

1. Alberta's revised pension legislation comes into effect

On July 22, 2014, the Employment Pension Plans Regulation was passed by the Alberta government. The Regulation supports the new *Employment Pension Plans Act* that was passed in December 2012 (please refer to our January 2013 edition of *Legislation matters*). The government has proclaimed that the new Act and its Regulation will take effect on September 1, 2014.

The new Act and Regulation touch on various aspects of legislation including vesting and locking-in, disclosure, governance, funding, plan design, record retention, missing persons, survivor benefits, enforcement, fees and more.

Furthermore, effective September 1, 2014, Alberta will transfer the adjudication of financial hardship unlocking withdrawal requests under LIRAs and LIFs to the financial institutions that administer the accounts.

Key features of the new Act and Regulations are as follows:

- ▶ New prescribed certification forms are to be completed by the plan administrator when registering a new plan, a plan text amendment, or supporting document amendment;
- ▶ The ability for a plan sponsor to auto-enroll eligible employees, with an option to opt out, as a term and condition of employment when an employer offers a pension plan and elects this feature for the plan;
- ▶ The concept of “prescribed class” has been removed such that employees in an eligible class determined by the plan sponsor who meet the conditions for membership set out in the plan and who earn at least 35% of the Year’s Maximum Pensionable Earnings (YMPE) over a two year period must be permitted to join the plan;
- ▶ Immediate vesting of plan benefits for all years of service/plan membership;
- ▶ Locking-in to be based on a dollar threshold amount equal to 20% of the YMPE regardless of the length of time it takes to accrue that amount of benefit;
- ▶ For plans where members are authorized to make decisions regarding the investment of their accounts there is a new requirement that the default investment option must be either a balanced fund or portfolio of investments that takes into account a member’s age;
- ▶ LIF-like monthly retirement income payments from the pension plan can be provided to members, if the plan allows for it;
- ▶ Pre-retirement survivor benefits are amended to entitle the deceased member’s pension partner to the commencement of an immediate pension from the plan, regardless of that pension partner’s age. However, a plan administrator may still require the pension partner to choose a portability option instead;
- ▶ Plan administrators may now include provisions in the plan text to force out members upon termination of active membership or surviving pension partners upon death of a member. The prior restrictions on force out have been lifted;

- ▶ New disclosure information and additional statements to be provided for specific situations;
- ▶ New mandatory provisions for unlocking due to shortened life expectancy and non-residency are added;
- ▶ New pension partner waiver forms have been created;
- ▶ New rules have been established for the division of benefits on marriage breakdown;
- ▶ Under the new Act, plan sponsors are required to establish a written plan governance policy;
- ▶ Plan Administrators will be required to complete a written assessment of the plan annually;
- ▶ Plan administrators are to provide Fund holders with an updated Schedule of Expected Contributions (formerly Form 7) within 30 days of coming into force of the legislation;
- ▶ The requirement to file a partial plan termination report is eliminated;
- ▶ Audited financial statements are no longer required for defined contribution pension plans. However, Collectively Bargained Multi-employer plans must file audited financial statements regardless of plan type or value of plan assets;
- ▶ In addition, there are new rules that concern Participation Agreements under Non-Collectively Bargained Multi-Employer Plans (NCBMEPs). Under transitional rules, existing agreements are deemed to include prescribed criteria but must be amended by June 1, 2015;
- ▶ The new Act re-examines the process of transferring benefit entitlements from the pension plan of members and other persons who are considered “missing”;
- ▶ The new Act calls for the constitution of an Alberta Pension Tribunal whose mandate is to hear appeals when an affected party disagrees with a ruling of the Superintendent

Other features of the new Act and Regulations specific to Defined Benefit Plans:

- ▶ The introduction of phased retirement benefits to allow defined benefit pension plan members to simultaneously receive pension benefits while accruing additional benefits from the plan;
- ▶ Flexible pension plan design including the possibility to establish Target Benefit provisions and Jointly-sponsored Pension Plans;
- ▶ The option for a defined benefit plan to create a solvency reserve account for purposes of holding solvency deficiency payments (and accumulated interest) which are intended to amortize solvency deficiencies;
- ▶ Restrictions regarding the use of going concern surplus (no more than 20% of the plan’s accessible going concern excess as determined under legislation) shall be available for the reduction or elimination of contributions in any fiscal year;
- ▶ Where the balance of a transfer deficiency is to be paid that would materially impact plan solvency, it can be delayed with the Superintendent’s consent;
- ▶ Rules around the withdrawal of actuarial excess or surplus in a defined benefit plan have been revised and new rules about the allocation of Excess Member Contributions have been added;
- ▶ The threshold for filing an audited financial statement for a defined benefit pension plan is increased from \$3 million to \$10 million;
- ▶ Under the new Act plan sponsors of defined benefit plans must establish a written funding policy



Information Available to Plan Administrators on Alberta’s website
www.finance.alberta.ca/publications/pensions/legislation.html

Important timelines for Plan administrators to remember

September 1, 2014	All plans must be administered in accordance with the provisions of the new Act and Regulations
October 1, 2014	Plan Administrators must provide their Fund holder with a revised Schedule of Expected Contributions (Form 21)
December 31, 2014	The inclusion of new information on disclosure statements and the new disclosure statements required must be in effect
December 31, 2014	Plan Administrators must select a default investment fund from those permitted under Regulations
December 31, 2014	Plan texts must be amended and filed with Alberta
December 31, 2015	Plan Administrators must establish a written Governance Policy and Funding Policy
December 31, 2016 (if a December 31 year end)	Plan Administrators must complete the first new annual administrator assessment of the plan within a year after the end of the second year of the plan following proclamation of the Regulation, and then annually thereafter

What is Standard Life doing to assist Plan Administrators?

We are actively involved in discussion with the regulators to seek some administrative flexibility concerning the dates imposed by Regulation.

We are adjusting our systems, processes, procedures and documentation to adapt to the new requirements and we are providing training to our staff.

We will communicate individually with our plan administrators who have plans that are registered in Alberta to assist them with the implementation of the changes and to ensure they are aware of their new responsibilities.

We are collaborating with the insurance industry through the Canadian Life and Health Insurance Association to ensure fair and equitable administration of the Financial Hardship Unlocking Program amongst insurers holding and administering LIRA and LIF accounts.

We will also look more closely at various aspects of the legislation to ensure our product offering is aligned to customer expectations and to look for new opportunities in pension plan design.

2. Alberta transfers Financial Hardship Unlocking adjudication to Financial Institutions

New rules will apply, beginning September 1, 2014, for individuals who would like to withdraw locked-in funds due to financial hardship from Alberta Locked-In Retirement Accounts (LIRAs) and Life Income Funds (LIFs). In addition, new forms for category specific withdrawal reasons will be posted on Alberta's website before the end of August.

Highlights of the new requirements are as follows:

- ▶ Individuals with LIRA and/or LIF accounts will now have to apply directly to the financial institution that administers the account instead of applying to the Office of the Superintendent of Pensions in Alberta;
- ▶ The financial institution will be responsible for reviewing each application to determine if it meets the requirements set out in the regulation for the particular category of financial hardship on which the application is based and, if it does, to make the payment or transfer from the account in accordance with the relevant section of the regulation;

- ▶ The number of categories of financial hardship has been reduced from 8 to the following 5:
 - expected low income
 - foreclosure in respect of default on a mortgage on a main residence
 - eviction for unpaid rent
 - first month's rent and security deposit in order to obtain a main new home
 - medical expenses, including expenses for renovations or alterations to a main home made necessary by illness or physical disability
- ▶ An individual is not entitled to make more than one application under each of the five financial hardship criteria per calendar year. Consequently, if the application is refused following adjudication, there cannot be another application for the same reason in the same calendar year

Standard Life has identified the changes, where necessary, to our procedures and LIRA and LIF contracts, and we are proceeding with the appropriate changes. As a result, we will be ready to assume these new responsibilities on September 1.

3. The VRSP becomes a reality in Quebec

On July 1, 2014 the Quebec VRSP became a reality for all Quebecers. A number of financial institutions were authorized as administrators of the VRSP by the AMF and had their plan approved and registered by the Régie des Rentes du Québec. Standard Life was among the first to be approved and our VRSP has been open for business since July 7, 2014. If you are a self-employed worker in Quebec or an individual living or working in Quebec you can join our plan. If you are an employer doing business in Quebec you can enroll your employees now or you can wait until you are required to establish a plan based on the criteria set out in the VRSP Act and Regulations (please refer to our January 2014 edition of Legislation matters for additional details). Either way, we offer a simple straight forward solution that takes only minutes to complete. Take a look for yourself. Visit our micro site at www.standardlife.ca/prpp/vrsp.html

You can also obtain very useful information about the VRSP by going to the website for the Régie des Rentes du Québec. You can connect using the following link and click on the Voluntary Retirement Savings Plan icon on the right hand side of the page: www.rrq.gouv.qc.ca/en/accueil/Pages/accueil.aspx

4. PEI Pharmacists' Practice

On May 14, 2014, Prince Edward Island announced that they were looking into expanding pharmacists' scope of practice, to align with other Maritime provinces. The Department of Health and Wellness is currently consulting with pharmacists and other health-care providers to enable pharmacists to assess and prescribe medications for 30 minor ailments. The changes would also allow pharmacists to administer vaccinations and injections. Pharmacists would have to be trained in accordance with the standards to be set by the soon-to-be-formed PEI College of Pharmacists. The changes are expected to come into effect in the fall, ahead of this year's flu season. We will know more once the changes are approved and documented, and everything is arranged with the PEI College of Pharmacists.

5. Long Term Disability Benefits in Ontario

On July 29, 2014, Ontario announced that its employers will no longer be allowed to self-insure their long-term disability benefits. Ontario Budget 2014 includes an amendment to the *Insurance Act* to prohibit the provision of long-term disability benefits unless they are part of an insured arrangement with a licensed insurer. It is possible that exemptions or transitional provisions may be set out in regulation. This amendment will come into force on a future date to be proclaimed. As we currently don't have self-insured long-term disability benefits arrangements in our in force in Ontario, we foresee no impact on our clients at this time.

6. Update on Carrigan v. Carrigan Estate

On July 24, 2014, Bill 14 (*Building Opportunity and Securing Our Future Act*) came into force on Royal Assent. Bill 14 was created in response to the Ontario Court of Appeal's controversial decision Carrigan v. Carrigan Estate rendered on October 31, 2012 in which upon a member's death, both his wife from whom he was separated (although not formally by a separation agreement nor court order) and his common law spouse claimed the pre-retirement death benefit of his pension under section 48 of the Ontario PBA. The Court of Appeal interpreted the provision in such a way that the wife was denied payment of the pre-retirement death benefit because she was separated from the member at the time of death, and the common-law spouse was also denied payment because the member was still legally married to another person. Since neither the wife nor the common-law spouse was deemed to be an eligible spouse, the member's pre-retirement death benefit was paid to his designated beneficiaries.

Although this decision was widely viewed as inconsistent with how the spousal rights provisions in the PBA had previously been understood and applied within the industry, the Supreme Court of Canada refused leave to appeal the Carrigan decision on March 28, 2013, and the interpretation given in the Court of Appeal's decision became law. The ruling in Carrigan directly affects members and former members of a pension plan who:

- ▶ Have not started receiving a pension;
- ▶ Are legally married to a person they are living separate and apart from;
- ▶ Are living with a person who qualifies as a common-law spouse under the PBA

With Bill 14, the Ontario government has amended spousal entitlements in Sections 44 and 48 of the PBA and provides discharges to plan administrators who commenced payment of a pension or made payment of pre-retirement death benefits if certain circumstances exist.

Section 44 now clarifies that a common-law spouse who is living with a member on the date pension is to commence is entitled to a joint and survivor pension even where the member also has a married spouse from whom he/she is living separate and apart on that date. To account for plan administrators who since conformed to the law, Section 44 (10) provides a discharge to plan administrators who commenced payment of a joint and survivor pension prior to July 24, 2014.

Section 48 now provides that if the member dies on or after July 24, 2014, a common-law spouse who is living with a member on the date of the member's death is entitled to the member's pre-retirement death benefits, despite the member having a married spouse, from whom he/she was living separate and apart on the date of death. If payment to the common-law spouse was made prior to the date the Carrigan decision was rendered, the plan administrator is accorded a discharge.