



HIGHLIGHTS OF *THE PENSION BENEFITS AMENDMENT ACT, 2004*

The Government of Saskatchewan recently passed [*Bill 47- An Act to amend The Pension Benefits Act, 1992. The Pension Benefits Amendment Act, 2004*](#) received Royal Assent on June 17, 2004, and will come into effect on the Proclamation date. Accompanying amendments to *The Pension Benefits Regulations, 1993* must be prepared to facilitate a number of the changes brought forward in this new legislation. Although an implementation date has not yet been finalized, January 1, 2005 has been proposed as a target.

Highlights of the changes include:

➤ ***New Provisions to Accommodate Flexible Pension Plans***

The amendments enable, but do not require, employers and unions to develop flexible pension plans. A flexible pension plan is a defined benefit plan with an added feature that permits members to make optional additional contributions to be used to purchase enhanced pension benefits at retirement. A flexible pension plan can offer a number of optional ancillary benefits that typically include, but are not limited to, reducing the age at which an unreduced pension can be paid, improving survivor benefits, providing bridging benefits and cost of living adjustments.

The Pension Benefits Amendment Act, 2004 introduces new provisions to accommodate flexible pension plans by:

- exempting optional ancillary benefits and optional contributions from the 50 percent employer cost rule and the locking in provisions of the Act;
- requiring that interest be paid on optional ancillary contributions;
- permitting optional ancillary contributions to be forfeited if a member's accumulated contributions exceed the amount that can be converted to optional ancillary benefits in order to comply with the *Income Tax Act*; and
- requiring a flexible pension plan to specify the method to be used for the conversion of optional ancillary contributions to optional ancillary benefits.

The provisions are consistent with the guidelines prepared jointly by the Canadian Association of Pension Supervisory Authorities and the Canadian Institute of Actuaries.

➤ ***Pre-retirement Death Benefits Improved***

The Pension Benefits Amendment Act, 2004 enhances the pre-retirement death benefit that is paid on the death of a member. Under the existing legislation, if a member dies before retirement, the pre-retirement death benefit only applies to service on and after January 1, 1994. The amendments extend the application of this provision to all years of service. This change increases the death benefit paid to some surviving spouses and simplifies administration of the provision for pension plan administrators.

In addition, the amendments provide more flexibility to the surviving spouse concerning the available election options, by permitting a lump sum cash payment, and to couples in planning their estates, by permitting a spouse to waive entitlement to the pre-retirement survivor benefit.

➤ **Limits for Unlocking Small Benefits to be Prescribed by Regulation**

Currently, the thresholds for unlocking small benefits held in a pension plan are provided under *The Pension Benefits Act, 1992* and are substantially lower than the limits set by a number of other jurisdictions. The amendments will allow these limits to be established by regulation, which will enable the limits to be increased to be more consistent with the limits provided by other jurisdictions in a more timely manner.

The new thresholds will continue to be based on a percentage of the Year's Maximum Pensionable Earnings in the year of entitlement. The specific percentages have not yet been determined but every attempt will be made to stay consistent with the limits of other Canadian jurisdictions.

➤ **Voluntary Contributions Protected from Creditors**

Currently, *The Pension Benefits Act, 1992* protects assets held in registered pension plans, Locked-in Retirement Accounts (LIRA) and prescribed Registered Retirement Income Funds from enforcement proceedings by creditors (other than enforcement proceedings under *The Enforcement of Maintenance Orders Act, 1997*). This protection does not include additional voluntary contributions made by members.

The Registered Plan (Retirement Income) Exemption Act, which came into force on March 4, 2003, extended the existing exemption from enforcement proceedings for pension money to other forms of retirement savings. Ordinary Registered Retirement Savings Plans, Registered Retirement Income Funds and Deferred Profit Sharing Plans are also now exempt from enforcement proceedings by creditors (other than enforcement proceedings under *The Enforcement of Maintenance Orders Act, 1997*).

The amendments extend the protection provided to locked-in pension money and other forms of retirement savings to additional voluntary contributions in a pension plan.

In addition to the above, the new legislation contains a number of housekeeping amendments that update and clarify existing provisions in *The Pension Benefits Act, 1992*.

Amendments Required to Pension Plans and LIRA Contracts

Many pension plans will require amendments to reflect the provisions of *The Pension Benefits Amendment Act, 2004*. We will ensure that administrators are provided with a reasonable time period for filing any necessary plan amendments after the new legislation is proclaimed.

As well, these amendments may mean that certain provisions governing LIRA contracts established under Section 29 of the Regulations will require changes. For example, some LIRA contracts provide that the assets held in the contract may be unlocked if the owner's locked-in assets fall below the limits set in *The Pension Benefits Act, 1992*. As previously stated, these limits will now be prescribed by regulation.

We will advise you of further developments concerning this legislative initiative as they unfold. In the interim should you require additional information please contact:

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