

# A guide to B.C.'s new pension legislation for HR professionals.

October 1, 2015

## A. Summary of changes affecting bc registered pension plans\*

### 1. Governance Policy

All BC-registered plans must have a written Governance Policy (by January 1, 2016, for most plans) but it does not have to be filed with the Superintendent. The Governance Policy must include administrative structures and processes, roles and responsibilities of those involved in plan operations, decision-making authority, performance measures, codes of conduct and conflicts of interest procedures, access to information procedures, education and skill requirements for administrative tasks, a list of material risks and modes of risk management, and dispute resolution procedures. Plan members have a right to review the Governance Policy.

### 2. Funding Policy

All BC-registered Defined Benefit (DB) and Target Benefit (TB) plans (now called "benefit formula plans") must have a written Funding Policy (by January 1, 2016, for most plans) but it does not have to be filed with the Superintendent. The Funding Policy must address issues relating to funding risks, risk tolerances, internal

risk management controls, funding ratio expectations, and frequency of monitoring through valuations. Plan members have a right to review the Funding Policy and a copy must be provided to the plan actuary.

### 3. Plan Record Retention Policy

All BC registered plans must have a Plan Records Retention Policy in place (by January 1, 2016, for most plans). Plan records, or a copy thereof, must remain in Canada (commencing January 1, 2016, for most plans).

### 4. Triennial Administrative Assessment

To confirm compliance with the plan text, Governance Policy, Funding Policy and Investment Policy, as applicable, and the performance of any trustees, administrative staff and agents, the plan administrator must undertake and document an assessment once every three years. The Triennial Administrative Assessment need not be filed with the Superintendent but must be available for inspection upon request. The first assessment must be completed within 12 months of the end of the first fiscal year on or after September 30, 2015 (by December 31, 2016, for most plans) and, after that, within one year following the end of every third fiscal year.

### 5. New Plan Designs

The PBSA and Regulation permit the creation of Target Benefit Plans and Jointly-Sponsored Plans:

#### Target Benefit Plans

TB plan formulas are similar to those of DB plans (although benefits are not 'guaranteed'); rather, the annual retirement pension is 'targeted' and contribution rates, which include a buffer for adverse deviation, are fixed. If insufficient funding occurs, contribution rates will be increased or benefits reduced to return to balanced funding in accordance with the Plan's Funding Policy. Members bear the risk of benefit reductions while members and sponsors bear the risk of contribution increases. Where excess funding occurs, benefits can be improved (temporarily or permanently) or contribution rates reduced. Valuations include stress testing for material risks affecting funding and commuted value transfers are based on the latest filed going concern valuation reports. Conversion of existing DB plans to TB is permitted and, unlike Alberta, benefits which accrued prior to the conversion may be reduced. [Note: TB provisions apply to multi-employer pension plans (MEPPs) and benefit conversion (DB to

TB) will be permitted for some MEPPs. It is unclear when TB provisions will apply to single employers.]

### Jointly-Sponsored Plans

A Board of Trustees (at least half of which represent plan members) must oversee investments, plan administration and governance. Cost sharing between employers and active members is based on negotiated agreements, while benefits can be reduced where funding deficiencies are identified. As joint sponsors, members assume a share of the plan risks.

### 6. Solvency Reserve Accounts (SRA)

To reduce the risk of 'trapped capital' in a pension fund, DB administrators can create a SRA and direct solvency deficiency payments into that account. Surplus in the SRA is deemed to be the sponsor's property and the sponsor can seek the Superintendent's approval to withdraw SRA surplus subject to various conditions, including:

- solvency assets must exceed 105% of solvency liability (solvency excess);
- maximum of 20% of solvency excess can be withdrawn annually for three years (until the next actuarial valuation);
- withdrawal must not cause an unfunded liability; and
- members are notified of the withdrawal in their next annual statement.

SRA balances can be retrieved following plan termination after all benefits have been satisfied.

### 7. Remitting Contributions and Contribution Schedules

Normal cost contributions and special payments in respect of solvency

deficiencies or unfunded liabilities, which currently can be remitted quarterly, need to be remitted monthly. FICOM has indicated that single employer plans must provide their fund holder(s) with an updated Schedule of Expected Contributions by October 30, 2015, and, going forward, within 30 days from the beginning of a plan's fiscal year or after the occurrence of an event that materially changes the required contributions.

### 8. Fund Holder Obligations

At least quarterly, fund holders must determine whether a plan sponsor is remitting at least the minimum contributions required by the Regulation. If actual contributions are less than 90% of expected contributions, the fund holder must report this finding to the Superintendent within 45 days (previously, 90 days). A fund holder must advise the Superintendent within 30 days if it has not received contributions within 15 days following the remittance due date.

### 9. Discharge of Liability

The administrator, employer and former employers will be discharged from liability through a group annuity purchased by the administrator of an ongoing DB plan for the benefit of deferred members and retirees provided it complies with the PBSA and Regulation. A discharge will generally be available if the annuity provides the same amount and form of benefit entitlement as under the plan.

### 10. DC Default Investment Requirements

For member-directed DC plans or provisions there must now be a balanced fund or target date fund (which takes a member's age into account) as the default investment. Affected plans have until June 28, 2016, to implement the default options.

### 11. Contribution Holidays

Contribution holidays continue to be permitted for DB plans with at least a 105% going concern funding ratio, provided there is no solvency deficiency (and no solvency deficiency is created by the contribution holiday) and subject to using a maximum of 20% of the going-concern actuarial excess above the 105% threshold over three years (previously, over five years). Members are to be notified of the contribution holiday in their next annual statement and the Superintendent and fund holder must receive prior written notice of intent to take a contribution holiday.

### 12. Audited Financial Statements

Audited financial statements are no longer required for DC plans, or the DC provision within a plan, and DC assets are not to be considered when assessing whether a plan has exceeded the \$10 million threshold that triggers the need for audited financial statements. Audited financial statements are now only required for DB or TB plans or provisions with assets exceeding \$10 million and for collectively bargained MEPPs. Audited financial statements are now due within 180 days following year-end (previously, 270 days) and must now include information respecting pension benefit obligations.

### 13. Elimination of SIP&P

Statements of Investment Policy and Procedures are no longer required for member-directed DC plans and provisions.

### 14. New Plan Amendment Rules

The Superintendent may refuse to register an amendment if, for DB provisions, the amendment reduces the solvency ratio below 90% or, for TB provisions, the amendment reduces the going-concern ratio below the

requirement set out in the Regulation. There is no longer a requirement for advance notice of material changes unless it affects member contributions or reduces member benefits. Notice of all amendments must appear in the next annual member statement.

#### 15. New Plans for Specified Individuals

Beginning in October 2015, plans for specified individuals (mostly individual pension plans) will cease to be exempt from the majority of PBSA provisions. Plans for connected individuals and existing designated plans for connected individuals will remain mostly exempt from the PBSA.

#### 16. Partial Plan Termination

Partial terminations are now eliminated due to new immediate vesting and locking-in requirements.

#### 17. Actuarial Valuations

New actuarial reports are necessary where events materially affect the cost of benefits or create an unfunded liability or solvency deficiency. New actuarial reports may be necessary where there is a material change in plan membership or contribution rates change under a TB plan.

#### 18. DB Commuted Value Transfer Deficiencies

Where a DB plan's solvency ratio is less than 1, commuted value transfers are restricted to the product of the commuted value of the member's benefit multiplied by the solvency ratio. The balance must be paid by the fifth anniversary of the original transfer, when the solvency ratio becomes 1 or more, or if a payment equal to the balance is made to the plan.

#### 19. Participation Agreements

Participation Agreements which comply with the PBSA and Regulation content requirements are required for non-collectively bargained MEPPs. The administrator and participating

## Plans for connected individuals and existing designated plans for connected individuals will remain mostly exempt from the PBSA.

employers need to execute a written participation agreement (or update an existing agreement) that meets the new criteria (by January 1, 2016, for most plans).

#### 20. Retiree Portability Upon Termination of Plan

Subject to the Superintendent's consent, retirees of a terminated plan can transfer the commuted value of their entitlement out of the plan to specified arrangements.

#### 21. "Locked-in Retirement Account" (or "LIRA")

Replaces the terms "locked-in registered retirement savings plan", "locked-in RRSP" and "LIRRRSP". The term "Life Income Fund" (or "LIF") will continue to be used. The criteria for offering LIRAs and LIFs will change and be harmonized with the requirements in place in Alberta.

#### 22. New Administrative Penalties

The Superintendent is authorized to impose administrative penalties on companies and individuals for material non-compliance with, or breaches of, the PBSA. Administrative penalties imposed by the Superintendent may not be paid from the pension fund.

#### 23. Offences and Penalties

Regulatory penalties for offences under the PBSA have been increased. Maximums run between \$100K (individual) and \$500K (corporation). Penalties imposed as a result of an offence may not be paid from the pension fund.

#### 24. Limitation Period

Prosecution of an offence under the PBSA, or the levying of an administrative penalty by the Superintendent, cannot take place later than 3 years after the time that the Superintendent had knowledge of the offence or material non-compliance.

### B. Summary of changes affecting pension plans with bc members\*

#### 25. Vesting and Locking-in

Immediate vesting and locking-in is required for all service (no grandfathering). Eligibility rules for new members have not changed; plan designs can still require 2 years of service before joining the plan (avoids immediate vesting for new hires).

#### 26. Plan Membership Rules

With the removal of prescribed eligibility classes, plan sponsors will enjoy greater flexibility and can now determine who can become a member, allowing for customized employee classes. For optional participation, plans can introduce auto-enrolment subject to providing written explanations to employees about opt-out provisions.

#### 27. Small Benefits

Employees can receive the commuted value of their pensions if the value is 20% or less of the YMPE in the year the value is determined or re-determined (previously, 20% or less of the YMPE as at the date of termination or if the annual pension payable was less than 10% of YMPE.)



## 28. Shortened Life Expectancy and Financial Hardship

Plans are now required (previously, optional) to permit active or deferred vested members to unlock their pension entitlements due to shortened life expectancy. Financial hardship unlocking will be available from either a LIRA or a LIF. Where applicable, a spousal waiver may be necessary.

## 29. Life Income Benefits

DC plans are now permitted to offer life income benefits (also known as DC variable benefits) provided they comply with the detailed administrative and member communication requirements set out in the Regulation.

## 30. Minimum Death Benefits

The pre-retirement survivor benefit is now 100% of the commuted value of the member's benefit for all service with an immediate pension payable to a surviving spouse regardless of age at the time of death. (Previously, the minimum was 60% of the commuted value for post-1992 service only, plus member contributions and interest for

pre-1993 service.) Plans may require a surviving spouse to transfer locked-in amounts out of the plan if the member dies prior to pension commencement.

## 31. Mandatory Transfer of DC Entitlement

A plan administrator may require that the DC entitlement of a terminated member, or surviving spouse, be transferred out of the plan. (Previously, administrators could only require a transfer for terminated DC member benefits if not eligible for an immediate pension.)

## 32. Phased Retirement Provisions

Plans may permit phased retirement in accordance with rules established under the Income Tax Act (Canada) and Regulation. This permits a plan to allow active members to receive partial benefits while still in active employment.

## 33. Minimum Employer Contributions

The "50% Rule" for post-1992 service will only apply to the period in which a member is required to contribute. (Previously, it applied to all service regardless of contribution requirements.)

## 34. Commuted Value Calculations

Committed value payments for TB or DB plans are to be calculated at time of termination from plan membership and must be recalculated if not paid or transferred within 180 days of determination. The recalculation must now be done not more than 30 days before the actual payment or transfer.

## 35. Member Communications

In order to harmonize with other jurisdictions, the timing and content of member communications (annual, retirement, termination and death) have changed. There are new disclosure requirements for retired members who are entitled to annual statements commencing in 2016 –

content is mostly general with the same information going to all retirees. Sponsors may choose to provide more information if desired. No statements are required for deferred-vested members. Many member statements will have enhanced disclosure requirements including information relating to the jurisdiction governing member benefits. New statement requirements also apply to members receiving lump sums, life-income benefits and to whom change in contribution and reduction of benefits rules apply. Existing termination, retirement and death benefit statements will likely need to be revised to address immediate vesting and locking-in and new small benefit unlocking thresholds.

## 36. New Spousal Waiver Forms

New prescribed spousal waiver forms need to be used commencing on September 30, 2015.

## C. summary of timeline for compliance – key components of new PBSA\*

- Administration of new requirements – Plan text amendments are not immediately required but the plan must be administered to reflect new PBSA and Regulation on and after September 30, 2015, for such things as eligibility, immediate vesting and locking-in for all service, small benefit unlocking thresholds, calculation of benefits on death and disclosure.
- Plan amendments – File compliance amendments or restated plan text with applicable regulator by December 31, 2015.
- Contribution Schedule – To be provided to fund holder by October 30, 2015, – applicable to all plans except collectively bargained MEPPS. Note that contributions to any BC registered pension plan must be remitted monthly.

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Many member statements will have enhanced disclosure requirements including information relating to the jurisdiction governing member benefits.

- Written Governance and Funding Policies – January 1, 2016 (for most plans - technically the first day of the fiscal year on or after September 30, 2015.) The Funding Policy is only required for DB and TB components. Once adopted, the Funding Policy must be provided to the plan actuary.
- Triennial Administrative Assessment – December 31, 2016 (for most plans – technically the first assessment must be completed within 12 months of the end of the first fiscal year on or after September 30, 2015).
- Participation Agreements for non-collectively bargained MEPPs – January 1, 2016 (for most plans – technically beginning of the first plan year commencing on or after September 30, 2015).
- Default DC investment option – June 28, 2016 (for most member-directed DC plans or provisions – technically 180 days following the beginning of the first plan year following September 30, 2015).
- Records Retention Policies – January 1, 2016 (for most plans – technically the beginning of the fiscal year commencing on or after September 30, 2015).
- Member communications and statements – Annual retiree statements and revised communication requirements commencing in 2016 in most cases – technically the first plan year-end after September 30, 2015.




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\*This bulletin provides a summary of the new B.C. Pension Benefits Standards Act (PBSA) and Regulation which come into effect on or after September 30, 2015. It is intended for information purposes only and does not constitute legal advice or an opinion on any issue. Because each pension plan is different, we would be pleased to provide advice about specific situations, if desired.

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