

Strengthening Risk Management, Disclosure and Accountability

We Want Your Feedback

A Discussion Paper Prepared By:

Alberta Finance

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Strengthening Risk Management, Disclosure and Accountability

Proposed Amendments to the Employment Pension Plans Act

Introduction

Recent events in the corporate world, and current concerns about the impact of markets on the funding of pension plans have renewed focus on the need for strengthening pension plan risk management, and improving disclosure and accountability to members. Registered pension plan members, whether in defined benefit or defined contribution plans, need access to information about their plans and greater assurance that plan administrators will provide them with complete and accurate information on a timely basis.

With this in mind, Alberta Finance has identified pension plan governance as a strategic priority. The department has reviewed the *Employment Pension Plans Act* with a view to reinforcing the Superintendent of Pensions' ability to protect plan member interests by strengthening measures for enforcement and disclosure, and enhancing transparency. Other changes proposed are intended to update the legislation to better reflect the changing needs of plan members and administrators as well as current practice in the pension industry. Finally, plan administrators, family lawyers and others have alerted Alberta Finance to the need for greater clarity, flexibility and administrative simplicity around the legislative provisions for dividing pension benefits on marriage breakdown.

This paper describes the amendments under consideration by Alberta Finance. We are looking for comments and viewpoints on these amendments from plan members, plan sponsors, service providers and any other interested parties.

Request for Input

Interested individuals and groups are asked to review this discussion paper and provide their comments to Alberta Finance by **January 31, 2004**.

All submissions should include the name of a contact person and contact details (return address, telephone, fax and e-mail address).

*Please note that all comments and opinions received in response to this discussion paper become the property of Alberta Finance. While personal or confidential business information will be protected where possible, Alberta Finance reserves the right to publicly disclose information from the submissions in accordance with the provisions of the **Freedom of Information and Protection of Privacy Act (RSA 2000)**.*

For a description of how submissions may be used and disclosed, please see the section entitled “Next Steps” on page 18.

Responding to this Discussion Paper

There are three methods of responding to this discussion paper:

1. You can write to: “Risk Management, Disclosure and Accountability”
c/o Alberta Finance, Employment Pensions
402 Terrace Building
9515-107 Street
Edmonton, AB T5K 2C3
2. You can e-mail us at accountability.paper@gov.ab.ca
3. You can send a fax to (780) 422-4283.

This paper, and a technical discussion paper on the [Division of Pensions on Marriage Breakdown](#), are available on the Alberta Finance website, www.finance.gov.ab.ca. If you require further information, telephone the Office of the Superintendent at (780) 427-8322. Albertans outside the Edmonton area may dial that number toll-free by first dialing the Alberta Government toll-free number 310-0000.

Proposed Amendments to the Employment Pension Plans Act

1. Risk Management, Disclosure and Accountability

1.1 Authority of the Superintendent to Appoint an Administrator

Proposal: Add new provisions to the legislation to allow the Superintendent to remove the administrator of an ongoing pension plan and appoint a new administrator where the Superintendent deems that the current administrator is unwilling or unable to administer the plan according to the *Employment Pension Plans Act*.

An administrator, under s. 1(1)(b), s. 10(1) and s. 11(1) of the Act, is the employer or board of trustees of a single-employer plan or, for multi-employer and multi-unit pension plans, a board of trustees or similar body constituted under a trust deed or agreement.

Currently the legislation does not provide for the Superintendent to remove an ineffective administrator who may be jeopardizing the security of the plan. The proposed new provisions would enable the Superintendent to better protect the plan and the members' interests.

1.2 Authority of the Superintendent to Require an Independent Valuation of the Market Value of Assets

Reference: Act Section 87

Proposal: Amend the legislation to give the Superintendent the authority to require an independent valuation of the market value of a specific plan's assets, or particular assets held by the plan.

These provisions would give the Superintendent additional measures to safeguard the plan, and help deter any aggressive valuation of plan assets by plan administrators. At present, the Superintendent's authority is unclear regarding requirements for an independent valuation.

1.3 Authorized Persons to Perform Investigations

Reference: Act Section 90

Proposal: Add new provisions to the legislation to strengthen the Superintendent's ability to authorize an outside party, for example a forensic auditor, to perform plan investigations.

Currently, the term "authorized person," means the Superintendent or a person appointed under the *Public Service Act* who is designated as the Superintendent's representative. The proposed

amendments would grant the Superintendent greater flexibility to obtain external, expert advice where necessary.

1.4 Intentional Misleading Statements or Omissions an Offence

Reference: Act Section 92(1)

Proposal: Amend the legislation to make it an offence for a person to make intentional false or misleading statements, or refuse to provide information to the Superintendent or the Superintendent's representative. This would be an addition to the offence provisions already in the Act that provide for fines of up to \$100,000.

The existing provisions deal only with false or misleading statements and withheld or destroyed information in the plan's records. The proposal addresses the need for the Superintendent, when performing plan examinations, to obtain correct and complete information from the persons involved in the plan's administration.

1.5 All Plan Documents Must be Consistent with the Legislation

Reference: Act Sections 1(1)(gg), 8, 13

Proposal: Amend the legislation to enable the Superintendent to ensure that the terms of all plan documents listed under Act s. 19 and 20, rather than just the "plan text," are consistent with the *Employment Pension Plans Act*.

All plan documents should be consistent with the legislation. Currently, while the Act gives the Superintendent authority to ensure that the terms of the "plan" (the contract setting out the terms of the plan) are compliant, it does not clearly provide similar authority to ensure that provisions of other plan documents, as listed in s. 19 and s. 20 of the Act, are compliant.

1.6 Responsibility of Board of Trustees – Plans with Collectively Bargained Contribution Rates

Reference: Act Section 48, Regulation Section 68(8)

Proposal: Amend the legislation to clarify that where a board of trustees administers a pension plan that is maintained under a collective agreement, the board of trustees is responsible for ensuring the funding of the plan as required under the Act.

The Act limits the liability of employers participating in Specified Multi-Employer Plans (SMEPPs), and single-employer plans where the employer's contributions are negotiated under the collective agreement, to those contributions set in the collective agreement. Nevertheless, the

current service costs of a plan and any funding deficiency payments must be met according to the terms and time limits set under the Act. Since the employers' liability is limited to contributions set in the collective agreement, the full responsibility for properly funding these plans rests with the board of trustees.

1.7 Responsibility of Employer – Collectively Bargained Single-Employer Plans

Reference: Act Sections 48, 73(2)

Proposal: Amend the legislation to clarify that an employer in a single-employer, collectively bargained plan is exempt from making solvency deficiency payments on the termination of the plan.

This would put such employers on the same footing as other employers participating in collectively bargained plans. The Act limits the liability of employers in collectively bargained plans to the contributions set in the collective agreement.

1.8 Require Audited Financial Statements

Reference: Act Section 14(3)(d), Regulation Section 25(1)(b)

Proposal: Extend the provisions of the legislation to require audited financial statements (AFS) to be prepared and filed by most pension plans. The Superintendent would set a standard format for the statements. Exceptions would be:

- Defined Contribution (DC) plans that invest through insurance contracts,
- DC plans where the accounts are entirely member-directed, because statements are provided to the members and the members themselves are responsible for monitoring their accounts.
- Plans for Specified Individuals (regardless of whether any part of proposal 3.4 is adopted).

Instead, DC plans that invest through an insurance company would be required to provide the year-end account statement from the insurance company.

Further regulatory amendments would to ensure that all plan members are entitled to examine their plan's audited financial statements.

Currently, the Act's only requirement is for Specified Multi-Employer Pension Plans (SMEPPs) to file audited financial statements if such statements are prepared. Requiring most plans to prepare and file annually audited financial statements, and allowing members to examine these statements, would enhance risk management and disclosure. The standard format would ensure that the information required by the Superintendent is provided.

1.9 Notification of Adverse Amendments

Reference: Act Sections 15, 20, Regulation Section 12, 27

Proposal: Amend the legislation to specify that the Superintendent may withhold approval of an adverse amendment until satisfied that the plan administrator has met the legislated requirements for consultation with persons entitled to or receiving benefits. Such consultation must include an explanation of the impact of the amendment.

An adverse amendment is one that will negatively affect entitlements to benefits. Such amendments are permitted as long as they do not have retroactive effect (note: in certain circumstances, Specified Multi-Employer Pension Plans can retroactively reduce benefits), but the administrator is required to notify the members, deferred vested members and persons receiving benefits. This proposal strengthens the enforcement of the notification requirement, by giving the Superintendent the ability to withhold approval of an adverse plan amendment. It is intended to improve disclosure by ensuring that affected persons are adequately informed prior to such adverse provision taking affect.

1.10 Disclosure of Documents to Plan Members and Employers

Reference: Act Section 15, Regulation 25

Proposal: Amend the legislation to require greater disclosure of plan documents to the members of all plans, and to participating employers of Specified Multi-Employer Pension Plans (SMEPPs) and Multi-Unit Pension Plans (MUPPs), as follows:

- a. Add to the list of documents available for inspection by the members of all plans, and by participating employers any Report prepared by the Superintendent pursuant to a review of a plan's administration.
- b. Add a requirement that SMEPPs and MUPPs disclose to participating employers any general information that is available to plan members, such as plan texts including amendments, audited financial statements, participation agreements, statements of investment policies and procedures, annual information returns, cost certificates, trust deed or agreement, insurance contracts, by-laws or resolutions relating to the plan, termination or wind-up report, and Superintendent reports (*note: this would not include plan members' personal information*).
- c. Require administrators to provide, on the request of a plan member or a participating employer, copies of documents that members and participating employers have the right to access under the Act (*see b. above*).

- d. Amend the regulation to require that member annual statements include a list of the documents that members are entitled to review and receive copies (*see b. above*).

These amendments would enhance disclosure and accountability. For SMEPPs and MUPPs, some employers have experienced difficulty in obtaining information about the plan to which their employees belong. Reports prepared by the Superintendent may contain information important to plan members or participating employers. Plan members of all plans and participating employers of SMEPPs and MUPPs should have access to information about the plan to enable them to hold administrators/trustees accountable.

1.11 Disclosure of Investment of Assets

Reference: Act Section 15(1)(a)(ii), Regulation Section 13(1)

Proposal: Amend the legislation to be more specific about the requirement to disclose to members, upon joining the plan, how the pension plan's assets are invested. This requirement is in place to assist plan members to understand how interest is applied to their contributions. In cases where any member contributions are accruing interest at the fund rate of return, and where employer contributions to Defined Contribution plans are accruing interest at the fund rate, the plan must provide to the members a brief description of how the assets of the plan are invested.

A description of how the plan's assets are invested would not be required in cases where interest on contributions is paid at the CANSIM Series B 14045 5-year Guaranteed Investment Certificate rate, or where the member directs the investment of the account.

1.12 Additional Disclosure of Information to Members

Reference: Regulation Sections 14, 15, 16, 17, 19 and 22

Proposal: Amend the regulation so that member statements (annual, member termination, retirement, transfer, pre-retirement death benefit, termination/wind-up or a plan) are required to include the following additional information: (a) date of enrolment in the plan, (b) date of birth and, where applicable, (c) name of the pension partner and (d) designated beneficiary.

These changes would allow a member to check the accuracy of the information held by the plan.

1.13 Fund Holder Responsibility to Monitor Remittance of Contributions

Reference: Act Section 50

Proposals:

- a. Amend the legislation to clarify that the fund holder, in the case of a single-employer plan, is responsible for monitoring contribution remittances to the pension fund and reporting to the Superintendent if expected contributions are not remitted or are remitted late.
- b. Amend the legislation to clarify that the custodian, in the case of a plan where the fund holder is a board of trustees, is responsible for monitoring contribution remittances to the pension fund, and reporting to the Superintendent if expected contributions are not remitted or are remitted late.

To effect a. and b. above, the legislation would require the administrator to submit a summary of expected contributions to the fund holder or the custodian. If there are changes in the summary of contributions, plan administrators must provide a revised summary of contributions. The Superintendent would set a standard format for such summaries.

- c. In addition, the amendments will clarify that it is the responsibility of an administrator of a Specified Multi-Employer Plan or Multi-Unit Plan to take action where an employer fails to remit the required contributions to the administrator within the required time limits. Reporting such delinquencies to the Superintendent is not required.

1.14 Definition of Related-Party Transactions

Reference: Act Section 49(1), Regulation Section 50, Schedule III of *Pension Benefits Standards Regulations* (Canada)

Proposal: Amend the legislation so that the “related-party transaction” provisions of Schedule III would apply to situations where a pension fund holder has a controlling interest in a company and members of that company’s board of directors are also on the board of trustees of the pension plan. The amendments would prohibit non-arm’s length transactions between a plan’s board of trustees and any company that is owned by the pension plan.

Schedule III of the *Pension Benefits Standards Regulations* (Canada) deals with investments that are permitted by a pension plan. Specifically, the Schedule sets limits and parameters for plan investments and business transactions with related parties. These rules are intended to reduce plan risk and conflict of interest situations by helping ensure that plans do not engage in inappropriate, related-party transactions. The proposed changes are intended to reinforce these goals.

(Note: Schedule III s. 17(1)(a) states that the administrator of a plan may enter into a transaction with a related party on behalf of the plan if the transaction is required for the operation or administration of the plan.)

2. Division of Pensions on Marriage Breakdown

*Please note: Those wishing more detail about the proposals below and about additional proposals relating to the division of pensions on marriage breakdown can obtain a technical discussion paper called **[Division of Pensions on Marriage Breakdown](#)**, on the Alberta Finance website **www.finance.gov.ab.ca**, or by calling or e-mailing the Office of the Superintendent using the contact information provided in this paper.*

2.1 50% Limit on Division of Benefits

Reference: Act Section 59, 63

Proposal: Remove sections of the legislation that stipulate that the division of a benefit between two spouses must not reduce the member-spouse's share of the total pre-division benefit by more than 50 per cent.

This would increase flexibility regarding the division of matrimonial property between separating spouses by permitting judicial discretion in the division of a pension. The *Matrimonial Property Act* currently presumes a 50-50 split, but allows the couple to agree to, or the Court to impose, another apportionment.

2.2 Division by Agreement

Reference: Act section 60, Regulation section 1(1)(e)

Proposal: Enable divorcing parties to divide their matrimonial property by an agreement that is not a consent order validated by the Court. Currently, an agreement between the two parties must take the form of a consent order so validated.

Instead, the plan administrator could rely on the agreement if it complies with the execution requirements set out under the *Matrimonial Property Act*. The plan administrator would be further protected by the provision, already in the EPPA, that permits the administrator to go to Court at the couple's expense to have the agreement interpreted in the event that the administrator does not believe he can act on the agreement as received.

2.3 Delayed Division

Reference: Regulation section 58

Proposal: Give the pension partner of any vested member the option of delaying receiving his or her share of the pension until the time when the member receives his or her benefit.

This option currently is available only to pension partners of members who are within 10 years of pensionable age. For all others, the payment must take the form of a lump-sum locked-in transfer at the time of marriage breakdown.

The advantage of getting a lump sum at the time of marriage breakdown is that it severs permanently the financial tie between the two pension partners. The disadvantage is that the immediate transfer may understate the true value of the non-member's share, depending on future events. Adding the option of a delayed distribution gives the non-member pension partner access to that potential additional value. The potential additional value can be significant in defined benefit plans that base the pension on the highest average salary, and in plans that offer cost-of-living adjustments.

3. Other Measures to Update the Legislation

3.1 Plans Have the Responsibility to Pay Pensions

Proposal: Add a new section to the Act to specify that when a member becomes entitled to receive a pension, it is the plan's responsibility to make the arrangements for the pension to be paid.

This amendment is intended to clarify that, in the case of Defined Contribution plans, when a member is entitled to receive a pension, the options that must be provided to the member include full portability options to a Life Income Fund (LIF) or Locked-In Retirement Income Fund (LRIF), plus the option of having a life annuity purchased by the plan administrator. If a member chooses an annuity, it is the plan's responsibility, and not the member's, to purchase the annuity.

3.2 Transfer Out of Assets on Termination – Defined Contribution Plans

Reference: Act Section 34

Proposal: Amend the legislation to allow a Defined Contribution plan to force a member who terminates before pension commencement to transfer their pension assets out of the plan.

Defined Contribution plans that do not want to be in the business of administering retirement monies for ex-employees would have the option of requiring terminating members to transfer their pension assets out of the plan. This would reduce the problem of unclaimed accounts that add administrative burden and make it more difficult to wind-up a terminated plan.

3.3 Allow Defined Contribution Plans to Administer LIFs and LRIFs

Reference: Act Section 38

Proposal: Amend the legislation to give Defined Contribution plans the option of providing and administering LIFs and LRIFs on behalf of their retired members.

Some Defined Contribution plan members, on retirement, may wish to maintain their portfolio of investments within the plan, rather than transferring their pension funds out of the plan. The proposed changes would allow those DC plans that are willing to administer retirement monies the option of providing LIFs and LRIFs for their retirees. However, DC plans that allow retired members to move their funds into plan-administered LIFs and LRIFs must also give them the option of transferring their pension funds out of the plan.

3.4 Plans for Specified Individuals (PSIs)

Reference: Act Sections 1(1)(ii), 73, Regulation Section 68

Proposal: There are a number of proposed options for consideration with respect to Plans for Specified Individuals (PSIs):

- a. Amend the legislation so that PSIs are not required to be registered under the EPPA OR require that PSIs must be registered only if the members are not “connected persons” (i.e. have control over the business entity, as defined in the *Income Tax Act*).
- b. If PSIs are still to be registered under the EPPA:
 - i. Where the persons receiving benefits are “connected persons,” exempt PSIs from the requirement to fund solvency deficiencies on plan termination, OR
 - ii. Exempt PSIs from the requirement to fund solvency deficiencies on plan termination if the members consent to a reduction in benefits, OR
 - iii. Give the Superintendent the power to exempt PSIs from the solvency funding requirements.

* *PSIs would still be registered with the Canada Customs and Revenue Agency (CCRA) under the Income Tax Act, and would be eligible for tax deferrals even if not required to be registered under the EPPA.*

Many PSIs cover one person or a small number of persons who, frequently, are owners of the company or otherwise connected to the owners of the business entity. These individuals usually have more control over their employment financial arrangements and do not require the oversight and protection of the Superintendent. An exception to this includes those situations where the members are not connected persons, for example, executives who do not have a controlling ownership interest.

3.5 Pre-Retirement Death Benefit Spousal Waiver

Reference: Act Sections 39, 40

Proposal: Amend the legislation to permit a plan member's pension partner (spouse) to give up his/her entitlement to the pre-retirement death benefit, either before or after the death of the member. Also, permit the member in the case of a pre-death waiver, or the pension partner in the case of a post-death waiver, to designate a beneficiary to receive the benefit instead.

This would give plan members and their beneficiaries more flexibility as to their options for pre-retirement death benefits.

3.6 Pension Coordination with Canada Pension Plan (CPP)

Reference: Act Section 43(4)(a)

Proposal: Amend the legislation so that, under the pension adjustment provisions, pensions can be reduced by a maximum of the average CPP pension paid, either in Alberta or for Canada as a whole, according to the most current Human Resources Development Canada CPP statistics.

Some pension plans allow members who retire before age 65 to “coordinate” their pensions with the amounts they expect to receive from Old Age Security and the CPP once they reach age 65. Coordination allows a member to receive a larger amount of pension before age 65 in exchange for a smaller pension after age 65. The intention is to make the total amount of retirement income approximately the same before and after age 65.

The current legislation has been interpreted to mean that, for those choosing coordination, the pension is reduced by the maximum CPP pension payable. However, most workers do not receive maximum CPP retirement pensions. As a result, the CPP pension they actually receive will not make up for the amount their pension is reduced at age 65, with the result that the individual's total retirement income decreases at that time.*

** For 2003, a maximum CPP retirement pension is \$801.25 per month. The average CPP pension paid to retired Albertans in September 2003 was \$440.54 per month and, for Canada as a whole, \$446.93 per month.*

Plan administrators cannot know for certain what an individual member's future CPP retirement benefits are going to be. This compromise proposal recommends that a coordinated pension be reduced by no more than the average Albertan's (or the average Canadian's) CPP pension. Human Resources Development Canada (HRDC), on their website, publishes this information monthly in the Statistical Bulletin for the CPP and Old Age Security.

(Note: This proposal does not apply to "bridge benefits", which are added benefits paid before age 65 that do not require the member to take less than their normal pension after age 65. It also does not apply to a pension plan design that "integrates" the plan with the CPP, paying a lower pension on earnings below the maximum earnings covered by the CPP pension.)

3.7 Postponed Pensions

Reference: Act Section 44, Regulation Section 1(1)(h)

Proposal: Amend the legislation to require that members who continue to be employed after attaining pensionable age, and who have not commenced a pension, have their eventual pension adjusted by either:

- the pension payable as a result of the continued accrual of the member's pension after pensionable age, or by
- an actuarial increase to the normal pension that would have been payable at pensionable age.

The current legislation requires only the first alternative. This may encourage people to work longer by increasing the pension, the longer the person works after pensionable age.

3.8 Closing Plans to New Entrants

Reference: Act Sections 29, 70, Regulation Section 30

Proposal: Amend the legislation to allow a plan, at the discretion of the Superintendent, to remain open for the existing membership but closed to new entrants. The plan sponsor would be required to have another plan for new employees.

Currently, the legislation requires that a plan that has not been terminated must cover all of a prescribed class of employees. The intent of the amendment is to give plan sponsors additional flexibility especially in instances of acquisitions and mergers. Allowing a plan to be closed to new entrants would enable a plan sponsor to phase-out gradually an existing plan, or to control and pay down the liabilities of an existing plan, while maintaining another plan for new employees.

3.9 Non-Alienation of Pension Benefits

Reference: Act Section 85

Proposal: Amend the legislation so that it is clear that the prohibition against the assignment or alienation of benefits, and their exemption from seizure or attachment, does not apply to pension payments made to the member on retirement or contribution refunds paid to the member.

These amendments are intended to clarify that pension monies are protected from alienation or attachment while they are in the pension fund or in a locked-in account, but that payments out of the fund to an individual, in the form of benefits or refunds, become accessible to parties such as creditors.

3.10 Specified Multi-Employer Pension Plan Funding - Solvency

Reference: Act Section 48(2)

Proposal: Amend the legislation to introduce some flexibility around requiring Specified Multi-Employer Pensions Plans (SMEPPs) to fund on the basis of solvency. The proposal is to make available an option that would place a temporary moratorium of three years on solvency payments by Specified Multi-Employer Pension Plans. Plans selecting this option in order to avoid solvency payments would be:

- Required to continue to test for solvency, and
- Prohibited from improving benefits while a solvency deficiency exists, and
- Required to adopt an amortization schedule of not more than 10 years for unfunded liabilities, using the plan's going concern discount rate and the market value of assets.

The legislation currently requires solvency tests to be performed, and requires all plans to fund on the basis of those tests. If a plan does not have sufficient assets to cover the cost of benefits that would be payable if the plan were to terminate, the employer must amortize the funding deficiency ("solvency deficiency") over not more than five years. Solvency funding was put in place to lessen the chances that plan members would not receive full benefits if the plan were to terminate. Due to current market conditions – low interest rates that result in high solvency liabilities, plus recent declines in asset values – some plans are having more difficulty funding for solvency deficiencies than for going-concern unfunded liabilities. This is a particular problem for multi-employer collectively bargained plans because it is difficult for them to respond to the variability of solvency payments. Termination of these plans is unlikely (although not unheard of), but it is important to ensure that the plans have long-term stable funding on a going-concern basis.

Canadian pension supervisory authorities are developing new uniform funding rules. Within three years, new rules may be developed that would address the special funding circumstances of Specified Multi-Employer Pension Plans on a longer-term basis.

3.11 Funding Rules in Cases of Joint Employer-Employee Funding of Deficiencies

Reference: Act Section 48

Proposal: Amend the legislation to recognize public sector plans that have joint employee-employer funding agreements.

The legislation as currently written assumes that employers are responsible for plan funding. There are public sector plans with joint employer-employee responsibilities for plan funding that are required to register under the EPPA. This would enable such plans to require sharing of special payments for funding deficiencies, as well as current service costs, between employees and employers.

3.12 Provisions to Deal with the Assets of “Missing Members”

Proposal: Introduce provisions that would enable the Alberta Public Trustee to receive and safeguard the assets of missing members on the termination of a plan.

On a plan termination, there may be deferred members or their beneficiaries that cannot be located after they have exhausted all reasonable search efforts (in a manner satisfactory to the Superintendent). A plan cannot be fully wound-up until these accounts are dealt with. The proposal is to have these accounts held in a group RRSP overseen by the Superintendent, thus enabling the administrator to wind up the plan. The existence of the accounts would be publicized similar to the Bank of Canada’s dormant accounts.

If, after a missing member would have reached age 69, no one has come forward to claim the account, application would be made to the Court to declare the person a “missing person” under the *Public Trustee Act*, order the account in the group RRSP to be unlocked, taxes to be paid and the account to be transferred to the Public Trustee. Eventually, funds held on behalf of a missing person would pass to the Crown. However, if a “missing” member or beneficiary were to come forward at any time, their funds would be made available to them.

3.13 Rights of Pension Partners to Survivor Benefits and Two-Part Pension Partner Waiver

Proposal: Amend the legislation to clearly establish that non-member pension partners have first rights to survivor benefits. This would be applied consistently for registered pension plans, Locked-In Retirement Accounts (LIRAs), LIFs and LRIFs. The amendments would allow the non-member pension partner, or the owner’s pension partner in the case of LIRAs, LIFs and

LRIFs, to waive separately the right to a minimum 60% joint and survivor pension, and rights to other survivor benefits.

Currently, for registered pension plans, the non-member pension partner has a right to a minimum 60% joint and survivor pension, unless s/he waives this right. If this right is waived by the pension partner, then the member can name anyone as beneficiary for whatever survivor benefits remain on his/her death. On the other hand, for LIRAs, LIFs and LRIFs, even though the owner's pension partner has waived rights to a 60% joint and survivor pension, s/he retains the right to survivor benefits on the death of the member/owner. The proposed amendments would introduce consistency among all these vehicles by treating separately rights to a joint and survivor pension, and rights to survivor benefits.

Questions for Consideration

We would like to hear from plan sponsors and administrators, unions, service providers, plan members and all other interested Albertans on the above proposals.

1. If there are proposals that you do not support, please explain why. What would you see as the issue or problem if the proposal were introduced?
2. Are there other legislative amendments you would like to see introduced that are not mentioned in this paper?
3. Do you have any other comments or suggestions about the issues raised in this paper?

Next Steps

Following the review of submissions received by January 31, 2004, Alberta Finance would take the following steps:

1. Prepare a report that summarizes the views of those who have made submissions.
2. The report will list the names of individuals and organizations who have made submissions to Alberta Finance. The report will not disclose their business contact information or any other identifiable personal information about them or any other individuals.
3. The report may attribute comments made by individuals representing organizations to the organization, but will not attribute them to the individual.

4. The report will not attribute a quote or an opinion to a specific individual unless consent has been obtained from that individual to do so.
5. A report will be made public and will be accessible via the Internet.

Glossary of Key Terms

Specified Multi-Employer Pension Plan (SMEPP) – a pension plan administered for employees of two or more employers and designated as a SMEPP by the Superintendent. SMEPPs include all union-sponsored, collectively bargained plans with multiple participating employers, negotiated contributions, defined benefits and limited employer liability. A SMEPP must have a board of trustees or similar body constituted under a trust deed or agreement or similar document.

Multi-Employer Pension Plan (MUPP) – a pension plan with two or more participating employers where the employers' liability is not limited to collectively bargained contributions. A board of trustees or similar body constituted under a trust deed or agreement must administer a MUPP or, alternatively, one employer may be appointed as plan administrator.

Plan for Specified Individuals (PSI) – a pension plan for individuals who own a substantial part or all of the business that employs them, or who earn more than 2.5 times the Canada Pension Plan's Year's Maximum Pensionable Earnings (approx. \$100,000 in 2003), typically the executive officers of a business. A PSI's members are considered to be in a better position than other employees to protect their own interests.