

Legislation Matters

June 2016

Group Retirement Solutions

Fort McMurray forest fires - Filing deadline extension

Given the mandatory evacuation of Fort McMurray and surrounding areas, the Office of the Superintendent of Pensions in Alberta has extended the deadline for filing Annual Information Returns and Audited Financial Statements from June 30, 2016 to August 31, 2016 for those pension plans who are located in Fort McMurray.

Canada Revenue Agency has also informed us that they will not be levying late filing fees for Annual Information Returns for organizations from Fort McMurray. The deadline for providing annual member statements to plan members who are located in Fort McMurray has also been extended to August 31, 2016. The deadline for providing annual member statements to plan members who are located in Fort McMurray has also been extended to August 31, 2016.

For pension plans which may be affected by the wildfires but that are administered outside of Fort McMurray, please contact the [Office of the Superintendent of Pensions](#) to request additional time beyond June 30, 2016.

Finally, if an extension to August 31, 2016 does not provide sufficient time, please contact the Office of the [Office of the Superintendent of Pensions](#) to arrange for a further extension.

Ontario Retirement Pension Plan Act (ORPP)

On June 2, 2016, the Ontario government passed the Bill 186, the *Ontario Retirement Pension Plan Act, (Strengthening Retirement for Ontarians), 2016*. The Bill enshrines in legislation key requirements of ORPP plan design, including participation, contributions, benefit

types and plan sustainability. Regulations are expected to be released this summer.

For detailed information on ORPP, including an overview of the ORPP (plan design, eligibility, comparability and administration), latest updates and FAQ please visit Manulife's [ORPP microsite](#).

Changes to the Federal Investment Regulations - Effective July 1, 2016

As stated in our [April 2016 edition](#) of Legislation Matters, the federal government has made changes to the *Pension Benefits Standards Act Regulations, 1985* (PBSR) which include changes to the *Federal Investment Regulations* (FIR). Of particular interest is a clarification about the 10% rule set out in Schedule III of the PBSR and its applicability to member choice accounts, as well as, changes to the related party rules.

Note, the changes to the FIR's, would not only apply to federally registered pension plans, but would also affect pension plans registered in Alberta, British Columbia, Manitoba, Newfoundland and Labrador, Ontario and Saskatchewan because the pension legislation of those provinces incorporates the federal 10% rule and related party rules, as amended from time to time, by reference.

FIR 10% Investment Rule

The FIR prohibits plan administrators from investing or loaning more than 10% of the total value of the plan's assets in a single entity. The change clarifies that the 10% rule applies only when investments or loans are made and based on the market value. The 10% rule applies at the member account level for a plan that allows a member to make investment choices (i.e. member directed DC plan). The 10% rule is a concentration limit for plan investments that restrict allocation to an investment option where more than 10% of the total value of plan assets is invested

in a single entity or affiliated/associated entity. As the investments in an insurance policy are investments to segregated funds, the exemption will apply to defined contribution pension plans administered by Manulife. This means that there will no longer be a requirement to monitor investments for defined contribution pension plans that allow members to choose their own investment options. This applies to federally regulated plans but also to any jurisdiction that has adopted the Quantitative Investment Limits set out in Schedule III of the PBSR.

However, as a result of the above changes, plan administrators of defined-benefit pension plans and defined contribution pension plans with employer directed investments registered in the impacted jurisdictions will need to ensure they respect the quantitative limits as set out under Schedule III of the PBSR.

Related Party Rules

Effective July 1, 2016, the administrator of a pension plan subject to Schedule III of the Federal Pension Benefits Standards Regulations will not be allowed to invest or lend moneys of the pension fund directly or indirectly in the securities of a related party (including the employer). Administrators of pension plans that are currently holding such related party investments will be required to divest of the holding by June 30, 2021. An exception will apply to related party investments made under a “member choice account”, in an investment fund or segregated fund, in which investors other than the administrator of the pension plan and its affiliates may invest and that complies with the 30% rule (rule that restricts investment in shares that have more than 30% of voting rights of the corporation attached to them).

Plan administrators will have five years from the effective date of the rules to divest securities to comply with the new related party rules. Additionally, administrators will have five years from the day of the contravention to

comply with the related party rules where non-compliance results from transactions that are not made by the administrator or an entity controlled by the administrator.

Plan administrators should review their investment policies and practices and prepare for the implementation of the new Investment Rules. Statements of investment policies and procedures, investment management agreements and instructions, and compliance systems may need to be reviewed so as to comply with the new requirements.

SIP&P reminder

Since April 1, 2015, Federal pension plans with member choice accounts are not required to establish a statement of investment policies and procedures (SIP&P) for the plan’s portfolio of investments.

Multi-Jurisdictional Pension Agreement - Effective July 1, 2016

Representatives of the governments of British Columbia, Nova Scotia, Ontario, Quebec and Saskatchewan have signed a new 2016 Agreement Respecting Multi-Jurisdictional Pension Plans (2016 Agreement), which is intended to come into effect for these jurisdictions on July 1, 2016.

The 2016 Agreement is intended to replace the 2011 Agreement and the Reciprocal Agreement (1968) as far as those older agreements apply between the governments that have signed the 2016 Agreement. For the jurisdictions that haven’t signed the 2016 Agreement, the previous older agreements continue to apply.

The 2016 Agreement provides a clear legal framework over the administration and regulation of multi-jurisdictional pension plans.

The new agreement will continue to protect member entitlements and ease the regulatory burden for pension plans in Canada.

British Columbia Pension Benefits Standards Act – Reminder concerning the Default Fund-Investment Requirement effective June 28, 2016

Further to the amendments to the *British Columbia Pension Benefits Standards Act* and the British Columbia Pension Benefits Standards Regulation (Regulation), that have been in effect since September 30, 2015, the investment requirement affecting default funds under a Defined Contribution Pension Plan (DCPP) registered in British Columbia (B.C.) come into effect June 28, 2016.

The Regulation prescribes the default fund options that are acceptable for a DCPP registered in B.C. which requires the members to make their own investment decisions under the plan. The options include either a balanced fund or a portfolio of investments that takes into account a member's age.

Plan administrators must ensure that any changes required to their DCPP to implement a prescribed default fund in compliance with the Regulation must be made by June 28, 2016.

British Columbia PRPP

British Columbia's *Pooled Registered Pension Plans Act* and *Pooled Registered Pension Plans Regulation* have been proclaimed into force with an effective date of May 4, 2016.

Saskatchewan PRPP update

The *Pooled Registered Pension Plans (Saskatchewan) Act* was proclaimed in force effective as of May 1, 2016. The *Pooled Registered Pension Plans (Saskatchewan) Regulations* and *The Pension Benefits (Pooled Registered Pension Plans) Amendment Regulations, 2016* were passed on March 3, 2016.

The Financial and Consumer Affairs Authority of Saskatchewan is working with other participating pension jurisdictions with respect to licensing, registration and supervision of Pooled Registered Pension Plans. This will provide individuals and self-employed individuals in Saskatchewan who do not have access to a workplace

pension with the opportunity to participate in a low cost pension plan.

As stated in our [April 2016 edition](#) of Legislation Matters, the Saskatchewan PRPP mirrors in great part the Federal PRPP. The main differences are under the definition of spouse and common-law partner, as well as any related terms, the designation of beneficiaries, transfer and surrender agreements, variable payments, life annuity purchases, fees and prescribed retirement savings plan options.

Saskatchewan Budget 2016-2017

On June 1, 2016 Finance Minister Ken Doherty delivered the provincial budget for 2016-2017.

Of particular note, it raises fees under the children's and seniors' drug plans by \$5 per prescription, to a maximum of \$25 per prescription.

Meaning, effective June 1, 2016, the cost per prescription is now capped at \$25 for drugs listed on the Saskatchewan Formulary or approved under the exception drug status, for eligible seniors (65 or older) and eligible children (14 and under).

Group Benefits

Medical Aid in Dying Bill C-14

On April 14, 2016, the Government introduced legislation, [An Act to amend the Criminal code and to make related amendments to other Acts \(medical assistance in dying\)](#) (Bill C-14). Bill C-14 would allow an eligible person to request medical assistance in dying (MAID).

The introduction of this legislation responds to the Supreme Court of Canada's decision to strike down laws that prohibit medical assisted dying in Canada (the [Carter decision](#)). As of June 6, 2016, the Carter decision took effect.

Under this proposed legislation a medical assistance in dying would be available to a person who meets the following criteria:

- Be in a state of irreversible decline in capability and death must be reasonably foreseeable.
- Generally eligible for health services funded by a government in Canada.
- Be 18 years of age and capable of making health decisions.
- Make a voluntary request and not one as a result of external pressure and give informed consent.

It also provides for additional safeguards to ensure proper consent and the ability to withdraw consent at any time prior.

A section has been added regarding death certificates whereby the Minister of Health, in cooperation with representatives of the provincial governments responsible for health, may establish guidelines on the information to be included on death certificates, which may include the manner of death, as well as the illness, disease or disability that prompted the request for MAID.

Provincial legislation in this area is also expected to address the treatment of MAID under insurance contracts.

For more detailed information please visit the government site on [MAID](#).

Genetic discrimination Bill S-201

On May 3, 2016, Bill S-201, [An Act to prohibit and prevent genetic discrimination](#), was given its first reading in the House of Commons. Bill S-201 proposes to make important amendments to federal legislation, specifically, the *Canada Labour Code*, and the *Canadian Human Rights Act*, (CHRA).

The bill generally aims to protect genetic information and proposes to introduce general prohibitions such as:

- requiring an individual to undergo a genetic test as a condition of providing goods or services,
- refusing to provide goods or services on the grounds that the individual has refused to undergo a genetic test,

- requiring an individual to disclose the results of a genetic test as a condition of providing goods or services, or
- the collection or use of genetic test results of an individual without the individual's written consent.

It also amends the CHRA by adding “genetic characteristics” as a prohibited ground of discrimination.

Gender identity or expression discrimination

On May 17, 2016, Bill C-16, [Act to Amend Human Rights Act and the Criminal Code](#), was introduced for first reading in the House of Commons. It amends the *Canadian Human Rights Act*, (CHRA) to add “gender identity or expression” to the list of prohibited grounds of discrimination.

The enactment also amends the Criminal Code to extend the protection against hate propaganda set out in that Act to any section of the public that is distinguished by gender identity or expression and to clearly set out that evidence that an offence was motivated by bias, prejudice or hate based on gender identity or expression constitutes an aggravating circumstance that a court must take into consideration when it imposes a sentence.

Ontario Drug Benefit Program

The Government of Ontario, in accordance with the [Budget 2016](#) proposes to make changes to the [Ontario Drug Benefit \(ODB\) Program](#).

Changes for the low-income seniors

Starting August 1, 2016, to increase the income thresholds to qualify for the low-income seniors benefit:

- from less than \$16,018 to less than or equal to \$19,300 for single seniors, and
- from less than \$24,175 to less than or equal to \$32,300 for senior couples.

Additionally, low-income seniors who receive public drug benefits would continue to pay up to a \$2 co-payment per prescription with no annual deductible.

These new thresholds are aligned with the Ontario Guaranteed Annual Income System and will be indexed to ensure they remain aligned in future benefit years.

1. Seniors whose income continues to stay under the adjusted income threshold each year would continue to qualify for the \$0 deductible and \$2 co-payment.
2. Changes to drug cost contributions by non-low income seniors announced in Budget 2016 are on hold.
3. Ontario will also publicly fund the shingles vaccine for seniors aged 65 to 70.

Ontario Supports First Responders with PTSD

On April 5, 2016 the [Supporting Ontario's First Responders Act](#), was passed. The Act creates a presumption that post-traumatic stress disorder (PTSD) diagnosed in first responders is work-related.

The presumption allows for faster access to WSIB benefits, resources and timely treatment. Once a first responder is diagnosed with PTSD by either a psychiatrist or a psychologist, the claims process to be eligible for WSIB benefits will be expedited, without the need to prove a causal link between PTSD and a workplace event.

The presumption applies to police officers, firefighters, paramedics, certain workers in correctional institutions and secure youth justice facilities, dispatchers of police, firefighter and ambulance services, and emergency response teams.

Quebec proposes to change the conditions on what constitutes group insurance

On April 20, 2016 an amendment to the [Regulation under the Act respecting Insurance](#) was published for consultation, proposing that the following paragraph of section 60 of the Regulation be removed: "Despite the foregoing, a specified group of persons may not be constituted for the sole purpose of entering into a group insurance contract, and group insurance may be offered

to the members of the group only as a benefit complementary to membership."

This would make the conditions for constituting a group under the Regulation less restrictive. This proposed change enables employers to form an association for the sole purpose of subscribing to a group insurance contract which employees, who are members of such association, could adhere to.

Tax related issues

Proposed zero-rated devices (insulin pens and pen needles and intermittent urinary catheters) update

As stated in our [April 2016 edition](#) of Legislation Matters, on March 22, 2016, the federal Budget 2016 proposed amendments to Part II of Schedule VI to the *Excise Tax Act* that would add insulin pens and insulin pen needles, and intermittent urinary catheters to the list of medical and assistive devices that are zero-rated for purposes of the GST/HST. The proposals have received second reading as of May 10, 2016.

Zero-rated means that, no GST/HST is charged when the product is supplied, as the tax rate is 0%. However, a GST/HST registrant can claim an input tax credit for the GST/HST paid or payable on purchases and expenses made to provide zero-rated supplies, when all necessary conditions are met.

CRA has now provided more information regarding the GST/HST proposed amendments:

- [Questions and Answers on the Proposed GST/HST Treatment of Insulin Pens and Insulin Pen Needles](#)
- [Questions and Answers on the Proposed GST/HST Treatment of Intermittent Urinary Catheters](#)

Tax increases in Eastern Canada

[Newfoundland](#) (NL) and [New Brunswick](#) (NB) announced an increase Harmonized Sales Tax (HST) rates from 13% to 15% effective July 1, 2016.

[Prince Edward Island](#) (PEI) also announced an HST increase. Their rate will increase from 14% to 15%

effective October 1, 2016. The HST rate increase will affect fees on Administrative Services Only (ASO) with no insurance component, other group benefits fees for services and Investment Management Fees (IMF) for Group Retirement Savings (GRS) products in their respective provinces.

[Newfoundland](#) will increase Insurance Companies Tax (premium tax) from 4% to 5%, effective July 1, 2016. This increase will be applied to group benefits insured and Administrative Services Only (ASO) business with plan members living in Newfoundland.

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