KOSKIE MINSKY
JUSTICE MATTERS

Pension and Benefits

This is a summary of Pension and Employee Benefits matters of interest.

Ontario Announces New Funding Framework for Defined Benefit Pension Plans

On May 19, 2017, the Ontario government announced that it intends to implement new funding rules for defined benefit pension plans and make certain other changes to the legislation governing pensions. This announcement follows up on the Solvency Consultation process that we **previously reported on**.

The new funding framework described in the May 19th announcement includes:

- Changes to the requirements with respect to funding a pension plan on a going concern basis, including a shorter amortization period for funding a going concern deficit (from 15 to 10 years) and consolidation of going concern deficit payments into a single schedule of payments;
- Requiring that a funding reserve known as a "provision for adverse deviation" or PfAD be established for each Plan; and
- Solvency funding requirements if a plan is less than 85% funded on a solvency basis.

Full details about the new funding framework have not been released. The announcement advises that the government intends to introduce legislation in the fall to enable these changes and will be consulting on the details.

A separate announcement for the funding framework for target benefit multi-employer pension plans that would replace the current rules for specified Ontario multi-employer pension plans ("SOMEPPs") is expected soon.

The following changes were also described in the May 19th announcement:

- increasing the maximum amount that can be provided by the Pension Benefits Guarantee Fund from $1000 per month to $1500 per month;
- providing a liability discharge if annuities are purchased to provide pensions;

- rules for benefit improvements and restrictions on contribution holidays; and
- requirements for plans to have funding and governance policies and that information about the status of their plan be provided to plan beneficiaries.

The government also announced that it will be reviewing the rules for the wind-up of defined benefit pension plans and a proposal to establish an agency to administer the benefits of wound-up plans. This latter proposal has been called for by many groups as a result of the high cost of purchasing annuities on plan wind up.

Finally, the announcement indicates that the government will soon announce measures for defined benefit pension plans that are required to file valuation reports as of dates between December 31, 2016 and December 31, 2017.

Ontario Budget: Highlights for Unions, Employees and Benefit Plans

In a previous **Blog Post** we reviewed highlights from the 2017 Federal Budget. The 2017 Ontario Budget was released on April 27, 2017. The Ontario Budget contains the significant commitment to a universal pharmacare program for persons under 25, as well as a number of updates with respect to various pension reform efforts.

OHIP+ Children and Youth Pharmacare: The government announced OHIP+, a universal drug coverage program for children and youth 24 years of age or younger. Residents meeting the age restriction will receive free prescription medications by presenting their Ontario health card number and prescription, with no deductible or co-payment. The program takes effect on January 1, 2018. Coverage will include all prescriptions covered by the Ontario Drug Benefit Program, including the Exceptional Access Program.

The impact of OHIP+ on private plans can only be fully assessed once the Regulations are released. However, there is indication that OHIP+ is intended to be the “first payer,” which would likely result in savings for employer and union-sponsored plans.

Pension Updates The Ontario Budget provided an update on the status of a number of pension reforms and reviews:

S**olvency Funding Review:** the Government has currently reviewed over 90 submissions in response to its July 2016 consultation paper on solvency funding. The guiding principles of the new framework, and measures to support transition to the new framework, will be released in Spring 2017, and draft regulations will follow in Fall 2017.

Target Benefit Multi-Employer Plans (TBMEPPs): The Budget reiterates the Government’s commitment to developing a new regulatory framework for TBMEPPs to replace the current funding regulations in place for specified Ontario multi-employer pension plans (SOMEPPS). The government is reviewing feedback in response to its 2015 consultation paper, and intends to announce the proposed TBMEPP framework in Spring 2017, with draft regulations in Fall 2017.

Defined Contribution Plans: The Government has indicated its intent to modernize the legislative and regulatory framework relating to Defined Contribution (DC) plans, consider new options for payouts in the decumulation phase, and strengthen DC participation and performance. As a first step, amendments will be introduced to facilitate the implementation of variable benefits, with regulations being introduced in Spring 2017.

Enhanced Powers of Superintendent: In addition to administrative monetary penalties (AMPs) introduced in Fall 2016, the Budget proposes additional powers for the Superintendent, including authority for the Superintendent to direct a plan administrator to provide plan beneficiaries with information specified by the Superintendent and to hold a meeting to discuss matters specified by the Superintendent.

Missing Beneficiaries: The Government will instruct the Superintendent to develop a policy to provide direction to administrators on steps they should take to locate missing beneficiaries, who currently fall into a legislative and regulatory gap. The Government will also introduce an amendment to the PBA providing authority to the Superintendent to waive the requirement of periodic pension statements in situations where it can be demonstrated that the beneficiary should be considered missing. The Budget indicates the government will consider further options such as a missing beneficiary registry, and options to protect the benefits of missing beneficiaries on wind-up of pension plans.

Financial Services Regulatory Authority (FSRA): The Budget provides an update on the status of the development of the FSRA, which is eventually intended to replace FSCO – indicating the Government expects to appoint the first board of directors of the FSRA in Spring 2017. Legislative amendments regarding the mandate and governance structure of the FSRA, and the structure and powers of the Financial Services Tribunal (FST), are expected to be introduced by the end of 2017. The Government is also currently looking at amendments that would enable the FST to more efficiently manage its caseload.

Merger of SEPPs and JSPPs: Amendments have been proposed to the PBA to facilitate the merger of public sector single-employer pension plans with jointly sponsored pension plans and to clarify the asset transfer rules applying to these mergers.

Federal and Provincial Budgets: Highlights for Employees, Trade Unions and Benefit Plans

The 2017 **Federal Budget** was presented by Finance Minister Bill Morneau last month, on March 22, 2017.

Though it has far fewer major commitments than the previous budget from 2016, there are still some noteworthy provisions. Most provincial budgets have also been released by now, with Nova Scotia and Ontario being the two exceptions. Read below for a summary of some of the changes relevant to employees, trade unions and benefit plans from the budget proposals to date.

The Employment Insurance ("EI") Program: A number of changes have increased the scope of EI benefits.

- In line with the Federal Government's stance on gender equality, EI maternity benefits may now be claimed 12 weeks prior to the individual's due date, an increase from the previous allowance of 8 weeks prior to the due date.
- Those claiming parental benefits now have the choice to take 18 months of leave at 33% of an individual's average weekly earnings, or can choose the existing option of 12 months at 55%.
- There is also a new caregiving benefit for those caring for adult family members suffering from a critical illness or injury but who expect a full or partial recovery, which may be claimed for up to 15 weeks. This is in addition to the current 26-week compassionate care leave for those caring for adults with a significant risk of dying.
- The 2017 Budget proposes family members other than parents may share the benefits available for time spent caring for a critically ill or injured child, currently set at 35 weeks.
- A new measure allowing individuals on EI benefits to pursue training programs in order to make themselves more employable was proposed but does not have an expected start date as of yet.

Though EI premiums will remain stable at $1.63 per $100 of insurable earnings for 2017, the Federal Budget did announce a $0.05 increase to both employer and employee premiums effective January 1, 2018.

Federal-Sector Employees: The Federal Budget proposes amendments to the *Canada Labour Code* which would also affect parental and critical care leave in line with the EI changes outlined above. In addition, amendments would provide for several new kinds of unpaid leaves of absence, including for participation in indigenous practices and for seeking care for victims of family violence. The Budget also introduces new rights for employees to request flexible work arrangements and for unpaid federal interns to be subject to labour standards protections.

T4s of the Times: The Federal Government has confirmed that electronic T4 slips for the 2017 and future tax years will now be accepted and should be considered the standard delivery method for an employee, meaning that the employee's express consent is not required. However, an employer must still issue a paper T4 slip if an employee requests one or if the employee is on a leave of absence or no longer with the company, and must have privacy safeguards in place to issue the electronic T4s.

Healthcare Initiatives: Further to our **blog post** earlier this year, there was no change to the taxation of employer-sponsored health plans in the 2017 Budget. However, two provisions may be relevant to employers who sponsor group healthcare plans. First, $140 million has been promised towards improving access to prescription medication. Second, fertility treatments are now eligible for the medical expense tax credit and therefore, are eligible benefits for health and welfare trusts and employee life and health trusts.

Temporary Foreign Worker Program: The Federal Government remains committed to its promise from its 2016 Fall Economic Statement to launch a Global Skills Strategy by mid-2017, and this year committed an additional $7.8 million over two years to implement a new Global Talent Stream under the Temporary Foreign Worker Program. This will add several new categories of work permit, including short-term permits of no more than 30 days in a year. Relatedly, amendments to the *Immigration and Refugee Protection Act* attempt to increase the responsiveness of both the Express Entry system and application fees in general.

Investing in Skills: The 2017 Federal Budget emphasized the importance of growing Canada's workforce competitiveness on the global stage. To that end, it will invest $225 over four years to establish an organization supporting skills development and measurement in Canada. This organization will work not just with the provincial and territorial governments but also with businesses, educational institutions, and not-for-profit organizations. As well, the Federal Government hopes to create over 10,000 learning placements over the next five years, having pledged $221 million in the 2017 budget. This is an increase from the $73 million invested in last year's budget.

Reducing personal health contributions: The **British Columbia Budget** made changes to its Medical Services Plan. A new method of calculating premiums under the Medical Services Plan took effect on January 1, 2017. Effective starting January 1, 2018, premiums will be reduced by 50% for households receiving premium assistance, and for registered households with annual net incomes under $120,000. British Columbia is working towards the eventual elimination of all premiums for its Medical Service Plan. The **Quebec Budget** also set out that the Personal Health Contributions, now eliminated, that were paid in 2016 will be refunded through the 2016 tax returns.

Raising the Basic Personal Amount: Both the **Québec Budget** and the **Prince Edward Island Budget** provide for an increase in the Basic Personal Amount income tax exemption. PEI accomplished this by increasing its basic personal income tax exemption by 2%, and Québec will raise the basic tax credit from $11,635 to $14,890 for 2017.

Group Insurance Premiums subject to PST: The **Saskatchewan Budget** reduces personal tax rates by 0.25% in all three brackets and instead raises the Provincial Sales Tax to 6% from 5%. This increase was effective March 23, 2017. Importantly, this new higher sales tax will apply to all insurance premiums as defined in the *Saskatchewan Insurance Act* effective July 1, 2017. This includes life, accident, and health insurance, and would apply to the premiums paid on or after the effective date regardless of the policy issue date.

This post was authored by members of Koskie Minsky's Pension Department.

KOSKIE MINSKY

JUSTICE MATTERS

This edition of Pension and Benefits was produced and edited by the following members of the Pension and Benefits Law Group at Koskie Minsky LLP

Lesa MacDonald, Associate

Jesse Heath-Rawlings, Associate

For previous issues of Pension and Benefits or other Koskie Minsky LLP publications, please visit our publications.