Legislation matters

August 2012

Ontario proclaims immediate vesting and other new rules into effect as of July 1, 2012

In the July 2012 issue of *Legislation matters*, we advised you of the main pension plan provisions that were expected to come into effect in Ontario on July 1, 2012. This is to inform you that on June 21, 2012, the Ontario government proclaimed the following important changes into effect under the *Pension Benefits Act* and Regulations effective July 1, 2012:

- Immediate vesting and locking in of pension benefits for members who terminate employment, retire or die on or after July 1, 2012.
- Increase in the threshold for commutation of small pension amounts. Payment of the commuted value of benefits may be made if either the annual benefit payable at the member's normal retirement date is not more than 4% of the Year's Maximum Pensionable Earnings (YMPE) in the year he/she terminated employment, or the commuted value of the benefit is less than 20% of the YMPE in the year he/she terminated employment.
- In the case of death before retirement, a spouse, a beneficiary or the estate is entitled to a lump sum payment equal to any required contributions, plus interest, made by the member or former member under employment before January 1, 1987.
- Commutation of 25% of pre-1987 benefits, if provided for in the plan, continues to apply.
- The recipient of a commuted amount from the plan may request the plan administrator to pay the amount to a registered retirement savings arrangement (RRSP or RRIF).
- Electronic means may be used by plan administrators and the Superintendent of Financial Institutions to send notices, statements and other records if the recipient's written permission is given.
- Partial plan wind-ups are eliminated.
- There are two new provisions under which the Superintendent of Financial Institutions can order a plan wind-up: instances where the plan membership consists solely of former/retired members and beneficiaries who are not members and instances where members are no longer accruing pension or ancillary benefits and employees are no longer permitted to become members of the plan.
- Provisions for inspection of plan documents held by the plan administrator or by the Superintendent of Financial Institutions have been modified to give access to prescribed records to retired members, former members, spouses and former spouses, and to allow for the records to be made available by mail or email with the requestor's permission. The plan administrator is permitted to charge prescribed fees to cover the cost of providing paper copies and electronic versions of prescribed records.
- Payment of grow-in benefits is extended to any eligible member whose defined benefit plan is fully wound up or whose employment is terminated by an employer on or after July 1, 2012, other than as a result of willful misconduct, disobedience or wilful neglect of duty by the member that is not trivial and has not been condoned by the employer, or other prescribed circumstances.
- Jointly sponsored pension plans (JSPPs) and multi-employer pension plans (MEPPs) are entitled to file an election to opt out of providing grow-in benefits.
- Individual Pension Plan (IPP) is defined and the funding and reporting requirements for IPPs are specified.

Standard Life's systems have already been updated for immediate vesting and locking-in of benefits for plan members who terminate employment, retire or die on or after July 1, 2012.

If a plan text already includes a commutation provision with the previous annual benefit amount threshold of not more than 2% of the YMPE, Standard Life will automatically apply the new increased threshold and the plan will be amended to update this provision together with the new vesting provisions and other minor wording updates resulting from the recent changes announced.

Standard Life will communicate separately with plan sponsors who have members in Ontario regarding the plan amendments that will be required as a result of these changes. In the meantime, plan sponsors who prefer to keep the former commutation provision in their plan should advise their Standard Life representative.

For more information on the recent legislative changes, visit the Financial Services Commission of Ontario website.

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