Plan Administration Changes In New Alberta Pension Legislation: Make Sure You Are In Compliance



The new *Employment Pension Plans Act* (EPPA) and the accompanying Employment Pension Plans Regulation (EPPR), which came into force on September 1, 2014, are reforming the pension regulatory landscape in Alberta.

In this post (part one of a two-part series), we focus on certain amendments to the EPPA and EPPR which will require changes to plan administration, such as enhanced disclosure requirements, document retention provisions and new rules regarding missing persons. In our next post, we will discuss new rules related to governance and funding policies. However, the Alberta changes are very broad. If you sponsor a plan with members in Alberta, now is the time to ensure compliance with Alberta's new rules.

Enhanced Disclosure

Enhanced disclosure requirements are a key element in the new Alberta legislation. The Joint Expert Panel on Pension Standards (JEPPS) Report from 2008 stressed the importance of the members' need to have a clear understanding of the "pension deal" and their rights and responsibilities under the pension plan.

The new legislation followed the JEPPS Report recommendation by adding new requirements to the existing disclosure obligations for pension administrators. The increased disclosure requirements have been tailored to better align with the plan type and/or benefit type provided by a pension plan.

Plan Summary

The plan summary must contain a full description of the member's entitlement under the plan, including who makes contributions and what happens on termination of membership, death or retirement. In addition, the EPPR now requires the summary to include the name of the pension plan, the Canada Revenue Agency registration number, and the name and contact information for the administrator. The EPPR also specifies the timing requirements for providing an individual with a copy of the plan summary for each type of pension plan.

Disclosure Statements

The EPPR added four new items to be included in disclosure statements. These new items are:

- A statement informing members of their right to examine plan documents and records, or to obtain more information from their administrator;
- The name and contact information for the administrator, and the name and contact information for the person to whom an application must be made in order for the member to start a pension or receive benefits from the plan;
- Information regarding the obligation of a plan member to notify the plan administrator if the member's contact information changes; and
- A statement that outlines which jurisdiction's legislation applies to determine the benefit entitlement and rights of the plan member.

In addition, several new statements have been added, as follows:

- An annual statement to retired members;
- A statement to the member and non-member pension partner upon notice of marriage breakdown showing the value of the benefit to be split;
- A statement to the non-member pension partner outlining the option available for payment of the benefit after filing with the administrator the matrimonial property order or agreement;
- A statement to members electing to commence phased retirement, if it is permitted by the pension plan;
- A statement notifying members of changes in contribution or benefits. Note that the adverse amendment notification that previously existed has been eliminated; and
- A notice of plan termination (while notice has always been required, the EPPR now specifies the minimum information that must be included with the initial notice).

Moreover, in order to help secure the members' entitlements in a pension plan and ensure that regulatory action can be undertaken as soon as possible, the EPPA requires the administrator of a pension plan (other than a collectively bargained multi-employer plan) to disclose insolvency proceedings immediately after becoming aware of the commencement of certain insolvency or bankruptcy actions.

Retention of Records

The EPPA requires the administrator to retain any record pertaining to a pension plan or a copy of it in Canada. A bulletin by the Alberta Treasury Board and Finance explains that this provision was considered necessary in order for the Superintendent to perform compliance evaluations to determine if a pension plan complies with the new legislation.

Under the previous regime, administrators were generally required to maintain plan records for at least 3 years after the person entitled to a benefit from the plan received the benefit. The new rules provide more flexibility for plan administrators by specifying various retention periods for different document types.

Missing Persons

The new legislation brings significant changes to the process of transferring benefit entitlements from a pension plan in respect of members and other persons who cannot be located and are therefore considered "missing". Previously, the legislation provided for a process to distribute the benefit entitlements of missing persons, but the old rules applied only on full plan termination.

The EPPR outlines the steps that a plan administrator must take to satisfy the Superintendent that extensive searches were conducted to try to locate missing persons. The administrator must provide the Superintendent with written confirmation and supporting documentation that all the required steps were taken.

For ongoing plans, a plan administrator may transfer benefits in respect of persons who are considered missing to the unclaimed property fund administered by Alberta Treasury Board and Finance if:

- the amount of benefit payable to the missing person is equal to or greater than the minimum amounts required under the Unclaimed Personal Property and Vested Property Act (Alberta) (UPPVPA). The current UPPVPA minimum amount is $250. Note that if the amount of benefit payable is less than this required minimum, the amount remains in the pension fund; or
- the missing person is required under the Income Tax Act (Canada) to commence receiving a pension.

For terminating plans, a plan administrator must transfer all benefits to the unclaimed property fund in respect of persons who are considered missing. No court order is required for the transfer of benefits of missing persons for either ongoing or terminating plans.

Before transferring an amount in respect of a missing person, the administrator must file an application and obtain the Superintendent’s written consent. Benefits that are to be transferred to the unclaimed property fund must be unlocked, and from that amount, applicable deductions, such as withholding tax, must be made.

Next Steps

In light of these changes brought in by the new legislation (in force as of September 1, 2014), administrators are advised to review their current practices to ensure they are compliant with the new regulatory requirements for plan administration in Alberta. The EPPR should be reviewed carefully because it sets out the timing by which plan administrators must comply with various aspects of the legislation.

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Article by Laura Stefan and Jana Steele