Special Notice

5 December 2019

Manitoba government introduces long-awaited changes to the Pension Benefits Act

On November 27, 2019, the government of Manitoba released *Bill 8, The Pension Benefits Amendment Act* (*Bill 8*). *Bill 8* proposes amendments to the Pension Benefits Act (Act), and the accompanying press release came with a long-awaited announcement on solvency funding reform. The changes are the culmination of a two-year-long consultation between the government and stakeholders designed to modernize Manitoba's pension regulations and reduce red tape while safeguarding the security of pensions in the province. The funding reform measures described in the press release were not included in *Bill 8*, but they will presumably be implemented through future changes in the Regulations.

Highlights of the amendments and the impact for plan members are discussed below.

Background

On January 10, 2018, the Minister of Finance launched *public consultations* on strengthening Manitoba's pension system. The Pension Commission of Manitoba reviewed several issues related to pension plans, which include:

- New plan designs, including target benefit and shared risk pension plans;
- Solvency deficiency funding rules;
- Locking-in provisions and access to locked-in funds;
- Division of pensions on relationship breakdown; and
- Clarification of legislative gaps in the Act.

On June 11, 2019, the government *reaffirmed* its commitment to introduce legislative amendments to address pension plan security and funding challenges based on feedback received from interested stakeholders during the consultation period.

Bill 8

Bill 8 amends the Act in response to the recommendations made by the Manitoba Pension Commission and interested stakeholders. Significant changes include:

- Allowing plan members who transfer a pension benefit credit to a locked-in retirement account or life income fund to unlock amounts under certain financial hardships and fully unlock amounts at age 65;
- Allowing plans to permit members who continue to be employed after normal retirement age to stop contributing to the plan and to stop accruing benefits;
- Permitting the use of solvency reserve accounts to fund plan solvency deficiencies;
- Eliminating regulator approval for unlocking;
- Introducing amendments to permit specified multi-employer pension plans; and
- Allowing greater flexibility when dividing pension assets on relationship breakdown.

Although not explicitly referenced in *Bill 8* and not contained in the changes to the Act publicly released, the province's press release announced the change most highly anticipated by plan sponsors: to relax the solvency funding target for defined benefit pension plans to 85%.

Changes to pension unlocking rules

Bill 8 will allow plan members to access locked-in pension funds at various stages of their retirement, depending on the circumstances. Individuals will be able to fully unlock pension funds at age 65 from a locked-in retirement account (LIRA) or life income fund (LIF) to manage their retirement funds under the new legislation. Plan members will be able to make a lump-sum withdrawal of the balance in the LIRA or LIF, or transfer to a registered retirement income fund, registered retirement savings plan, or another pension plan if that plan permits such transfers.

The amendments also allow members to withdraw a lump sum of all or part of their LIRA or LIF account at any age based on prescribed grounds of hardship.

Additionally, *Bill 8* amends the rules regarding transfers to registered retirement income funds (RRIF) to allow plan members aged 55 or older to make a one-time 50% transfer to a prescribed RRIF from either a LIRA or LIF.

Commentary: The changes to unlocking rules provide additional flexibility for retirees. Eliminating the requirement for regulator approval is expected to streamline the application process and allow members to access their retirement savings more quickly.

Changes permitting members to cease contributions and pension accrual

Bill 8 amends the Act to allow members who continue to be employed after normal retirement age to stop contributing to a pension plan and to stop accruing benefits if permitted to do so under the plan.

Use of solvency reserve accounts

Under *Bill 8*, defined benefit plan administrators can set up a separate account within the existing pension fund to provide for a solvency reserve. Payments into the solvency reserve account are restricted to those made by the employer solely in respect of a solvency deficiency. Transfers from any other pension fund account cannot be deposited in the solvency reserve account.

Commentary: The introduction of solvency reserve accounts should be a welcome change for DB plans funding solvency deficiencies, since the amounts held in the solvency reserve account are available for withdrawal subject to prescribed restrictions. Likewise, upon plan wind-up and settlement of all benefits, any amounts remaining in a solvency reserve account would revert to the employer.

Specified multi-employer pension plans

Changes to the Act will grant the Superintendent of Pensions the power to designate a pension plan as a specified multi-employer pension plan if it qualifies as such pursuant to the *Income Tax Act*. Plan administrators can request this designation in writing from the Superintendent.

Division of pension assets on relationship breakdown

Bill 8 amends the legislative requirements for the division of assets on relationship breakdown by removing the condition that any division of pension assets be made solely in accordance with the regulations, despite the existence of a court order or agreement that states otherwise. *Bill 8* also clarifies that the rules governing small pension commutation apply to a division of assets and allow a separated spouse or common-law partner to be named as a beneficiary to receive survivor benefits.

Commentary: The amendments provide greater flexibility to pension plan members in determining the division of pension assets. This change also aligns the division of pension assets with other provinces, since Manitoba is the only province in Canada where the legislation mandates a 50/50 split when divided.

Relaxation of solvency funding rules for defined benefit pension plans

The press release states that the requirement to fund on a solvency basis to a target of 100% would reduce to 85%. This change will be accompanied by a strengthening of the funding requirements on the going-concern basis.

Coming into force

The proposed changes will come into force on a day to be fixed by proclamation. According to government sources, there will be opportunities for comment as *Bill 8* passes through the Legislative Assembly, although it is unlikely that further significant changes will be introduced. The final version of *Bill 8* is expected to be proclaimed in the spring or summer of 2020.

Commentary: These changes are welcome and generally positive for plan sponsors, and should help to improve the sustainability of providing a workplace pension. There are, however, several issues that the province neglected to address, and the pace at which the changes arrive is disappointing. The province failed to provide details of the new funding regime, and public-sector plans currently exempt from solvency funding are left wondering if the new funding rules will impact them. Most concerning, however, is the lack of immediate funding relief for sponsors making solvency payments in the interim.

We also note that the province has maintained its decision announced in June 2019 to not move forward with the Pension Commission's recommendation to permit a new target benefit/shared risk plan design for single-employer and multi-employer plans. We believe that target benefit arrangements can deliver significantly better retirement outcomes and more predictable lifetime income for plan members, compared to traditional defined contribution (DC) arrangements. We are surprised by this omission at a time when most provinces are going in the opposite direction. The province may have missed an opportunity to provide a second wind for lifetime income pensions and provide a more secure future for DC plan members in the private sector in Manitoba.

Vancouver
604-682-1381

Winnipeg
204-988-1586

Toronto
416-429-3330

Montreal
514-395-1188

Quebec City
418-780-1366

Halifax
902-492-2822

Barbados
246-228-0865

Jamaica
876-908-1203

ECKLER
ECKLER.CA

Connect with us: