

Pensions And Benefits: Recent Policy And Case Law



Legislative and regulatory initiatives are reshaping the landscape for pension plans and employee benefits across Canada. In-house counsel and plan administrators should prepare for significant updates that impact governance, tax policy, litigation risks and member retirement strategies. It's equally critical for plan sponsors and administrators to re-evaluate risks based on recent developments in the courts.

Here are five key developments impacting the sector:

1. **Budget Initiatives.** Canada's [2025 federal budget](#) proposed several pensions and employee benefits measures. These include a simplified registered investment regime and amendments to the *Public Service Superannuation Act* that would provide early retirement incentives to frontline employee groups in public service pension plans. The budget also signalled that legislation implementing the Clean Electricity Investment Tax Credit may be introduced in Parliament soon.
2. **Modernized CAPSA Guidelines.** Effective January 1, 2026, plan administrators face new [compliance expectations](#) from the Canadian Association of Pension Supervisory Authorities (CAPSA). The revised Guideline 3 and new Guideline 10 clarify governance duties for capital accumulation plans and risk management duties for plan administrators broadly. Best practices for compliance include documenting governance frameworks, enhancing member education and developing proportionate risk management frameworks.
3. **ESG Litigation.** Given limited Canadian case law on environmental, social and governance (ESG) considerations in pension investment, cases abroad may also provide guidance. Recent decisions from the United States District Court for the Northern District of Texas have found that a plan administrator breached its duty of loyalty in making certain ESG-aligned investment options available under a defined contribution pension plan, despite no proven financial loss. While the court did not conclude that ESG considerations are themselves impermissible, the decisions highlight the need to ensure that they demonstrably support plan members' best financial interests.
4. **Clarity in Contracts and Texts.** Recent court decisions from Ontario and Quebec underscore the importance of precise language in collective bargaining agreements (CBAs). In Ontario, unclear benefit terms have led to litigation over age-based coverage limits. Similarly, in Quebec, discrepancies between CBAs and pension plan texts have raised integration issues. Employers should proactively align CBAs with plan documents to reduce interpretive risk and avoid unintended

liabilities.

5. **Evolving Decumulation Frameworks.** Several jurisdictions are moving to allow variable payment life annuities (VPLAs) within defined contribution plans. VPLAs offer lifetime income with pooled longevity risk, addressing shortcomings in traditional life income funds and annuity options. Quebec is furthest ahead, having passed regulations that came into effect on January 1, 2026. Ontario, New Brunswick and the federal government are pursuing consultations and draft regulations.

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