LEGISLATIVE UPDATE

July 22, 2015

BC PENSION BENEFITS STANDARDS REGULATION

On May 11, 2015, the Lieutenant Governor of British Columbia approved the new *Pension Benefits Standards Regulation* (New Regs). The New Regs support the previously released Bill 38-2012, the new *Pension Benefits Standards Act* (New Act), which was passed in the spring of 2012 and subsequently amended by Bill 10-2014, the *Pension Benefits Standards Amendment Act*. The Lieutenant Governor also approved September 30, 2015 as the date the new legislation will come into force.

The New Act and Regs reflect changes recommended by the Alberta/British Columbia Joint Expert Panel on Pension Standards (JEPPS) in their 2008 report and has been drafted with the intended goal of harmonization with pension legislation in Alberta. BC legislation allows defined benefit multi-employer negotiated cost plans to convert to a target benefit plan and, if required on conversion, reduce benefits retroactively (with consent from the trade union).

This bulletin is designed to inform clients and consultants of the passage of the new legislation and to provide an overview of changes along with timelines for compliance.

Highlights of the new legislation include:

1. New Definitions

The New Act and Regs include a number of updated definitions to reflect changes to pension plan structures, governance and funding, including but not limited to:

a) "**benefit formula component**" means a defined benefit component or a target benefit component;

b) "**non-collectively bargained multi-employer plan (NCBMEP)**" means a multi-employer plan that is established other than through a collective agreement, unless the superintendent designates the plan as a collectively bargained multi-employer plan or a single employer plan;

c) "**collectively bargained multi-employer plan (CBMEP)**" means a multi-employer plan that is established through a collective agreement, unless the superintendent designates the plan as a non-collectively bargained multi-employer plan or a single employer plan;

d) "**jointly sponsored plan**" is a term used to recognize a type of pension plan that existed, but was not specifically contemplated, under the former Act;

e) "**actuarial excess**" for plans that are not terminated, this new definition replaces the term "surplus assets" found in the former Act. With the introduction of target benefit provisions and solvency reserve accounts, a definition for any situation in which pension plan assets are greater than plan liabilities was needed;

f) "**benefit formula provision**" means, collectively, a traditional defined benefit provision, a target benefit provision, or a provision prescribed to be a benefit formula provision;

g) “**member**” means an “active member”, a “deferred member”, or a “retired member” and replaces the terms “member” and “former member” in the former Act;

h) “**pension**” has been expanded to include payments under a defined contribution provision;

i) “**pension commencement date**” is a new term meant to clarify when an individual becomes a “retired member” for the purposes of the New Act;

j) “**pension eligibility date**” is a new term that replaces “pensionable age” under the former Act and refers to the date or age established in the plan text document at which a member is entitled to begin to receive a pension under the plan without reduction or increase; and

k) “**surplus**” has been refined so that it applies only in the situation where a pension plan has terminated and is being wound up; that is, the assets are being distributed.

2. Vesting and Locking-in

- Effective September 30, 2015 plans must provide for immediate vesting of pension benefits, including benefits earned prior to the introduction of the New Act.
- Benefit is locked-in if the commuted value of the benefit is greater than 20% of YMPE.

3. Death Benefits

- Effective September 30, 2015, the pre-retirement death benefit has changed to 100% of the commuted value of the member’s vested benefit.
- There is a new waiver form for post-retirement death benefits:
  - section for spouse to waive minimum 60% joint and survivor pension; and
  - section for spouse to waive, as designated beneficiary, any remaining guaranteed payments.

4. Shortened Life Expectancy

- Effective September 30, 2015, plans must provide for the unlocking of benefits due to shortened life expectancy for all members except retirees.

5. New General Requirements for Plan Text Documents

a) Amendments to pension plan text documents to comply with the new requirements must be filed by December 31, 2015.

b) Plans must be administered to reflect new requirements from September 30, 2015 onward.

6. Governance and Funding Policies

a) Written governance and funding policies for all plans with benefit formula provisions must be in place by January 1, 2016.

b) There is no requirement to file the written documents but a copy of any required funding policy must be provided to the plan actuary.

c) Minimum requirements for a governance policy include:

- The structures and processes for overseeing, managing and administering the plan;
- Explanation of what those structures and processes are intended to achieve;
- Identifying participants with authority over plan decisions, with details regarding their roles, responsibilities and accountability for their performance;
- Performance measures and processes for monitoring the performance of participants;
- Establishing procedures for the receipt of timely, relevant and accurate information by participants and plan administrators;
- Establishing a code of conduct for the administrator, including procedures for dealing with conflicts of interest;
- Identifying educational requirements/skills for plan administrator to perform duties;
- Identifying material risks that apply to the plan and establishing internal controls to manage those risks; and
- Establishing a process for the resolution of disputes involving plan members and others who are entitled to benefits under the plan.

d) Minimum requirements for a funding policy include:

- Funding objectives related to benefit security, benefit levels, and if applicable, contribution levels and stability of contributions;
- Identifying material risks that may impact funding requirements and establishing internal controls to manage risks;
- Setting out expectations for the going concern funding ratio, and if applicable, the plan's solvency ratio;
- Setting out expectations for the amortization of unfunded liabilities and if applicable, solvency deficiencies;
- Expectations for a benefit reduction, if applicable, in the event that it is required;
- Setting out expectations for the use of actuarial surplus; and
- Establishing the standard for actuarial valuation reports.

7. Compliance with New Records Retention and Disclosure Rules (all plans)

a) New records retention policies for existing plans must be in place by the beginning of the plan fiscal year after the plan fiscal year in which September 30, 2015 falls.

b) Expanded disclosure rules for Plan member correspondence must be in place by September 30, 2015. New statements include:

- Annual statements for persons receiving pensions;
- Statements to members receiving lump sum payments (if plan permits);
- Statements for members who are receiving life income type benefits; and
- Required notices to members in the event of a change in contributions or a reduction in benefits.

c) Timing for distribution of Plan member correspondence, particularly with respect to the plan summary document and termination or retirement statements has changed.

d) Annual information returns for terminating plans with a benefit formula provision will be required 120 days after the effective date of the termination of the plan (increased from 60 days).

e) Plans making solvency deficiency payments after termination are required to file an annual information return 60 days after the anniversary of the effective date of plan termination (reduced from 180 days).

f) All pension plans (other than CBMEPS) must provide fund holders with an updated Schedule of Expected Contributions by October 30, 2015 (30 days after the coming into force of the legislation).

8. Target Benefit Provisions

a) Target benefit provisions are described as a new type of benefit which establishes (by formula) the amount of a pension that is intended to be payable to a member, and provides that the benefit may be reduced as necessary.

b) The New Act does not limit target benefits to collectively bargained multi-employer pension plans as envisioned by the JEPPS report.

c) A new definition of commuted value provides that the calculation of a commuted value of a target benefit provision must be done in manner prescribed in New Regs. The amount paid is the product of the commuted value of the benefit and the target benefit funded ratio.

d) The New Act sets out restrictions on amendments to reduce ancillary benefits, the amount of target benefits, or increase contributions.

e) Plan administrators will be entitled to implement a one-time or temporary increase to pensions in pay in target benefit plans subject to conditions.

f) The New Act enables funding rules for target benefit provisions to be called “Going Concern Plus” (going concern assumptions including a provision for adverse deviation margin).

g) Contributions to a target benefit provision must be made on a monthly basis.

h) Plans under the solvency moratorium rules must have an amendment registered to convert to a target benefit plan, in accordance with the New Act, which requires the consent of the representative union. The deadline to file is December 31, 2017.

9. Changes to LIRAs and LIFs

a) The New Act adopts the use of the term “locked-in retirement account” (“LIRA”).

b) The terms “locked-in registered retirement savings plan” and “locked-in RRSP” will no longer be used.

c) Requirements for offerings LIRAs and Life Income Funds (“LIFs”) will change in order to harmonize administrative procedures with Alberta pension legislation. Of these changes, LIRA and LIF contracts will be required to provide for unlocking due to an individual’s shortened life expectancy or non-residency.

10. Plan Assessment

- Administrator must assess administration of Plan including compliance with the New Act and Regulations, plan governance, funding, investments of pension fund and the performance of the Trustees and its service providers.
- Not required to be filed with Superintendent, unless requested.

First assessment due by the last day of the plan fiscal year after the plan fiscal year in which September 30, 2015 falls.

ABOUT PBI

PBI Actuarial Consultants Ltd. is a dynamic and growing company focused on providing actuarial, administrative and investment consulting services for pension and benefit plans, as well as various trust funds. PBI serves clients across Canada from offices in Vancouver, Montreal and Toronto with a focus on multi-employer plans, non-profit and public sector organizations.

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Appendix: SUMMARY of KEY DATES

ITEM	DATE	COMMENTARY
PBSA and Regulations	September 30, 2015	The new Act and Regulations come into force.
Plan Administration	September 30, 2015	Plans must be administered under the new Act and Regulations from this day onwards.
Compliance with disclosure requirements (Forms and Statements)	September 30, 2015	Plans with a fiscal year end of September 30, 2015 or later must provide all additional disclosures and statements for the current fiscal year. Compliant statements must be provided from this point forward.
Information to Fund Holders	October 30, 2015	Schedule of expected contributions must be filed with the Fund Holder for all plans (except CBMEPS).
Plan Text Amendments	December 31, 2015	All required changes to the plan provisions must be incorporated in the plan text by this date and filed with the Regulator.
Funding Policy	January 1, 2016	A written funding policy must be completed (although not required to be filed with the Regulator).
Governance Policy	January 1, 2016	A written governance policy must be completed (although not required to be filed with the Regulator).
Records Retention Rules	Beginning of plan fiscal year following the plan fiscal year in which September 30, 2015 falls.	New records retention requirements come into force by the required date. For plans with a fiscal year end of December 31, this will mean January 1, 2016. The Superintendent will publish these requirements in due course.
Plan Administrator Assessment	First assessment: Last day of the plan fiscal year after the plan fiscal year in which September 30, 2015 falls Subsequent assessments: Every 3 years.	For plans with a fiscal year end of December 31, this would mean the first assessment must be completed by December 31, 2016.
Conversion to Target Benefit Plan for Solvency Exempt Plans	December 31, 2017	Pension plans that are under the solvency moratorium rules must file an amendment with the Regulator to convert to a Target Benefit Plan by this date.