the administrator to hold the meeting.

(2) The Superintendent may

- (a) participate in the meeting,
- (b) require the administrator to invite all members or the members specified to attend the meeting, and
- (c) require any other interested persons to attend the meeting.

Information requiring filing

22(1) An administrator shall file, annually or within such other periods or before such other times as the Superintendent directs, an information return relating to the plan containing the prescribed information.

(2) An administrator shall file the prescribed financial statements within such periods or before such times as the Superintendent directs.

(3) Except as directed by the Superintendent, the financial statements must be prepared in accordance with Canadian generally accepted accounting principles, as described in the Handbook of the Canadian Institute of Chartered Accountants, as amended up to the relevant date and accompanied with an audit report that is prepared

- (a) by or under the auspices of a public accounting firm within the meaning of the *Regulated Accounting Profession Act*, and
- (b) in accordance with Canadian generally accepted auditing principles, as described in that Handbook, as amended.

(4) An administrator shall file, at the times directed by the Superintendent, the prescribed information or any other information that the Superintendent directs.

(5) A direction under this section by the Superintendent must be in writing.

Participating employer withdrawal from plan

23 If an employer ceases to participate in a plan, the administrator shall, within the prescribed period, file a notice, and notify in writing those members who are employees of that employer, of the cessation and its effective date.

Provision of information to members

24 An administrator shall provide to each member or to each member in a specified class, at the times and in the manner directed by the Superintendent, any information that the Superintendent directs.

Records of account holders' shares in plan assets

25 An administrator shall keep such records as are needed to enable each account holder's exact share to be ascertained at all times.

Notification to Superintendent of non-compliance respecting remittances

26 An administrator shall file a notice forthwith if the administrator has reason to believe that an employer has failed to comply with the provisions of the contract or this Act respecting the amounts or frequency of remittances to the administrator.

Charging of fees, etc.

27(1) An administrator may charge account holders on the prescribed basis for its administration of the plan.

(2) An administrator shall ensure that the fees and other charges that reduce the return on the investments in accounts in a plan are charged on the same basis for all account holders of that plan.

Division 2 Employer Responsibilities and Rights

Member equality within classes

28 An employer who enters into a contract to provide or make available a plan to a class shall provide it or make it available to all the members of that class.

Requirement of participating employer to file information

29 A participating employer shall file, at the times specified by the Superintendent, any information that the Superintendent specifies and requests of that employer.

Requirement of participating employer to inform administrator of needed information

30 A participating employer shall provide the administrator with all the information that the administrator needs in order to comply with the terms of the plan and the contract and to discharge its duties under section 20.

Asset separation requirement and deemed trust

31(1) A participating employer shall ensure that there are kept separate from the employer's own money and other assets

- (a) amounts deducted by the employer from employees' remuneration for their employee contributions,
- (b) employer contributions, and
- (c) any other amounts

that are required to be but have not yet been remitted to the administrator.

(2) The employer is deemed to hold amounts that are required by subsection (1) to be kept separate from the employer's assets in trust for the account holders entitled to them.

(3) To the extent that it lies within the legislative jurisdiction of the Legislature, in the event of the liquidation, bankruptcy, dissolution or winding-up of an employer, an amount equal to the amount that by subsection (2) is deemed to be held in trust is deemed to be separate from and to form no part of the estate in that process,

whether or not that amount has in fact been kept separate from the employer's own assets or has in fact been included in the assets of the estate in that process.

Security interest in amounts required to be kept separate

32(1) In this section, "security interest" has the same meaning as in the *Personal Property Security Act*.

(2) An amount that is required by section 31(1) to be kept separate is secured by a security interest on the assets of the participating employer to a maximum of \$5000, whether or not 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 60 of the *Employment Pension Plans Act*.

(3) This section and section 31(1) and (2) apply notwithstanding any other statute but with the same force as sections 58 and 60 of the *Employment Pension Plans Act*.

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

**Division 3
Members and Other Beneficiaries**

Automatic membership in plans

33 Every employee in a class who is employed by an employer who provides or makes available a plan to that class, except for employees who terminate their membership under section 36(1) or who give notice under section 34(1),

- (a) if engaged under a contract of service to work, throughout the year, all or substantially all of the normally scheduled hours of work established for that class, is a member of that plan, and
- (b) if engaged under a contract of service to work on any other basis, is a member on and after the day the employee completes 24 months, or any longer period that is prescribed, of continuous employment (without excluding any periods of temporary interruption of work) with the employer.

Exemption based on religious beliefs

34(1) An employee who does not wish to be or to remain a member on the ground of religious belief must give written notice to his or her employer informing of that intention.

(2) An employer who is notified under subsection (1) shall forthwith take any measure that is necessary to ensure that the employee does not become a member or, if the employee is already a member, that the employee's membership is terminated.

Transfer of membership class to new plan

35 An employer to whom section 17(4) applies shall have the administrator transfer the assets of the existing plan to the new plan and is responsible for all of the expenses relating to the transfer.

Termination of membership

36(1) A member who received a notice under section 17(2) or (3) (but not section 17(4)) may terminate his or her membership by giving written notice to the participating employer informing of that termination within 60 days after receiving that notice.

(2) A self-employed individual member may at any time terminate membership by giving written notice to the administrator.

Death of member and surviving pension partner rights

37(1) If a member dies survived by a surviving pension partner, the latter is entitled to the share, which may be transferred to a prescribed pension scheme.

(2) If a member dies without leaving a surviving pension partner, the share is to be paid as a lump sum to the member's legal survivor within the meaning of section 1(1)(l)(ii).

(3) If a plan allows a surviving pension partner in writing to waive the entitlement to his or her share in favour of a beneficiary designated by the surviving pension partner under section 71(2) of the *Wills and Succession Act*, that beneficiary being the surviving pension partner's or member's dependant as defined in subsection 8500(1) of the *Income Tax Regulations (Canada)*, then, if the surviving pension partner has so designated that dependant, on the surviving pension partner's death with that dependant still living, the share is to be paid to that designated beneficiary.

(4) This section does not apply to variable payments.

Division 4 Contributions

Contribution rates and adjustments

38(1) Notwithstanding anything in the contract but subject to subsection (3), the employee contribution rates or amounts, and any adjustments to them, are as decided on by the administrator.

(2) The administrator shall inform members in writing of the contribution rates or amounts and of any adjustments to them.

(3) If the prescribed circumstances apply and notwithstanding anything contained in the contract as a result of section 16(4)(a), a member may, after giving written notice to the administrator containing the prescribed information, set a contribution rate of 0% for the employee contributions for the prescribed period.

Deductions from remuneration, and remittances

39(1) A participating employer may begin to deduct employee contributions from a member's remuneration no earlier than 61 days after the day the notice under section 17(2) or (3) is provided.

(2) A participating employer shall remit contributions to the administrator in the manner and according to the frequency that are prescribed.

Sex discrimination prohibition for contributions

40 The sex of a member or of his or her pension partner may not be taken into consideration in determining the rate or amount of employee contributions.

Division 5 Investments

Pooling and investment of plan's assets, generally

41(1) Shares may be pooled for the purposes of investing the assets in the plan.

(2) Except to the extent that a member has exercised the right to make his or her own investment choice in accordance with section 42(1) from investment options that meet the requirements of

section 42(2), an administrator shall ensure that shares are and remain invested, and invested in a manner that a reasonable and prudent person would apply in respect of a portfolio of investments appropriate for retirement savings.

(3) An administrator may, without relieving the administrator from any liability under other provisions of this Part, engage the services of an investment manager or advisor to invest the plan's assets.

Investment options and choices

42(1) A plan may permit its members to make investment choices from among investment options offered by the administrator and that comply with this section and, if it does so, the administrator shall

- (a) provide the same investment options to all that plan's members,
- (b) select a default option for the purposes of subsection (3), and
- (c) subject to any regulations made with respect to subsection (5), invest according to any investment choices duly made by the members.

(2) If a plan permits members to make investment choices, the investment options offered as a whole must reflect varying degrees of risk and expected rates of return that should allow a reasonable and prudent person to create a portfolio of investments that would be appropriate for retirement savings.

(3) If a member does not make the allowed investment choices within 60 days after receiving the notice under section 17(2) or (3), the investment option selected by the administrator as the default option applies to the member's account, in which case the administrator shall make all the decisions with respect to investing the share in accordance with the default option.

(4) Subject to subsection (5), nothing in this Part prevents investment choices being changed.

(5) An administrator shall not change an investment choice made by a member except on the request of the member or in the prescribed circumstances.

Division 6 Variable Payments

Election to receive variable payments

43 A plan may provide that a member who has reached the prescribed age may elect, by written notice to the administrator, to receive prescribed variable payments from his or her share.

Death of member receiving variable payments

44(1) Where a member who had a pension partner at the time variable payments commenced dies while still in receipt of variable payments, then, subject to any prescribed provisions, that pension partner is entitled

- (a) if the value of the remaining share amounts to less than the 20% of the amount referred to in section 48(3)(b), to immediate payment of the value of the share remaining, or
- (b) otherwise, to receive the variable payments until the earlier of his or her death and the full exhaustion of the share.

(2) If the pension partner receiving variable payments under subsection (1)(b) dies before the share is exhausted, the balance of the share is to be paid to the personal representative of the pension partner's estate.

Transferability in case of variable payments

45(1) Once every year, or more frequently if a plan permits, a member, or the member's pension partner who is receiving variable payments, may elect, by written notice to the administrator, to transfer the whole or any portion of the share, for or on behalf of that individual,

- (a) to an account in a plan or another prescribed pension scheme, if that plan or scheme so permits,
- (b) to a retirement savings plan of the prescribed kind, or
- (c) for the purchase of an immediate or deferred life annuity of the prescribed kind.

(2) For the avoidance of doubt, if a member made a partial transfer under subsection (1) before dying, the pension partner receiving

variable payments may make a further transfer under that subsection in the same year or more frequent period referred to in that subsection as that in which the member's transfer was made.

(3) The administrator shall forthwith take the necessary action to give effect to the or an election under subsection (1) or (2).

(4) Before an administrator ceases to make variable payments, it shall offer the member or pension partner who receives them the options set out in subsection (1).

Division 7 Plan Disclosure Requirements

Plan requirements to provide information

46(1) A plan must provide

- (a) that the administrator will give each member, surviving pension partner and any other pension partner receiving or entitled to receive variable payments and each participating employer, in the prescribed circumstances, period and manner,
 - (i) a written explanation of the provisions of the plan and of any amendments to it,
 - (ii) the prescribed information about available investment options and choices, and
 - (iii) any other information that is prescribed,
- (b) that the administrator will give each member or each such pension partner, in the prescribed circumstances and manner and within 45 days after the end of each year or before any later time that the Superintendent specifies, a written statement showing
 - (i) the value of the accumulated contributions made under the plan, expressed in the prescribed manner, by or in respect of the member since his or her becoming a member,
 - (ii) the value, as at the end of each year, of each share, including all additions to and deductions from the account since the later of the beginning of

membership and the last statement under this subclause,

(iii) the prescribed information about any investment option chosen, and

(iv) any other information that is prescribed,

(c) that each member and each such pension partner may, once in each year, request in writing from the administrator copies of the documents or information filed under sections 14(2), 15 and 22 and of any other prescribed documents,

(d) that, if a member has provided notice under section 36(2), has been provided notice under section 56(1) or was but is no longer employed by any participating employer, the administrator will give the member a statement in the prescribed form of his or her share within 30 days after the day the notice was provided or the member's employment with that employer ceased or before any later time that the Superintendent allows, and

(e) that, if a member dies, the administrator will give the legal survivor a statement of the share in the prescribed form within 30 days after the day the administrator receives written notice of the death or before any later time that the Superintendent allows.

(2) The administrator shall, on the payment of any reasonable fee that the administrator requests, forthwith provide the documents requested under subsection (1)(c).

Division 8 Locking In, Unlocking and Attachment of Shares

Division 8 definition

47 In this Division, "withdraw" means withdraw as a lump sum.

Plan provisions on locking in, unlocking and voidness

48(1) A plan must provide that, with the exceptions specified in section 49(3), a share may not be transferred, surrendered, withdrawn, charged or in any other manner alienated, and that any transaction purporting to do so is void.

(2) A plan must provide that a share may be withdrawn if and to the extent that the prescribed circumstances and conditions relating to financial hardship are met.

(3) A plan may provide that

- (a) in the case of a prescribed disability, a member may withdraw his or her share, and
- (b) if the value of a share amounts to less than 20%, or if any other percentage is prescribed, that percentage, of the Year's Maximum Pensionable Earnings within the meaning assigned by section 18 of the *Canada Pension Plan* (Canada) for the year in which the member
 - (i) dies,
 - (ii) gives the notice referred to in section 36(2), or
 - (iii) was but is no longer employed by any participating employer,

subject to section 44, the share may be withdrawn by the member or surviving pension partner, as the case may be.

Legislative provisions on locking in and unlocking

49(1) A share may not be transferred, surrendered, withdrawn, charged or in any other manner alienated.

(2) Subsection (1), as it applies to a share, also applies to assets resulting from transfers effected under, and in schemes referred to in, section 45(1) or (2) or 50(1), including assets deriving from those transferred assets.

(3) Subsections (1) and (2) do not apply with respect to

- (a) any transaction effected in compliance with
 - (i) a matrimonial property order or an agreement within the meaning of section 63 or any provision of Division 11, or
 - (ii) an execution, seizure or attachment effected under section 17 of the *Maintenance Enforcement Act*,

- (b) any transaction effected under, or under a plan provision under, section 27, 35, 37, 43, 44, 45, 48(2) or (3), 50, 57(7) or Division 10 or regulations made with respect to section 52,
- (c) any other prescribed transaction, or
- (d) any transaction with respect to a scheme referred to in subsection (2) that is the equivalent of any transaction referred to in any of clauses (a) to (c).

Transfer of shares

50(1) If

- (a) an individual who was a member of a plan immediately before its termination,
- (b) a surviving pension partner, or
- (c) an individual who was but is no longer employed by any participating employer and held an account that has not been closed

gives written notice to the administrator within the prescribed period or, where the Superintendent allows a longer period under section 46(1)(d) or (e) for giving the statement referred to in that clause, within 60 days after the day the administrator gives that statement, the share may be transferred to a scheme and on the basis referred to in section 45(1).

(2) A self-employed individual member may at any time transfer a share to a prescribed pension scheme on giving written notice to the administrator to that effect.

(3) The administrator shall forthwith take the necessary action to give effect to the notice under subsection (1) or (2).

(4) Except as prescribed, before the end of the year in which a member reaches the age referred to in section 147.5(3)(b) of the *Income Tax Act* (Canada), an administrator shall transfer his or her share to a prescribed account.

Exemptions from execution, seizure and attachment

51(1) Shares and assets referred to in section 49(2) are exempt from execution, seizure or attachment.

(2) Subsection (1) does not apply with respect to

- (a) a matrimonial property order or an agreement within the meaning of section 63 or any transaction effected in compliance with Division 11, or
- (b) any action under section 17 of the *Maintenance Enforcement Act*.

Transfers from pension plan registered under EPPA, and results

52(1) A plan may allow a transfer into it under section 99(1)(a)(i.1) of the *Employment Pension Plans Act*, but only if the prescribed conditions with respect to the transfer out of the transferred assets and any other matters are met.

(2) If, without the conditions referred to in subsection (1) being met, the administrator receives money as a result of a transfer referred to in subsection (1) and deposits the money into an account, the prescribed consequences flow.

(3) Where a transfer referred to in subsection (1) is received, the administrator shall provide the account holder with a statement containing the prescribed information.

(4) An administrator shall not allow a transfer from the plan in contravention of regulations made with respect to subsection (1).

Voidness

53(1) Where this Act requires or allows an amount to be withheld, deducted, paid or credited, an agreement or arrangement not to withhold, deduct, pay or credit that amount or not to allow that transaction is void.

(2) A transaction is void if it purports to effect a transaction that contravenes section 49.

Division 9 Termination and Winding-up of Plans

Power to terminate plan

54 The Superintendent or the administrator, and no one else, may terminate a plan.

Termination by action of the Superintendent

55(1) The revocation of a plan's registration under section 76(7) results automatically in the plan's termination.

- (2)** The Superintendent may declare a plan terminated if
- (a) a bankruptcy order has been made against the administrator under the *Bankruptcy and Insolvency Act* (Canada),
 - (b) the administrator is the subject of a winding-up order under the *Winding-up and Restructuring Act* (Canada),
 - (c) the administrator is the subject of proceedings under the *Companies' Creditors Arrangement Act* (Canada) or Part III of the *Bankruptcy and Insolvency Act* (Canada), or
 - (d) the administrator has discontinued or is in the process of discontinuing its business operations.
- (3)** The Superintendent's declaration must specify the effective date as at which the plan is terminated.
- (4)** The Superintendent may cancel the registration of a plan that has terminated and whose assets have been distributed in accordance with this Act.

Termination by action of the administrator

56(1) An administrator shall, not less than 60 and not more than 180 days before the effective date on which it terminates a plan,

- (a) provide to the participating employers and the account holders written notice of the proposed termination specifying the effective date of the proposed termination, and

(b) file notice of the proposed termination and distribution of the plan's assets.

(2) The filed notice must specify the effective date of the proposed termination.

(3) A plan termination by the administrator is effective only if the administrator has filed the notice under subsection (1)(b).

Effect and consequences of any termination

57(1) This section applies on or following any termination of a plan.

(2) In this section,

(a) "administrator" includes the corporation that was the plan's administrator immediately before the plan's termination;

(b) "assets" means assets that were in the plan up to its termination and includes assets subsequently deriving from those assets;

(c) "participating employers" includes persons who were participating employers immediately before the plan's termination.

(3) The participating employers shall remit to the administrator all amounts that are due as at the effective date of the termination, and the administrator shall pay the amounts collected into the accounts.

(4) The administrator shall file a termination report prepared by a person having the prescribed qualifications.

(5) The report under subsection (4) must set out

(a) the amounts referred to in subsection (3), calculated as at the effective date of the termination,

(b) what of those amounts has been collected, and

(c) any other prescribed information.

(6) Assets may not be transferred for any purpose until the Superintendent has approved the termination report, but the

administrator may make variable payments, as they fall due, to the persons entitled to receive them.

(7) If the Superintendent considers that no or insufficient action has been taken to distribute the assets, the Superintendent may direct the administrator to distribute the shares and direct that any expenses incurred in connection with that distribution be paid out of the shares, and the administrator shall forthwith comply with that direction.

(8) Assets continue to be subject to this Act until they are fully distributed.

Division 10 Missing Persons

Missing person — meaning

58 For the purposes of this Division, a person is missing if the Superintendent is satisfied that the administrator has been unable to locate the individual after having attempted to locate him or her having regard to the prescribed circumstances and requirements.

Transfer to unclaimed property regime

59(1) Where an individual entitled to a share is missing, the administrator may, and if the plan falls within Division 9 shall, in accordance with and subject to this Division and any prescribed requirements, transfer the amount of the share, less any amounts referred to in subsection (2), to the Minister responsible for the *Unclaimed Personal Property and Vested Property Act*.

(2) In determining the amount that may or must be transferred under subsection (1), the administrator shall deduct

- (a) any tax required by the *Income Tax Act* (Canada) to be withheld,
- (b) any amount payable under a matrimonial property order or an agreement within the meanings of section 63, and
- (c) any fees payable under the *Unclaimed Personal Property and Vested Property Act* to the Minister responsible for that Act.

(3) Amounts transferred under subsection (1) are to be treated as unclaimed personal property within the meaning of the *Unclaimed*

Personal Property and Vested Property Act and presumed abandoned as at the time of the transfer.

(4) Where the amount that may be transferred under subsection (1) is less than the minimum amount that may be transferred under the *Unclaimed Personal Property and Vested Property Act*, the amount is to remain in the plan, and subject to subsection (6), the administrator shall, if a person entitled to the amount makes a claim, pay to that person the amount to which that person is entitled.

(5) Where the amount that must be transferred under subsection (1) is less than the minimum amount that may be transferred under the *Unclaimed Personal Property and Vested Property Act*, that amount belongs legally and beneficially to, and the administrator shall transfer the amount to, the Crown in right of Alberta.

(6) A person entitled to an amount referred to in subsection (4) may make a claim to it, but if no claim is made by that person within 10 years after the transfer, that person ceases to have any further claim to the amount and that amount belongs legally and beneficially to, and shall be transferred to, the Crown in right of Alberta.

Confirmation and application of legislation

60(1) The administrator shall, in accordance with the prescribed requirements, file a confirmation that the whole amount of the missing person's share has been dealt with in accordance with this Division.

(2) When a share or amount has been dealt with under this Division, this Act, except sections 61 and 62, no longer applies with respect to it.

Personal information treatment

61 The Superintendent may provide any personal information within the meaning of the *Freedom of Information and Protection of Privacy Act* to the Minister responsible for the *Unclaimed Personal Property and Vested Property Act* that is necessary or advisable to enable that Minister to deal with a transfer or a claim and may collect any such personal information from that Minister that is incidental to the process set out in this Division.

Entitlement to claim under unclaimed property legislation

62 A person entitled to an amount transferred under section 59(1) is entitled to make a claim to the amount in accordance with Part 6 of the *Unclaimed Personal Property and Vested Property Act*, in which case that legislation applies.

Division 11 Marriage Breakdown

Definitions for Division 11

63 In this Division,

- (a) “agreement” means a written agreement that provides for the division and distribution of a share and that meets the requirements of section 37 of the *Matrimonial Property Act*, and that is enforceable under section 38 of that Act;
- (b) “allocation” means, with respect to a member pension partner or the non-member pension partner, that individual’s portion, resulting from the division under this Division of the total pre-division amount and, that, in the case of the non-member pension partner, is to be distributed under this Division;
- (c) “matrimonial property order” means a matrimonial property order within the meaning of the *Matrimonial Property Act*, or a similar order enforceable in Alberta of a court outside Alberta, that affects the division and distribution of a share;
- (d) “member pension partner” means, in relation to the plan in question, the pension partner who is or was the member in question, and “non-member pension partner” means the other pension partner;
- (e) “pension partner” means a pension partner, including a former pension partner, to whom this Division applies;
- (f) “service” means, with respect to a matrimonial property order or agreement, service of or a certified copy of it on the administrator in a manner provided for in section 156 of the *Employment Pension Plans Act*, with the onus of proving proper service being on the server;
- (g) “total pre-division amount” means the total share, or the value of that share, accrued to the member pension partner

immediately before the division under this Division and on which that division is to be based pursuant to this Division.

Prevalence of this Division in relation to shares

64(1) Notwithstanding the *Matrimonial Property Act* or any other rule of law or equity to the contrary, a matrimonial property order or an agreement must not divide or distribute a share except in a manner that complies with this Division.

(2) Nothing in subsection (1) prevents the Court from distributing, under the *Matrimonial Property Act*, property that is not a share in a manner that takes account of how a share is to be divided or distributed in compliance with this Division.

Application of matrimonial property orders and agreements

65(1) This Division applies with respect to the division and distribution of shares where, as between a member pension partner and the non-member pension partner, a matrimonial property order or agreement is served, and this Division applies notwithstanding any other provision of this Act, except as specifically stated, and notwithstanding any other rule of law or equity to the contrary.

(2) This Division applies only with respect to a matrimonial property order made or agreement entered into

- (a) on or after March 1, 2000, or
- (b) before March 1, 2000, if there is filed a written election by both pension partners to have this Division apply.

(3) Subject to this Division, the entitlement of any person to a share is subject to entitlements arising under a served matrimonial property order or agreement.

Division and distribution of shares

66 Shares must be divided between the member pension partner and the non-member pension partner, and the non-member pension partner's allocation distributed, in accordance with this Division and the prescribed conditions, in the prescribed manner and, subject to the foregoing, in accordance with the applicable matrimonial property order or agreement.

Valuations

67(1) The division of a share between the pension partners must not reduce the member pension partner's allocation by more than 50% of the total pre-division amount.

(2) The total pre-division amount and the non-member pension partner's allocation are to be based only on the prescribed proportion of the total period for which the share was accruing.

Transfer of non-member pension partner's allocation

68 The non-member pension partner's allocation must be transferred under the prescribed conditions.

Evidence of entitlement to allocation

69(1) A pension partner claiming to be entitled to receive an allocation under this Division has the onus of proving to the satisfaction of the administrator that the claimant is entitled to the allocation.

(2) The administrator may require the claimant to provide evidence to establish the claim, including evidence by way of affidavit or statutory declaration.

Bar against further claims

70 If the full amount of the non-member pension partner's allocation has been distributed pursuant to this Division,

- (a) that pension partner has no further entitlement to any allocation or any other right under the plan, and
- (b) the administrator and the plan have no further obligation to that pension partner and have no liability to either pension partner or any other person by reason only of the fact that the matrimonial property order or agreement was complied with.

Application to Court for clarification, etc.

71(1) If, on the serving of a matrimonial property order or agreement, the administrator is unable to comply with the matrimonial property order or agreement because

- (a) it is incomplete, or

- (b) it does not comply with this Division or the plan or there is doubt as to what exactly the administrator must do to comply with it,

the administrator may apply to the Court to redress the situation arising from that inability to comply.

(2) An application to the Court under subsection (1) must be made on 7 days' notice or on any shorter period that the Court allows.

(3) The costs of an application under subsection (1) are to be borne by both or either of the pension partners, as determined by the Court, and to the extent that any such costs are paid by the administrator, the administrator has a right of action in debt against the pension partner or pension partners for the costs, in accordance with the Court's decision on the costs.

Fees

72 The administrator may charge a fee for the services provided under this Division in an amount not exceeding the prescribed amount.

Part 4 Objections, Appeals and Enforcement

Notice of objection and reconsideration

73(1) An administrator may, within 60 days after the day notice is provided under section 14(4) or 76(7), file a notice of objection setting out the reasons for the objection and all facts relevant to it.

(2) On the filing, the Superintendent shall forthwith reconsider the refusal or the revocation and cancellation, as the case may be, and rescind, vary or confirm the action taken and forthwith give notice to the administrator of the decision under this subsection, with reasons if the original decision is not rescinded.

Appeal to Alberta Employment Pension Tribunal

74(1) Where the Superintendent has made a decision under section 73(2) with which the administrator disagrees, the administrator may appeal the decision to the Alberta Employment Pension Tribunal (in this section and in section 75 referred to as "the Tribunal") established by the *Employment Pension Plans Act* for an

order under subsection (4) by serving a notice of appeal on it, accompanied with the prescribed fee, within 60 days after the administrator received the notice under section 73(2).

(2) The administrator shall provide a copy of the notice of appeal to the Superintendent at the same time that notice is provided to the Tribunal.

(3) On receipt of the notice of appeal and fee, the Tribunal's chief appeals commissioner shall convene a panel of 2 or more appeals commissioners of the Tribunal to hear the appeal, and that panel has all the powers of the Tribunal for that purpose.

(4) The Tribunal may confirm, reverse or vary the decision under appeal or may send the matter back for reconsideration, with or without directions, to the Superintendent.

(5) The Tribunal shall give its decision in writing with reasons and provide a copy of its decision to the administrator and the Superintendent.

(6) The Tribunal has the same powers as the Court for compelling the attendance of witnesses and examining them under oath and for compelling the production and inspection of books, papers, documents and other things.

(7) Subject to this section, the Tribunal may make rules, to which the *Regulations Act* does not apply, respecting the appeal process under this section and related matters, including provision for the service of its decision on the parties to the appeal.

(8) A decision against the administrator under section 73(2) relating to section 76(7) is stayed during the period from the making of the decision until

- (a) the outcome of the appeal under this section, or
- (b) the expiry of the period referred to in subsection (1) without a notice of appeal having been served,

unless the Superintendent considers that the stay would be prejudicial to the interests of the members and makes a direction to that effect that is served on the administrator.

Appeal to the Court

75(1) An appeal lies to the Court from a decision of the Tribunal on a question of law or of jurisdiction and, on hearing the matter, the Court may make any order, including the awarding of costs, that the Court considers proper.

(2) An appeal under subsection (1) must be made by application within 30 days from the date that the decision of the Tribunal is served on the appellant.

(3) The Court may, on application, stay the decision under appeal for any length of time, with or without conditions.

Directions for compliance

76(1) If the Superintendent considers that an administrator, an employer or any other person is, in respect of a plan, doing or about to do something, or pursuing or about to pursue any course of conduct, that is contrary to safe or sound financial or business practices, the Superintendent may direct that person

- (a) to cease or refrain from doing that thing or pursuing that course of conduct,
- (b) to do whatever the Superintendent considers is necessary to remedy the situation, or
- (c) both.

(2) If the Superintendent considers that

- (a) a plan does not comply with this Act,
- (b) the administration of a plan does not comply with this Act or the plan,
- (c) an employer or administrator has not complied with the contract or the plan, or
- (d) an administrator has failed to comply with the terms or conditions of its licence or any terms or conditions prescribed for the purposes of section 11(1),

the Superintendent may direct the administrator, employer or any person having any responsibility with respect to the plan's

administration to take any of the measures referred to in subsection (1).

(3) Subject to subsection (4), the Superintendent shall not give a direction under subsection (1) or (2) unless the Superintendent gives the person to whom the direction would be given a reasonable opportunity to make written representations.

(4) If the Superintendent considers that the length of time required for the written representations might be prejudicial to the interests of the members, the Superintendent may make a direction with respect to any of the matters referred to in subsections (1) and (2) that has effect for the period, not exceeding 15 days, that is specified in the direction.

(5) A direction under subsection (4) continues to have effect after the expiry of the specified period if no written representations are made to the Superintendent within that period or, where written representations have been made, if the Superintendent notifies the person who made them that the Superintendent is not satisfied that there are sufficient grounds for revoking the direction.

(6) Where the Superintendent issues a direction under this section, he or she may also issue a direction to the administrator to refrain from entering into any new contract with any employers, or accepting any new members, with respect to the plan.

(7) If the administrator does not comply with a direction under this section, the Superintendent may, at least 60 days after the administrator's being notified of the non-compliance, revoke the plan's registration and cancel its certificate of registration, in which case the Superintendent shall forthwith give notice to the administrator of the measures taken, including the effective date of the revocation and cancellation.

Court order for compliance

77 If the Superintendent considers that an administrator, employer or other person has not done something that is required by or under this Act to be done by that person or has contravened this Act, the Superintendent may, in addition to any other action that the Superintendent may take, apply to the Court for an order requiring that person to do whatever is required to be done or to cease the contravention and, on such an application, the Court may make that order and any other order that it thinks fit.

Institution by Superintendent of legal proceedings

78 In addition to any other action that the Superintendent may take in respect of a plan, the Superintendent may institute against the administrator, an employer or any other person any legal proceedings that an account holder could institute.

Examination of records, etc., and requirement of information

79(1) The Superintendent or any person authorized in writing by the Superintendent may, for a purpose related to verifying compliance with this Act,

- (a) examine any book, record or other document, regardless of its physical form or characteristics, relating to a plan or to any investments in which shares are invested, and
- (b) direct an administrator to provide any information in any form that the Superintendent considers necessary.

(2) If the Superintendent directs an administrator to pay the fees and expenses of a person appointed on a temporary basis from outside the Alberta public service for the purposes of an examination under subsection (1)(a), including fees and expenses related to preparing a report to the Superintendent, the administrator shall not pay those fees and expenses from the assets of the plan.

Protection against proceedings

80 An action does not lie against a person for withholding, deducting, paying or crediting any money if that person does so in accordance with this Act or in the honest belief that the person is doing so in accordance with this Act.

Part 5 Miscellaneous Provisions

Electronic records

81(1) In this section and in section 82, “electronic document” means any form of representation of information or of concepts fixed in any medium by electronic, optical or other similar means that can be read or perceived by a person.

(2) Any requirement of or under this Act to provide a person with information may be satisfied by the provision of an electronic document if

- (a) the addressee has consented and has designated an information system used to generate, send, receive, store or otherwise process an electronic document for the receipt of the electronic document,
- (b) the electronic document is provided to that designated system, and
- (c) the information in the electronic document is accessible by the addressee and capable of being retained by the addressee, so as to be usable for subsequent reference.

(3) An addressee may revoke the consent referred to in subsection (2)(a).

(4) Subsections (2) and (3) do not apply to any requirement of this Act

- (a) to file information,
- (b) imposed on the Superintendent to provide a person with information, or
- (c) where those subsections are prescribed to be inapplicable.

(5) Except to the extent that subsection (4)(b) or (c) applies, the Superintendent may use electronic means to communicate information, including information in a document, under this Act.

Electronic signatures

82 A requirement of or under this Act for a signature is satisfied in relation to an electronic document if any prescribed requirements are met and if the signature results from the use by a person of a technology or process that enables proof that

- (a) the signature resulting from the use by the person of the technology or process is unique to that person,
- (b) the technology or process is used by the person to incorporate, attach or associate the signature to the electronic document, and

- (c) the technology or process can be used to identify its user.

Offences

83(1) In this section and section 84, “offence” means an offence against this statute.

(2) A person is guilty of an offence if that person

- (a) contravenes this Act or a direction of the Superintendent under this Act,
- (b) to avoid compliance with this Act,
 - (i) destroys, alters, mutilates, secretes or disposes of a document or record,
 - (ii) in a document or record, makes a false or deceptive statement or entry, or
 - (iii) omits to disclose any material particular in a statement, document or record,
- (c) knowingly prevents or obstructs another person from doing anything that the other person is authorized to do under section 79, or
- (d) being an employer or former employer, fails to remit all amounts that that person is liable so to remit to the administrator.

(3) In a prosecution for an offence, a certificate purporting to be signed by the Superintendent or by any person on the Superintendent’s behalf certifying that a copy of a plan or of an amendment to a plan was or was not filed, or certifying as to the registration of a plan or an amendment to a plan, is admissible in evidence and, in the absence of any evidence to the contrary, is proof of the matters so certified.

(4) Proceedings in respect of an offence may be commenced within 2 years after the day the subject-matter of the proceedings became known to the Superintendent.

(5) A document that purports to have been issued by the Superintendent certifying the day the subject-matter of any proceedings became known to the Superintendent is admissible in evidence without proof of the signature or official character of the

Superintendent and is, in the absence of evidence to the contrary, proof of the matters asserted in it.

(6) Where it is proved to the satisfaction of the court trying a case that a corporation has contravened any provision of this Act, whether or not it has been prosecuted for the contravention, an officer with executive authority or a director, agent or member of the corporation who directed, authorized, assented to, acquiesced in or participated in the contravention by the corporation is also a party to and guilty of the offence relating to the contravention and is separately liable to the penalty provided for the offence.

Penalties

84(1) A person who commits an offence,

- (a) in the case of a natural person, is liable to a fine not exceeding \$100 000 or to imprisonment for a term not exceeding 12 months, or to both, and
- (b) in the case of a corporation, is liable to a fine not exceeding \$500 000.

(2) A court may order a person convicted of an offence, in addition to any penalty it may impose, to comply with this Act or with a contract.

Regulations

85(1) The Lieutenant Governor in Council may make regulations

- (a) respecting the administration of plans, including the number and scope of plans that may be offered by an administrator and changes of administrators;
- (b) respecting the implementation of bilateral and multilateral agreements;
- (c) respecting the management, investment, transaction, locking-in and unlocking of shares, including investment options and choices, the acquisition and holding of investments, variable payments and the distribution of shares in terminated plans;
- (d) respecting licences and contracts;

- (e) respecting notices under this Act;
- (f) respecting the fees payable for the services of the Superintendent, including filings, registrations and licensing;
- (g) conferring powers on, including delegations to and by, the Superintendent;
- (h) respecting appeals to the Court;
- (i) incorporating by reference documents, as they exist on a particular date or as subsequently amended, that the Minister or Superintendent produces jointly with a government or government agency for the purpose of harmonizing this Act with other laws;
- (j) incorporating by reference, in whole or in part, standards, codes and rules made by code or standard making bodies or as or under laws of other jurisdictions, with any adaptations considered appropriate and as they stand at particular dates or as subsequently amended;
- (k) establishing any provisions considered necessary to deal with the transition from an existing plan to a new plan, referred to in section 17(4);
- (l) prescribing anything that by this statute may or is to be prescribed.

(2) A rule in a regulation may be made applicable generally or specifically to one or more plans, persons, employments, circumstances or situations.

(3) Where a document referred to in subsection (1)(i) or (j) is incorporated as amended, then, for the purposes of this Act,

- (a) the authorities referred to in those clauses are delegated the requisite powers to make the amendments, and
- (b) the regulation must specify precisely the intended legal effect of the incorporation by reference.

Consequential amendments

86(1) The *Employment Pension Plans Act* is amended

(a) in section 2 by adding the following after clause (b):

(b.1) to a pooled pension plan within the meaning of the *Pooled Registered Pension Plans Act* except to the extent provided for in section 3(4) of that Act,

(b) in section 60(2) and (3) by adding “and section 32 of the *Pooled Registered Pension Plans Act*” after “Code”;

(c) in section 99(1)(a)

(i) in subclause (i) by adding “subject to subclause (i.1),” before “at any time”;

(ii) by adding the following after subclause (i):

(i.1) to a pooled pension plan within the meaning of the *Pooled Registered Pension Plans Act* if the prescribed conditions are met,

(2) The *Employment Standards Code* is amended in section 109(5) by adding “and sections 31 and 32 of the *Pooled Registered Pension Plans Act*” after “*Employment Pension Plans Act*”.

(3) The *Wills and Succession Act* is amended in section 71(1)(d) by adding the following after subclause (iii):

(iii.1) a pension scheme registered under the *Pooled Registered Pension Plans Act*,

Explanatory Notes

86(1) Amends chapter E-8.1 of the Statutes of Alberta, 2012.
Sections 2, 60 and 99 presently read in part:

2 This Act does not apply

- (a) to a pension plan referred to in section 1 of the Public Sector Pension Plans Act, except as provided in the regulations under that Act,*
- (b) to a Plan within the meaning of the Teachers' Pension Plans Act, except as provided in the regulations under that Act,*

60(1) In this section, "security interest" has the same meaning as in the Personal Property Security Act.

(2) Subject to subsection (3) and section 61, money held by an employer in respect of a member or other person entitled to benefits under the plan subject to a trust under section 58 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 109 of the Employment Standards Code as applied with respect to the money so held.

(3) This section and sections 58 and 61 apply notwithstanding any other Act but with the same force as sections 109 and 111 of the Employment Standards Code.

99(1) Subject to this section and the regulations, a transfer under this Division may be made from a pension plan to one or more of the following:

- (a) at any time,*
 - (i) to another pension plan, if the plan text document of the other plan*
 - (A) allows the transfer, and*
 - (B) requires that the transferred money be paid out of that other plan in the form of a pension that is required or allowed by this Act,*

Coming into force

87 This statute comes into force on Proclamation (which Proclamation may not be issued before the Proclamation of the *Employment Pension Plans Act* (SA 2012 cE-8.1)).

(2) Amends chapter E-9 of the Revised Statutes of Alberta 2000.
Section 109(5) presently reads:

(5) This section and section 111 apply despite any other Act but with the same force as sections 51, 52 and 53 of the Employment Pension Plans Act.

(3) Amends chapter W-12.2 of the Statutes of Alberta, 2010.
Section 71(1)(d) presently reads:

71(1) In this section,

(d) “plan” means

- (i) a pension, retirement, welfare or profit-sharing fund, trust, scheme, contract or arrangement for the benefit of employees, former employees, agents or former agents of an employer or their dependants or beneficiaries, whether created by or pursuant to a statute or otherwise,*
- (ii) a fund, trust, scheme, contract or arrangement for the payment of an annuity for life or for a fixed or variable term or under which money is paid for the purpose of providing, on the happening of a specified event, for the purchase of, or the payment of, an annuity for life or for a fixed or variable term, whether created before or after this section comes into force,*
- (iii) a registered retirement savings plan or registered retirement income fund as defined in the Income Tax Act (Canada),*
- (iv) a TFSA within the meaning of section 146.2 of the Income Tax Act (Canada), or*
- (v) a fund, trust, scheme, contract or arrangement prescribed in the regulations.*

87 Coming into force.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
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