

Pension Reform In Alberta – New Legislation In Effect September 1, 2014



On July 22, 2014 the Government of Alberta approved the much anticipated regulations (the “**Regulations**”) to accompany the new *Employment Pension Plans Act* (the “**New Act**”). The New Act, together with the Regulations, will come into force on September 1, 2014.

The focus of the New Act is on facilitating new plan designs and on modernizing plan governance, risk management and disclosure. Pension plan sponsors and administrators will have to be fully familiar with the legal requirements of the New Act and Regulations, including any timelines for compliance.

In the coming weeks, we will provide additional commentary and analysis of the New Act and Regulations by way of written material and in-person presentations. This Bulletin is designed to provide a high level overview of the changes being implemented by the New Act with details now provided through the release of the Regulations.

These changes include:

- **New Plan Designs and Governance Structures:** The New Act contemplates a wide variety of new pension plan designs and governance structures. Of particular note, the New Act permits target benefit provisions in both new and existing plans, albeit currently with some limitations. The Regulations provide the formula and the tests to be used in administering a target benefit provision, introducing the concept of the “provision for adverse deviation”.
- **Governance Policies:** Every pension plan will be required to have a written governance policy that meets prescribed criteria. The Regulations tell us what topics must be covered in the policy including, among other things: structures and processes in place for overseeing, managing and administering the plan; authorized decision makers and their roles;

performance measures; code of conduct and conflict procedures; educational and skills requirements; and internal risk management controls.

- **Funding Policies:** Pension plans with defined benefit or target benefit provisions will be required to have a written funding policy that meets prescribed criteria. The Regulations say that the policy must, among other things, set out funding objectives, tolerances and internal controls for material risks.
- **Compliance Assessments:** A pension plan's legal administrator will be required to perform governance and rules self-assessments. The Regulations require these assessments to be performed annually.
- **Solvency Reserve Accounts:** A solvency reserve account for a defined benefit provision can be established exclusively for payments in respect of a solvency deficiency, with the ability to later withdraw amounts in accordance with prescribed rules. With the release of the Regulations we now know that the administrator may apply to the Superintendent for consent to withdraw an amount that is not more than 20% of the "accessible solvency excess" per year over three years.
- **Disclosure:** The Regulations set out a number of new disclosure statements that will be required, including for persons receiving pensions, and specify new data requirements in respect of existing disclosure statements.
- **Vesting:** A member's entitlement to receive a pension will vest immediately on termination of active membership.
- **Locking-in:** Locking-in will be based on a threshold commuted value and will no longer be based on years of service.
- **Membership Classes:** Classes for pension plan membership will no longer be limited to the classes prescribed in the current regulations.
- **Termination and Wind-up:** Partial terminations and wind-ups will be eliminated.

Although the release of the Regulations represents a significant milestone in Alberta's pension reform initiative, the process is not quite complete. Bill 10, the *Employment Pension (Private Sector) Plans Amendment Act, 2014* was introduced in the Alberta Legislature this April and proposed several amendments to the New Act. While many of the amendments in Bill 10 are minor and technical, there are a number that are more substantive, including provisions that would allow annuity buy-outs and permit conversions of accrued defined benefits to target benefits.

In response to feedback, the Alberta government decided to refer Bill 10 to the Standing Committee on Alberta's Economic Future for additional review, with the Committee expected to report back in early fall, 2014. In the interim the Government is still proceeding to implement the New Act. However, the legislation taking effect on September 1 will not include any of Bill 10's amendments, whether minor or substantive.

With some exceptions, the New Act reflects an intention to harmonize pension rules between Alberta and British Columbia. Accordingly, it is noteworthy that amending legislation similar to Bill 10 has already received royal assent in B.C.

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