

Information Bulletin

November 20, 2017

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Ontario Pension Reform Continues

Ontario Presents its 2017 Economic Statement and Introduces New Budget Measures Bill

As expected, the Ontario government presented its annual economic review statement on November 14th. This year's theme in relation to the pensions industry is strengthening and modernizing retirement security as the proportion of people in Ontario over age 65 will increase considerably in the coming decades, and fewer workers are participating in defined benefit pension plans. Ontario's role in pushing Canada Pension Plan enhancements forward, and upcoming changes to defined benefit pension funding rules were the most significant developments referenced in this year's fall statement.

On the same day, Bill 177, *Stronger, Fairer Ontario Act (Budget Measures), 2017* was introduced in the legislative assembly. In keeping with the 2017 Ontario Budget and Bill 127 (another 2017 Ontario Budget measures bill that received royal assent earlier this year), the government continues to focus efforts in the following areas:

- Defined Benefit Plans - Funding and Governance
- Missing Members and Beneficiaries
- Statutory Discharge upon Annuity Purchase
- Target Benefit Multi-Employer Plans
- Defined Contribution Plans - Variable Benefits

Defined Benefit Plans - Funding and Governance

In its press release of May 19, 2017, the Ontario government announced that it will be implementing a new funding framework for defined benefit pension plans.

New Funding Framework

Bill 177 proposes new provisions, terms and references which reflect the new funding framework but require further details in the yet-to-be released regulations:

- Certain references to “solvency deficiency” and “surplus” throughout the *Pension Benefits Act* (PBA) will be changed to “reduced solvency deficiency” and “available actuarial surplus” respectively, which will be defined by the anticipated regulations
- A new term “provision for adverse deviations” (PfAD) is introduced and will be defined in the anticipated regulations. Although the PfAD is not defined yet, it appears that the same plan-specific PfAD will be applied to both the normal cost and the going concern liabilities.
- Currently, unproclaimed sections will allow contribution holidays in respect of the normal cost if the plan has a surplus and prescribed conditions are met. With the new funding framework, these sections will be amended to allow contribution holidays in respect of the normal cost and the PfAD on the normal cost, if the plan has available surplus and prescribed conditions are met.
- Currently, the PBA allows for surplus distribution to an employer out of a continuing pension plan if certain requirements are met. Amendments will be made to this section to add a requirement that at least twice the PfAD in respect of the normal cost of the pension plan must be retained in the pension fund as surplus.

Funding and Governance Policies

Defined benefit plans will also be required to develop funding and governance policies. Bill 177 would add funding and governance policies to the list of documents that are required to support a pension plan.

This requirement is consistent with similar measures enacted for defined benefit plans in Alberta in 2014 and British Columbia in 2015, and with guidelines established by the Canadian Association of Pension Supervisory Authorities (CAPSA). However, unlike Alberta and British Columbia, Bill 177 would require administrators to file the policies with the regulator (rather than just having them available on request).

The content of the policies and the deadlines for filing them are still to be prescribed by regulations.

Pension Benefits Guarantee Fund (PBGF)

As previously announced, the maximum benefit (including bridging supplement) that is guaranteed by the PBGF will increase from \$1,000 per month to \$1,500 per month for wind-ups that occur after these changes come into force.

In addition, a technical amendment is being made to remove age and service requirements that should not impact many members. Bill 177 proposes removing a restriction that only allows the PBGF to guarantee benefits of members who terminated prior to January 1, 1988 if they had attained age 45 with 10 years of service when they terminated.

Statutory Discharge Upon Annuity Purchase

A new PBA section will provide a statutory discharge when an administrator of a single employer pension plan purchases an annuity, provided the purchase is made from an insurance company and meets certain prescribed conditions. (Currently there is no statutory discharge when an employer chooses to provide benefits through the purchase of an annuity. There is only a discharge when a *member* chooses to transfer to an annuity, and on wind-up.) The statutory discharge will also apply to purchases made before Bill

177 amendments come into force, provided an actuary certifies that the administrator has complied with the requirements. In both cases, a notice of the purchase will have to be made to the former member or retired member.

The effect of the discharge is that the former member or retired member in respect of whom the purchase was made, will no longer be considered a former member or retired member. However, the former member or retired member would still be entitled to surplus on plan wind up, if the former member or retired member would have been entitled to such surplus had the plan been wound up on the day of the purchase.

New Registry for Missing Beneficiaries

The Superintendent will establish a new registry in addition to the following measures that were taken earlier in the year:

- release two policies in September 2017 to guide administrators on steps they should take to locate beneficiaries, and
- amend the PBA with Bill 127 to allow the Superintendent of Financial Services (Superintendent) to waive the requirement of providing periodic pension statements to missing members.

Bill 177 proposes amendments to the PBA that will require the Superintendent to maintain an electronic registry to help beneficiaries locate benefits or payments they are owed under pension plans. Plan administrators will have to provide the names of missing beneficiaries to the Superintendent to populate the registry. If the Superintendent then receives a request from a person who claims to be a beneficiary (or a representative), the Superintendent will verify that the person is a beneficiary and direct the person to the employer/plan administrator that is holding the benefit.

Plan administrators will have the new onus of keeping the registry up to date. Unlike Alberta, British Columbia and Québec, Ontario does not have unclaimed property legislation or any regime that provide for the transfer of unclaimed property. For now, plans will have to continue to hold, and be responsible for, the benefits of missing members.

Target Benefit Plans

There are currently unproclaimed sections of the PBA which govern how target benefit plans would operate in Ontario. This Bill makes a number of technical amendments to these unproclaimed sections. The definition of what would constitute a target benefits plan is very narrow. The latest amendments would further narrow the criteria to only consider multi-employer plans (MEPPs). Other restrictive criteria, such as the requirement that contributions be fixed under a bargaining agreement, remain.

A new section will be added to the PBA to govern the conversion of benefits provided by a MEPP to target benefits. Formal notices will have to be provided to all members, former members, retired members, any trade union that represents members, all participating employers, and the Superintendent. The administrator will have to consult in good faith about the proposed conversion with any trade union that represents members of the pension plan and the Superintendent's consent will be required before conversion can be completed. Many of the key requirements will only be detailed in future regulations.

Variable Benefits

Currently, unproclaimed sections of the PBA would allow retirees to keep their monies in a variable benefit account held by a defined contribution (DC) pension plan and receive income directly from this account. DC pension plans would be permitted, but not required, to provide this option. Plans that offer this option would likely continue to have fiduciary obligations with respect to those assets remaining in the plan.

Bill 177 will further amend the PBA to provide increased rights to those who may have an interest in the variable benefits of a retired member. Such rights include transferring funds out of the retired member's variable benefit accounts, receiving a written pension statement, and designating a beneficiary to receive the death benefit upon the death of the specified beneficiary.

Additional Proposed Changes Covered by Bill 177

- Bill 177 will exempt MEPPs established pursuant to a collective agreement or a trust agreement from certain required payments on wind-up (e.g., grow-in benefits and the 50 percent rule)
- Clarifications are proposed for the framework for the Financial Services Regulatory Authority (FSRA) which will replace the Financial Services Commission of Ontario (FSCO)
- Recognition is given to the continuation of the Financial Services Tribunal

What's Next?

The next significant development we are expecting is the release of new regulations for the new Ontario funding rules later this fall. Stay tuned for our next Aon Hewitt Information Bulletin.

Contact Information

Should you wish additional information on this topic, please contact your local Aon Hewitt Consultant, or send an email to info@aonhewitt.com.

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