



# Special Notice

March 15, 2010

## Nova Scotia government response to Pension Review Panel

On March 5, 2010, the government of Nova Scotia published its response to the recommendations, provided by the Pension Review Panel in January 2009, through a discussion paper with a request for more public comment in certain areas. The government claims to have agreed with 90% of the recommendations in the Pension Review Panel's report, and provides a discussion and summary for each of the recommendations. In this *Special Notice*, we comment on the key issues discussed in the government's paper, and on the process and deadlines for feedback.

### ***Flexibility in plan design and governance***

The government agrees that changes should be made to the provincial *Pension Benefits Act* (the "Act") to recognize new types of plans and allow for more flexibility in plan design and funding arrangements.

#### **Jointly sponsored plans**

The government agrees that the Act should be amended to allow for jointly sponsored plans. A jointly sponsored pension plan is a plan whose governance and costs are shared jointly by employers and members. These plans provide an alternative governance, operational and risk management framework to a traditional single employer pension plan.

#### **Government-facilitated pension plans**

In recognition of a lack of pension coverage in certain employment sectors, the government is participating with its federal and provincial counterparts to examine retirement income adequacy of Canadians. Further, the government advises that it is open to ideas and solutions put forward by others that will benefit all Canadians in the future. More specifically, the government recommends that permissive language be adopted that would allow for the enhancement of the Canada Pension Plan or other province-wide arrangements established to assist workers with pension savings.

#### **Target Benefit Plans**

Currently, Target Benefit Plans (TBP's) are only permitted for multi-employer arrangements that meet the Pension Benefits Act's requirements, including two or more unrelated employers with negotiated contribution structures. The government agrees in principle with extending the use of TBP's to single employers, or multi-employer arrangements that do not meet the current requirements for a TBP under the Act. TBP's offer an alternative to defined contribution plans, combining budgetable fixed costs with more predictable retirement benefits. Members receive the full benefits provided by all contributions and investment earnings under the plan, in a transparent and professionally risk managed environment.

TBP's are governed through a joint trusteeship. A more detailed analysis of the pros and cons of TBP's can be found on the *Benefits Canada* website. [\*Target Benefits Plans\*](#) is an article written by Eckler's Cameron Hunter and was cited in the government's discussion paper.

The government asks for more feedback from employers and employees on whether TBP's should be allowed in Nova Scotia.

### **Minimum funding standards**

The Pension Review Panel has recommended an alternative approach to the current minimum funding regime focused on a new accrued benefit measurement, a new minimum annual cost, along with revised amortization schedules. The government's response was to accept some of the recommendations and ask for more feedback on others.

Areas where the government agreed with the Panel are as follows:

- **10-year deficit funding rules**

The government agrees to move to a 10-year amortization period from the current 5-year requirement, and to adopt a 5%-collar rule for all plans. If a plan is in deficit of 5% or less, then the plan may make payments towards the deficit, but is not required to do so; any deficits over the 5% collar must be amortized. The government is also recommending letters of credit and other instruments to be permitted under the Act.

- **“Grow-in” benefits**

“Grow-in” benefits allow pension plan members whose pension plans have been terminated in full, or in part, to become entitled to enhanced early retirement benefits if their age plus service equal 55 or higher at the date of plan wind-up. The Pension Review Panel recommended that the current provisions for “grow-in” benefits should be removed from the PBA. The eligibility for such benefits should be subject to plan terms alone. If such benefits are provided by a plan on wind-up, they should have the same priority of distribution as all other benefits in the plan. Suitable provisions should be made for protecting continuity for those parties that want to see the grow-in benefits continued. The government agrees in principle with the above approach.

Areas where the government expressed concerns and asked for more feedback are as follows:

- **Minimum funding calculation**

The government expressed concern regarding the Panel's recommended Accrued Benefit Measurement method as a replacement for the current solvency and going concern approaches to minimum funding. Key concerns included being different from other jurisdictions and the new standard having a negative impact on individual pension plans.

- **One-size-fits-all approach to funding**

The Pension Review Panel had recommended an approach where the same minimum funding rules would apply to all plan sponsors, subject to some transition rules when moving from the current to the new basis. The only exception was for specified multi-employer plans (i.e., target benefit plans). The government has acknowledged that a one-size-fits-all funding regime may not be an appropriate approach, citing the near-public sector (e.g., universities, municipalities and hospitals) as candidates for different funding rules depending on governance, funding arrangements and risk characteristics of the particular plan. The government refers to this approach as a risk-based funding approach and references comments made in the Expert Commission on Pensions report in Ontario.

The government also cites consistency with other provinces and competitiveness of funding regime with other provinces as important considerations when determining a minimum funding standard.

Overall, the government has clearly recognized the sensitivities and impacts of changes to minimum funding rules and has asked for more feedback in this area from employers and employees.

### **Surplus rules**

The Pension Review Panel recommended similar rules for surplus as for deficit: a 10-year amortization and a 5%-collar rule, allowing for prospective reductions in required contributions (through amortization) if a plan has a surplus above the 105% minimum funding. The Panel also indicated that entitlement to any benefit of a surplus should be determined subject to plan rules and collective bargaining, with the result of any decision being that the sponsoring employer has paid at least 50% of the net contributions over the previous ten years. The government acknowledges that uncertainty around surplus use and ownership, particularly on a plan wind-up, presents challenges, and they have asked for further comments in this area.

### **Other issues and deadline for comments**

Many other pension concerns are included in the government's discussion agenda: ancillary benefits, unlocking rules for DC plans, immediate vesting, as well as governance and "safe harbour" provisions, to name just a few. More feedback is requested on phased retirement, to finalize regulations and to proclaim the November 2009 amendment to the Act into force. The full agenda is posted on the government website as a [\*Discussion Paper on Pensions\*](#).

The government encourages feedback from employees and employers in particular. The deadline for comments is **April 15, 2010**. Please contact one of our Eckler consultants if you have any questions on the Discussion Paper or its applicability to your particular pension goals.

This *Special Notice* has been prepared for general information purposes only and does not constitute professional advice. If you require professional advice based on the contents of this *Special Notice*, please contact an Eckler consultant.

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**Halifax**  
902 492 2822

**Québec City**  
418 780 1366

**Winnipeg**  
204 988 1586

**Barbados**  
246 228 0865

**Montréal**  
514 395 1188

**Toronto**  
416 429 3330

**Vancouver**  
604 682 1381

**Jamaica**  
876 908 1203