

Ontario Amends Pension Laws

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What began as Bill 236, the *Pension Benefits Amendment Act, 2010*, received Royal Assent on May 18, 2010. Many of the amendments help to simplify the administration of plans while providing for increased transparency and greater communication between plan administrators and members. While the new Ontario legislation is now law, several sections have yet to be proclaimed in force as they await phase-in periods or regulations to provide more detailed rules and clarification. However, these changes will impact plans when they come into force, so sponsors should be aware of them and begin to plan ahead. The following is only a brief summary of the changes and sponsors should seek advice on what impacts these and other amendments may have for their plans.

Immediate Vesting

For most plans, the amendment which will have the broadest impact involves immediate vesting of pension benefits. Not yet in force, the new law provides for immediate vesting of pension benefits for plan members. Current rules require vesting within 24 months. Accordingly, plans that currently have a vesting period, will require amendments in order to comply once the new sections come into force. The amendments did not change eligibility provisions of the *Pension Benefits Act* which permits sponsors to include a waiting period of up to 24 months before new employees become eligible to join the plan.

Pension Advisory Committees (PACs)

Currently plan members or former members can establish an advisory committee under certain guidelines. Under the new law, members or retirees can establish an advisory committee and plan administrators must facilitate communication with all members and retirees. The administrator also has the duty to provide the committee with support and share information as required.

Communications and Plan Amendments

Administrators will be allowed to communicate electronically with members, as long as they have permission from the person to do so.

Currently, plan administrators are only required to

provide advance notice of plan amendments that are adverse in nature (i.e. - benefit reductions). Once proclaimed, the new rules will require advance notice of all plan amendments to members including former and retired members.

Asset Transfers and Plan Mergers

The new law will provide for prescribed requirements which, when met, will require the regulator to approve asset transfers and plan mergers. Much of the details surrounding this will come in the form of regulations.

Small Benefits

The small benefit payout thresholds are significantly increased. In cases where the pension benefit falls below certain thresholds, the new law will allow administrators to payout the accrued amount as a lump sum to the terminating or retiring plan member.

There are also a number of provisions which apply only to Defined Benefit plans. These include the allowance of *Phased Retirement* whereby a plan may permit a member to receive a pension while continuing to accrue benefits. The new law also eliminates *Partial Wind-ups* and allows for involuntarily terminated members to be eligible for *Grow-in Benefits* if their age plus service totals at least 55. Under new *Surplus Sharing* rules, a surplus may be paid to an employer under an agreement with members or entitlement based on plan documents.

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