



November 2016

Group Retirement Solutions

Canada Pension Plan Benefits to Increase

Having received the approval of nine provinces representing at least 2/3rds of the population in Canada (excluding Quebec), the federal government moved quickly to introduce legislation to amend the CPP which put to rest any further initiative by the province of Ontario to introduce the Ontario Retirement Pension Plan.

The first was a [*Notice of Ways and Means Motion*](#) that was introduced to address the tax measures associated to enhancing the CPP. Then, on October 6, 2016, the federal Finance Minister, Bill Morneau, introduced [*Bill C-26 An Act to amend the Canada Pension Plan, the Canada Pension Plan Investment Board Act and the Income Tax Act*](#). The Bill has moved through first reading and is currently in second reading in the House of Commons.

Bill C-26 applies to all Canadians, except workers in Quebec, who contribute to the Quebec Pension Plan, which provides similar benefits to the current CPP.

Some highlights of the enhanced CPP include:

- Increasing the share of eligible annual earnings received during retirement from a one-quarter to a one-third per cent replacement ratio.
- Providing an enhanced portion of the CPP for individuals with income in excess of the Year's Maximum Pensionable Earnings level ("YMPE"). The maximum YMPE covered by the CPP will increase by 14 per cent over 2 years commencing in the year 2024.
- Ensuring that Canadians and the businesses they work for can adjust to these changes. Accordingly, the CPP enhancement will be introduced through a 7-year gradual phase-in starting on January 1, 2019. Contributions to the

CPP are expected to reach 5.95% by the year 2023 from the current level of 4.95% for both employees and employers. The additional contributions toward the enhanced portion of the CPP are expected to be around 4%.

- Offsetting the impact of increased contributions on eligible low-income workers. To accomplish this, the Government of Canada will enhance the Working Income Tax Benefit.
- Providing tax deductibility of employee contributions to the enhanced portion of the CPP in order to avoid increasing the after-tax cost of saving for Canadians.

Detailed information on the government proposals to enhance CPP can be obtained [here](#).

Target Benefit Plans and Annuitization Options for Federally Regulated Businesses

The federal government has released new legislation that opens the door to establishing target benefit plans for federally-regulated and Crown corporation employers. On October 19, 2016, [*Bill C-27: An Act to Amend the Pension Benefits Standards Act, 1985*](#) was introduced for first reading.

Given the amount of risk associated with defined benefit plans and the uncertainty of the ability of a defined contribution plan to provide adequate retirement income, Target Benefit Plan design offers plan sponsors a viable alternative. In fact, Target Benefit Plans combine the elements of both. An actuary for the plan will determine a base defined benefit amount (the "target benefit") and the fixed annual contribution amounts from employees and employers that are expected to be sufficient to provide the target benefit based on the expected returns from the plan investments. These types of plans are generally governed by a board of trustees or similar administrative body with representation from both plan members and employers so that decision making affecting the plan benefit or contribution amounts and all associated risks are appropriately considered.

The rules that prescribe the composition of the board and the process and responsibilities of the elected participants will be set out in the regulations.

While the new legislation proposes Target Benefit Plans as an option for new plans being introduced, it does not make provision for the conversion of existing plans to Target Benefit Plans without member consent and therefore does not allow more generous plans to offload risk and cost through a conversion process.

Another provision that has been introduced relates to the annuitization of benefits in full or partial discharge of a plan's liabilities under the Pension Benefits Standards Act, 1985. The new proposals prescribe the conditions under which a full or partial discharge would be permitted. These include having appropriate plan provisions that allow for it and providing the prescribed form of annuity and prescribed notice to former members which result in payments to the former member of the amounts that would otherwise have been payable from the plan. Advance approval from the Superintendent is required unless the annuities are purchased from a properly licensed insurance company or life company as defined in the Act.

There are still many details to be worked out before Target Benefit plan design and annuitization options to eliminate plan liability become available in Ontario. More specific details will be known once Bill C-27 becomes law and the associated regulations have been published.

Ontario Solvency Funding for Pension Plans

Earlier this year, the government of Ontario solicited feedback through a consultation process on an initiative to Review Ontario's Solvency Funding Framework for Defined Benefit Pension Plans. The consultation period ended on September 30, 2016, and the Ontario government has not yet provided further detail related to its proposals. The proposed changes, as set out in the consultation paper, establish different approaches to changing the existing funding rules in Ontario.

Of particular interest is the approach to adjust funding to amortize deficits over a longer period of time and to reduce solvency funding targets overall. One such option would see deficits amortized over 10 years instead of 5 with a target solvency ratio of only 80%. An alternative approach would be to eliminate solvency funding in its entirety while enhancing the going concern funding requirements instead.

The consultation paper also proposes a number of other proposed reforms, including increasing employer-paid assessments to the Pension Benefits Guarantee Fund, requiring plan administrators to conduct an annual actuarial valuation report, and requiring plan sponsors to create and implement a written funding policy.

The proposals presented are in line with the introduction of similar approaches to solvency deficiencies in many of the other

jurisdictions in Canada and further information from Ontario is anticipated in the coming months.

Group Benefits

Employment Insurance waiting period changes

As previously announced, the 2016 Budget announced changes to the *Employment Insurance Act* (EI Act) to reduce the employment insurance (EI) waiting period from two weeks to one week. This change will come into effect on January 1, 2017.

The change to the EI waiting period impacts employers who offer benefit plans where they interact with the EI program, such as:

- EI Premium Reduction Program (PRP); and
- EI Supplementary unemployment benefit plans (SUB).

The draft [Regulations Amending the Employment Insurance Regulations](#) under the *Employment Insurance Act* were released on October 15, 2016. The regulation amends the waiting period for both the PRP and SUB plans to align with the new reduced waiting period. The regulations also provide a transitional period of four years to allow employers to adjust their plans while minimizing the impact on employees.

PRP

The transitional period allows employers who have a waiting period of greater than 7 days to continue to qualify for participation in the PRP and continue to receive a premium reduction. Employers that choose to update their plans would be required to resubmit their adjusted plan to remain in the PRP before January 3, 2021.

Employers who do not adjust their plans would no longer qualify for a premium reduction after the transitional period expires.

SUB plans

During the transitional period the provisions would increase the maximum amount of combined employer and EI payments that employees may receive in the week following the one-week waiting period without reducing their EI benefits.

For illness or accident plans the payment in the week following the waiting period may exceed 95% of the employee's normal weekly earnings. For maternity leave, leave for care of a child and compassionate care leave, the payment in the week following the waiting period EI benefits would not be reduced if the combined payments would exceed the allowable limits.

All *new* PRP and SUB plans that come into force on or after January 1, 2017, would need to comply with the new 7 day waiting period.

The Government of Canada is expected to communicate with affected employers directly.

Genetic Testing-Updates

On September 29, 2016, Bill 30, [*An Act to amend the Human Rights Code with respect to genetic characteristics*](#), a co-sponsored private members bill was introduced into the Ontario legislature for first reading. The Bill would amend the *Ontario Human Rights Code* to include genetic characteristics as a prohibited ground of discrimination. The Act also provides for equal treatment of individuals who refuse to undergo or disclose the results of a genetic test. The Bill has since passed to 2nd reading and referred to the Standing Committee on Justice.

Of particular interest, the bill includes an exception that would permit differentiation on reasonable and *bona fide* grounds in insurance contracts paying a benefit in excess of \$1 million total or \$75,000 per annum.

During this same period, the Federal Bill S-201 [*An Act to prohibit and prevent genetic discrimination*](#) began 2nd reading debate in the House of Commons on September 20, 2016 and has now been referred to the Standing Committee on Justice and Human Rights for review. Bill S-201 seeks to prohibit the use of genetic test results as a condition to provide goods or services, to enter into or continue a contract with or offer specific conditions in a contract with, an individual.

The federal Government has since confirmed they support the overall intention of the Bill S-201 and specifically the amendments to the *Canadian Human Rights Act* and the *Canada Labour Code* such as, prohibiting anyone from requiring an individual to take a genetic test or to disclose the results of a genetic test and prohibit discrimination on the ground of genetic characteristics.

The federal Government also recognized that it does not have the ability unilaterally to pass legislation dealing with contracts for all goods and services, including insurance. There are jurisdictional concerns that need to be addressed and the provinces need to be engaged as a result.

In light of the federal Government's statements and with Ontario, the first province to introduce similar legislation, this topic continues to be of utmost importance and it is expected that there will be more activity.

Changes to the regulatory framework relating to the Assisted Human Reproduction Act

On October 1, 2016, the Department of Health published a [*Notice of intent*](#) in the *Canada Gazette*, relating to development of regulations under the [*Assisted Human Reproduction Act*](#) (AHRA).

Currently, surrogates and donors operate under a legal framework of non-payment as the AHRA [*prohibits*](#) both paying

consideration to a surrogate mother (section 6) and purchasing sperm and ova from a donor (section 7), subject to section 12, which was intended to only permit:

- reimbursement for loss of work-related income for surrogate mothers
- expenses incurred by surrogate mothers
- expenses incurred by sperm and ova donors

However, since section 12 has yet to be enacted, this has led to confusion for parties involved in surrogacy arrangements and tissue donation.

Thus, to strengthen and clarify its regulatory framework, the government now intends to proceed with bringing into force sections 10, 12 and 45 to 58 of the AHRA, and to draft supporting regulations.

Interested stakeholders will be given an opportunity to provide feedback on regulatory proposals following their publication in the *Canada Gazette*, Part I.

Upcoming changes to British Columbia's PharmaCare Reference Drug Program

British Columbia announced in June that it is modernizing the PharmaCare Reference Drug Program (RDP) to include three more categories of drugs and update the reference drugs in three existing categories.

The modernized RDP comes into effect on December 1, 2016, essentially changing the PharmaCare coverage of some drugs included in the RDP. The objective was to make sure it was covering the most cost-effective, safe, and effective medications.

The RDP groups together drugs that treat the same illness or medical condition with equal effectiveness:

- The less costly drugs (called "reference" drugs) are eligible for full coverage
- More costly drugs (called "non-reference" drugs) are eligible for partial coverage, up to a maximum daily cost based on the cost of the reference drug for the RDP categories.

Actual coverage depends on the rules of the [*PharmaCare plan*](#), including any annual deductible requirement.

As of December 1, 2016, certain drugs used to treat:

- High blood pressure and heart disease,
- High cholesterol (commonly known as statins) and
- Significant stomach acid issues (such as acid reflux or ulcers)

will be eligible only for partial coverage. The less costly versions will be fully covered.

More detailed information on the modernized RDP can be obtained [here](#).

Quebec- Regulation on Accessory Fees

As part of the Quebec government's commitment to ensure the health system is accessible on September 28, 2016, the draft [Regulation abolishing accessory costs related to the provision of insured services and governing transportation costs for biological samples](#) under the *Health Insurance Act* was published in the *Gazette officielle du Québec* for comment. This follows the announcement by Quebec Minister of Health Dr. Gaetan Barette in September, to abolish accessory fees for health care covered by the provinces health insurance, Régie de l'assurance maladie (RAMQ), by January 2017. Physicians will no longer be able to charge for services covered under the RAMQ except for what is permitted under regulation.

As such, the draft regulation allows for the billing of an insured person under RAMQ, for costs related to the transportation to an institution or a laboratory of biological samples taken by the

professional, or at his or her request, up to the maximum amount of:

- a) \$15 for the transportation of biological samples including a blood sample
- b) \$5 for the transportation any other biological sample.

The amounts may only be claimed once per insured where more than one biological sample is transported to a given institution or laboratory.

This draft regulation will have an impact on private health facilities who actually charge payment to insured persons for insured services under RAMQ. It is important to note, physicians will be able to continue to bill for services not covered under RAMQ.

Prince Edward Island-Premium tax increase

The Province will be amending the *Premium Tax Act*. The premium tax rate for Life, Accident and Sickness insurance business transacted in the province will increase to 3.75%. This change comes into effect January 1, 2017.

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