



## EPPA Update 06-01 New Legislation in Effect

Issued August 2006

The *Employment Pension Plans Amendment Act, 2005* and *Employment Pension Plans (General 2006) Amendment Regulation* (the amendment Act and Regulation) came into force as of August 10, 2006. This Update highlights the changes to the *Employment Pension Plans Act* (the Act) and the *Employment Pension Plans Regulation* (the Regulation) which are new, that may materially impact the administration of a pension plan, or may require an amendment to plan texts. Plan amendments related to the legislative changes must be filed with the next plan amendment, or June 30, 2007, whichever is earlier.

This summary lists all Act changes first, followed by Regulation changes. Where the context requires it, both Act and Regulation changes are listed together if a change to one section in the Act has a corresponding change to the prescribed section of the Regulation.

**Users of this summary are strongly urged to refer directly to the appropriate sections of the Act and Regulation, as this summary is for information purposes only. A significant portion of the changes made to the Act and Regulation involve moving certain portions of the Regulation into the Act, while other changes are housekeeping clarifications. These changes have not been identified in this Update.**

The Amendment Act and Regulation, the Act, and the Regulation are available from the Alberta Queen's Printer either via the internet (<http://www.qp.gov.ab.ca>) or in hard copy. A consolidation of the Act and Regulation will be available shortly from the Queen's Printer.

**NOTE: A proposed regulatory amendment dealing with the use of letters of credit for solvency funding and with changes to the provisions regarding marriage breakdown is not included in this package of amendments.**

<b>Change to Legislation</b> New Section: 1(1)(l.1) Act	<b>Description / Reason for Change</b>
<b>Designation of Beneficiary</b>  New Section: 1(1)(t.1) Act	The Act and Regulation make numerous references to a member of a pension plan making a designation of beneficiary which was previously undefined.
<b>Included Employment</b>  New Section: 1(1)(y.1) Act	This term, used in conjunction with s.1(4.1) of the Act, is used in determining when a member of a pension plan or money transferred out of a pension plan into a locked-in account is subject to the federal <i>Pension Benefits Standards Act</i> .
<b>Member Required Contributions</b>  Amended Section: 1(1)(z) Act	Primarily housekeeping in nature, this term clarifies what is meant by a member required contribution. In particular, where a member makes a contribution that attracts a concurrent employer contribution, that contribution is considered to be a required contribution (for purposes of completing the Annual Information Return).
<b>Multi-Unit Pension Plan</b>  New Section: 1(1)(bb.1) Act	The definition is amended to require that all MUPPs be designated as such by the Superintendent of Pensions. Only Pension plans that have received such a designation are MUPPs.
<b>Other Plan Documents</b>	This term is added to encompass those documents specified in s.19(1)(a)(ii), (iii), and (iv) (trust agreements, etc.). The Act and Regulation are updated in numerous places to reference other plan documents.

New Section: 1(1)(hh.1) Act  
Schedule 0.2 Reg

**Plan for Connected  
Individuals**

This term is used to describe a pension plan whose only members are connected persons for the purposes of section 8500(3) of the *Income Tax Regulations*. PCI plans will no longer be required to file any documents with the Superintendent. For a comprehensive list of changes made in respect of PCI plans, please refer to [Policy Bulletin 16 – Plans for Connected Individuals](#).

Amended Section: 1(1)(xx)  
Act

**Termination of Membership**

The definition of termination of membership is amended to clarify that in a SMEPP, a member's actual date of termination of membership is that date which is the beginning of any period of two fiscal years of the plan in which, at the end of that period, the member has completed less than 350 hours of employment.

Amended Section: 1(1)(ccc)  
Act

**Years of Continuous  
Employment**

This definition is amended to expand the temporary cessation of employment from 26 to 52 weeks to conform to changes in Federal Employment Insurance benefits and maternity leave. The Act and Regulations are updated wherever references to the 26 week period occur.

Further clarification regarding breaks in employment as it applies to a MUPP are provided by s.1(3.1) of the Act.

New Section: 1(1) (i.1), (1.1),  
49(1.1), (1.2) Act

**Fund Holders and  
Custodians**

1. A new definition of Custodian is introduced.
2. Where the fund holder of a pension plan is a Board of Trustees, subsection (1.1) states that the pension plan must also have a custodian. Subsection (1.2) states that a custodian may have a sub-custodian

3. Section 49 of the Act identifies that all pension plans must have a fund holder. However, this requirement does not exclude a fund holder from using the services of a custodian. While the custodian will typically be a different deposit taking institution, there can be situations where the fund holder and the custodian will be the same. In this special situation, the administrator of the pension plan must be named as a party in the custodial agreement.

New Section: 1(1.2), (4.1) Act

**Description of Canadian Jurisdictions**

**Included Employment not deemed to be employment in a geographic region**

Section 1(1.2) of the Act is moved from the Regulation and is amended to add the jurisdiction of “Canada”. This jurisdiction is used in reference to members who are working in included employment and/or the territories and are therefore subject to the federal *Pension Benefits Standards Act* (PBSA) rather than another pension statute. While legislation always implicitly provided for this distinction, the change is made to clarify the concept of the national pension jurisdiction.

“Included employment” is a term defined in the PBSA and encompasses federally regulated industries: banking, telecommunications, shipping and inter-provincial transportation.

Section 1(4.1) of the Act clarifies that if a member is covered by included employment, then notwithstanding the geographical region where the work is performed, the employment and the pension accrued thereto is subject to the provisions of the PBSA.

This particular provision, in conjunction with other similar changes to the Act and Regulation, provide further clarification that there are circumstances where a member would be subject to the PBSA even though his location of employment is in Alberta (e.g. working for Telus in Edmonton or a bank branch in Calgary).

New Section: 1(2.1), (3.1) Act

**Termination of Membership in a MUPP**

Section 1(2.1) has been added to permit MUPPs to extend the date when termination of membership occurs in a manner similar to that permitted for SMEPPs.

A MUPP may provide that termination of membership does not occur unless the member has had no hours of covered employment with any participating employer for a period not exceeding one year. In this way, MUPP members moving from one employer to another are not forced to terminate membership and lose their vested status.

The plan may make this provision mandatory or apply it at the option of the member.

Amended Section: 8 Act

**Directions for Compliance**

1. Subsection (1) clarifies that a Direction for Compliance may be issued if any plan documents do not comply with legislation, (and not just the plan text).
2. Subsection (2) clarifies that if anyone in relation to a pension plan is doing anything that is contrary to safe and sound pension practices, the Superintendent can direct that person to stop from doing that thing. Prior to this change, the cease and desist ability was only applicable to pension administration practices.

New Section: 12.1 Act and  
s.5.1(1) Reg

**Removal of Administrator;  
Appointment of Temporary  
Administrator**

These provisions allow the Superintendent to appoint a new administrator for a pension plan in situations where:

- a pension plan does not have an administrator,
- the current administrator cannot be located; or
- the actions of the current administrator jeopardize the security of the plan and/or it is in the members' best interest to have that person replaced.

Please refer to [Policy Bulletin #28, Appointment of Temporary Administrator](#) for more information.

Amended Section: 13 Act

**General Responsibilities of Administrators**

1. Clarifies that the administrator is responsible for ensuring that the plan text, and any other plan document, comply with the Act.
2. Where an actuarial review of a pension plan is undertaken, that review is to apply only in respect of the defined benefit portion of the plan.

Amended Section: 14(3) Act;  
s.10(2); s. 11 Reg

**Reports, Returns, and Certificates for pension plans**

1. Section 14(3)(b)(i) of the Act states that actuarial valuations filed with the Superintendent must be acceptable to him and, **where applicable**, provide certification of independent asset appraisal for the purposes of completion of the valuation report.

Section 10(2) of the Regulation clarifies that **all** valuation reports must be filed within 180 days from the review date (except SMEPPs = 270 days).

2. Section 14(3)(d) requires certain plans to file audited financial statements (AFS). Previously applying only to SMEPPs, the requirements to file AFS will now apply to many more plans.

Section 11(2) of the Regulation requires that AFSs be filed within 180 days from the end of the fiscal year while subsection (3) sets out which plans must file AFS with the Superintendent. Members are also permitted to review the AFS.

For more information, please refer to [Policy Bulletin #33 – Audited Financial Statements](#).

3. Section 14(3)(e) permits the Superintendent to obtain an independent valuation of the market value of the assets of a pension plan.

Amended Section: 15 Act  
S. 13, 13.1, 14, 15, 16, 17, 19,  
25, 27, 39(20) Reg  
New Section 24.1 Reg

## **Disclosure of Information**

## **Examination and Inspection of Documents**

1. Section 15(1)(a.1) of the Act requires that members of a pension plan that could be adversely affected by an amendment to that plan must be provided advance notice of the adverse amendment. Section 1(9) of the Regulation defines an adverse amendment while s.13.1 of the Regulation details when that notice must be provided. For more information, please refer to [Policy Bulletin #29 – Notification of Adverse Amendment](#).

2. Under s 15(1.1) of the Act, if an administrator provides advance notice of an adverse amendment to a member, there is no need to notify those members regarding the amendment 90 days after it has been registered (as is normally required under s.15(1)(a)(i)(B) of the Act).

An exception to the above is made if the amendment that is ultimately registered under the Act is substantially different from the version communicated in advance to members. In this case, members must receive notice of the changes that were made to the adverse amendment.

3. Section 15(4)(c.1) and (c.2) of the Act permits any person entitled to a benefit, or that person's agent, to examine the plan's audited financial statements or any management report produced by the Superintendent resulting from an examination of the plan as per s.90 of the Act.

4. Instead of examining the documents provided under s.15(4), s.15(4.1) of the Act allows a person entitled to those documents to obtain a copy upon payment of a fee related to the costs of copying that document.

(Note: if a person would prefer to examine the document, but the administrator does not want to permit it, the administrator can deny the examination under s.15(7) of the Act; **however**, a copy of the document must be provided to the person making the request free of charge).

5. Section 15(8.1) gives participating employers in a MUPP or a SMEPP the right to obtain the documents for a reasonable fee as specified in s.15(4) (excluding documents that detail personal information of a plan member).

6. An administrator does not have to comply with s.15(4.1) and (8.1) of the Act more than once per calendar year.

7. The information to be given to members under section 15(1)(a)(ii) of the Act, as provided by section 13 of the Regulation, is amended. Members must now be given a statement identifying the fund holder and additional information, (depending on how plan assets are invested).

8. Sections 13 – 17 and 19 of the Regulation are revised to require that all statements provide the same standard information about the member.

In addition, Regulation section

- 15(1)(j) has been added to outline the disclosure requirements with respect to members who qualify for the 50% unlocking option,
- 16(e)(iii) has been revised to state that an annuity quote will be provided on request (as opposed to automatically with the statement), and
- 24.1 has been added to outline the disclosure requirements for members of a DC RIA.

9. Section 25 of the Regulation requires that members must be permitted to view a plan's three most recent audited financial statements, as well as any transfer agreement referred to in s.23(1) of the Act.

10. Sections 15(1)(j) and 39(20) of the Regulation require that where a member terminates / retires from a pension plan, or has a Locked-In Retirement Account, and elects either a LIF, DC RIA (if the pension plan permits), or a Life Annuity, the appropriate notification regarding a 50% commutation option available to him must be provided.

Amended Section: 19 Act

**Registration of Plans**

Section 19(1)(a)(iii) is amended to require that custodial agreements (where applicable) must be filed with the Superintendent before a pension plan will be registered.

New Section: 19.1 Act

**Relocation of Registration to Alberta**

If the registration of a pension plan transfers to Alberta from another jurisdiction, the administrator has 60 days after being so required to file all amendments and other documents necessary to ensure that the pension plan complies with the Act.

Amended Section: 20 Act  
s.27(4) Reg

**Amendment of Plans**

If a single employer plan becomes a multi-unit plan at some point, the administrator must file with the Superintendent (within 60 days after the designation) all of the documents that would have normally been filed if the MUPP were registering as a newly established plan.

New Section: 20(5) Act

**Administration of Unregistered Plan or Amendment**

If the Superintendent refuses to register all or part of an amendment (or an application for registration of a new plan), then the administrator must retroactively cancel the relevant part of the amendment. Any action made on the assumption that the amendment was valid must be reversed as though the amendment was never made.

New Section: 29(1.1), (1.2) Act  
30 Reg

**Entitlement of Employees to Join Plan**

1. Subject to the approval of the Superintendent, a pension plan may limit or prohibit membership in the pension plan on or after a date specified by the Plan text.

Approval of the Superintendent under this subsection is contingent on the affected members automatically becoming entitled to enroll in another pension plan.

2. Each employee who falls within a prescribed class of members must be permitted to enroll in the pension plan once the requisite service / earnings test has been satisfied. With the changes to s.30 of the Regulation, the rules around the acceptable classes of employees are relaxed to provide more flexibility for the Superintendent in approving an identifiable group of employees as a class of members under a pension plan.

New Section: 35(4.1) Act;  
s.32(1.1), 43 and Schedule 1,  
Form 5 Reg

**Exception to Locking-in for  
Non-Residents**

An exemption to the locking-in requirements of the Act is provided to members and former members if they have been declared non-residents of Canada for purposes of the *Income Tax Act* (provided the pension partner, if any, signs the [Form 5 Shortened Life / Non-Residency Waiver Form](#) set out in the Regulation and available at the finance website shown at the end of this Bulletin). This exemption is also extended to a pension partner of a member or former member on the payment of death benefits if that pension partner is similarly a non-resident.

This amendment was technically required, as the *Income Tax Act* does not allow non-residents to establish tax-deferred registered products (such as LIRA's).

New Section: 37(2.1) Act

**Calculation of the 50%  
Minimum Employer  
Funding Rule in respect of  
Contributory DB Service**

Where a member elects to defer pension commencement, the plan, **at its discretion**, may elect to recalculate a member's excess contributions at the time of actual pension commencement rather than doing so at the time of pension deferral.

New Section: 38(1) and (2)  
and new sections 38(2.1), (2.2)  
and 38(8.1) Act

Amended Section 35 Reg

**Portability of Commuted  
Value of Benefits**

1. Where a member is eligible to elect portability under the pension plan, the transfer is to be made in full unless, in the case of a defined benefit provision, the transfer of the whole of the benefit would impair the solvency of the Plan.

Where solvency would be impaired, the employer may either remit the amount required to fund the member's deficit (in which case the full transfer may be made) or must delay the transfer of the unfunded portion of the benefit until it is funded, making the balance of the transfer in installments as it is funded or in a lump sum when it is fully funded.

If the deficit is to be paid at a later date, section 38(8.1) clarifies that the transfer is deemed not to take place until the last payment is made. This change is made to avoid conflict with the *Income Tax Act* (Canada) regarding maximum transfer values and multiple transfers in respect of one member.

2. A member electing the portability options may split the transfer, moving funds to two or more vehicles.
3. Where installments are made or the benefit is split, the payments/transfer cannot be made in a way that would cause the account balance in any one of the vehicles to be ununlockable under the small amount cash-out provisions of the Act.

New Section: 38(7.1) Act  
s.36 Reg

### **Forced Transfers**

1. For individuals who become members of a pension plan with defined contribution provisions **after the coming into force date of the Amendment Act**, who terminate their membership in the pension plan, and for whom no defined benefit provisions of the plan apply, the plan can require that these members must transfer their entitlement out of the plan.
2. For all other plans that have this force-out provision, s.36 of the Regulation is amended to permit the force-out at a later date if a commuted value is recalculated and falls below the current 20% of YMPE threshold.

**Please note that a forced transfer is not the same as small amounts unlocking.** A plan can force a member to transfer funds out of the plan, but cannot force the member to unlock them or take them in cash. The option to take funds out on a non-locked-in basis is always at the discretion of the **member**, and the member can choose at that point whether to take them in cash or as a rollover to an RRSP or RRIF.

Amended Section: 39 Act  
s.43 Form 3 (Schedule 1)Reg

**Pre-Pension Commencement  
Death and Pension Partner  
Waiver Form**

While a pension partner of a member has “first-in-line” right to any death benefits that may become payable on the death of the member or locked-in account holder, section 39(5.1) will allow a pension partner to waive his or her entitlement to any pre-retirement death benefits. As required by the *Income Tax Act*, the form must be completed **before the death of the member**.

If the pension partner is also named as a designated beneficiary, then a waiver under this subsection (5.1) also removes the pension partner as beneficiary. This is done to ensure locking-in rules are not circumvented.

This waiver applies only if the member / former member dies before pension commencement. It becomes void when pension or retirement income payments commence.

Please refer to [Policy Bulletin # 35, Waiver Forms](#) for more information. Additionally, the [Pre-Pension Commencement Waiver - Form 3](#) is also available online.

Amended Section: 40 Act  
Form 4, 6 (Schedule 1) Reg

**Post-Retirement Pension  
Partner Waiver Form(s)**

**1. Member retires under a DB Provision**

Where a member commences a pension from a defined benefit provision, the relevant waiver – [Form 4 – Pension Partner Waiver of Post-Pension Commencement Benefits from a Defined Benefit Portion of a Pension Plan](#) (see website) has two parts:

- Part One permits a form of pension **payable under the pension plan** which is not at least a 60% Joint and Survivor form of pension.
- Part Two of the waiver permits a pension partner to further waive the contingent entitlement to any death benefits payable upon the death of the pensioner

## 2. Member elects a LIF, DC RIA, or Life Annuity

Where a member elects to commence to receive retirement income from a LIF, DC RIA, or a Life Annuity, the relevant waiver [Form 6 Pension Partner Waiver on Transfer to a LIF, DC RIA or Annuity](#) (see website), has three options:

- Option 1 allows for the release of up to 50% of the accrued benefit.
- Option 2 permits a form of pension that is not at least a 60% Joint and Survivor form of pension.
- Option 3 permits a pension partner to further waive the contingent entitlement to any death benefits payable upon the death of the pensioner

Where a pension partner completes either waiver ([Form 4](#) or [Form 6](#)), and the member dies **prior to the first payment being made**, the waiver is void and the disbursement of death benefits must be made in accordance with s.39 of the Act.

For further information, please refer to [Bulletin #35 – Waiver Forms](#).

New Section: 46(8) Act;  
2(1)(a.6), (a.7) 24.1,  
46.1 Reg

### **Pension payable from a DC Provision**

Benefits earned under a DC provision may now be paid directly from the plan fund (if the plan so desires). The income payable from the DC portion of a pension plan – defined as a DC RIA – is calculated according to the rules applying to Life Income Funds (LIFs). For more information, please refer to [Policy Bulletin # 30 – DC RIAs](#).

Amended Section: 48(4) Act

### **Funding and Solvency Requirements**

This section provides that where a publicly funded pension plan (as designated by the Superintendent) is permitted to have joint employee / employer funding (i.e. members and the plan sponsor share both normal cost **and** special payments), the amounts remitted must meet the funding and solvency requirements of the legislation.

Amended Section: 50 Act; s.49  
Reg

**Remittance of Contributions**

1. The term “ultimate recipient” is introduced to identify the deposit-taking institution that ultimately holds the pension fund. The ultimate recipient must monitor contributions that it should receive from the administrator of the Plan and where an unexpected deviation occurs, it must notify the Superintendent of that fact in writing.

To assist in this regard, the plan administrator must provide the ultimate recipient with a [Schedule of Expected Contributions](#) within 30 days from the beginning of the fiscal year of the pension plan. If any of the information relating to expected contributions changes, the administrator must provide the ultimate recipient with a revised statement.

2. Subsection (2) clarifies that contributions from a participating employer in a SMEPP or a MUPP must be remitted to the administrator within 30 days from the end of the month to which the contribution applies. From that date, the administrator has 30 days to remit those amounts to the ultimate recipient.

3. Contributions to all pension plans must now be remitted on a monthly basis.

Please refer to [Policy Bulletin #13](#) for more details on contribution requirements.

New Section: 69.1 Act

**Filing of Matrimonial Property Orders / Agreements with the Administrator**

This section clarifies the process in which a matrimonial property order or a matrimonial property agreement is validly filed with a plan administrator.

Amended Section: 73(3)

**Payments to Meet Solvency Requirements**

This change to the Act re-affirms that a withdrawing participating employer from a MUPP has a responsibility to make solvency special payments, unless the withdrawing employer joins a successor pension plan that will assume the liabilities in respect of that withdrawing participating employer from the predecessor plan.

New Section: 77.1 Act;  
s.64.1 Reg

### **Missing Persons**

Where a pension plan is terminated in full and the administrator is unable pay out termination benefits to any person because they cannot be located, this section of the Act will allow the administrator to commence action that will ultimately lead to the unlocking of the missing member's benefit and the transfer of that amount to the Public Trustee of Alberta.

For more information, refer to [Policy Bulletin #21 – Missing Persons in Cases of Full Plan Termination](#).

Amended Section: 82 Act

### **Transfers of Assets**

Where a transfer of assets from one fund holder or custodian to another is contemplated, that transfer will not be permitted unless a copy of the new funding policy is filed with the Superintendent **AND** the Superintendent has consented to the transfer.

New Sections: 85.1, 85.2,  
85.3 Act; and s.67.1 Reg

### **Non-alienation Provisions**

Minor modifications were made to section 85. A new section 85.1 was added pursuant to changes to the *Maintenance Enforcement Act (MEA)* to permit funds in a LIRA or LIF to be seized in order to satisfy an order issued under the *MEA*.

*NOTE: PROCLAMATION OF AMENDED SECTION 85(1) AND SECTION 85.1 HAS BEEN WITHHELD; HOWEVER, A 2004 AMENDMENT TO THE ACT AND A 2006 AMENDMENT TO THE MEA ALREADY ALLOW SUCH SEIZURE.*

The new s.85.2 clarifies that if the Act requires a withholding, deduction, payment, or crediting of an amount, then the non-alienation provision of the Act does not apply to those amounts.

Finally, the new s.85.3 ensures that an individual is not forced to liquidate assets in a locked-in account in order to qualify for government income support programs.

Amended Section: 90 Act

**Inspection and Production of Documents**

Section 90(1) is amended to permit the Superintendent to appoint any person as an authorized representative for the purposes of conducting pension plan examinations.

Section 90(2)(c) is added to compel individuals to submit to an interview as part of the plan examination process.

Amended Section: 92 Act

**Offences and Penalties**

Section 92(1)(a.1) is added to state that an offence under the Act may occur if a person refuses to answer a question posed by the Superintendent, if the answer to the question is necessary for the Superintendent's representative to perform their duties or functions under the Act.

Section 92(1)(b)(iii) is added to state that it may be an offence if a person omits, in statements or records, any material fact concerning the pension plan in order to avoid compliance with the Act.

**REGULATION**

New Section: 2(1)(p), (p.1), (x.1),

**Owner**

The Regulation is amended to clarify who is an owner of a locked-in retirement account, or LIF. An Owner can be any one of the following:

The Original Owner who was a member of a pension plan and who subsequently transferred his benefit entitlement from the pension plan to a locked-in account.

The Surviving Pension Partner Owner is the pension partner (married or common-law spouse) of a plan member or the Original Owner who obtains possession of the pension benefit (or locked-in account) on the death of that individual.

New Section: 2(1)(q.1);  
s.48(3.1) and Schedule 0.2  
Reg

**Publicly Funded Plan**

A new term is introduced to define publicly funded pension plans, which must be designated as such by the Superintendent in order to be granted exemptions from solvency funding requirements, as well as other provisions of the Act and Regulation. Please refer to [Policy Bulletin # 31 - Publicly Funded Pension Plans](#) for more information related to Publicly Funded plans.

New Section: 2(1)(a.2) Reg

**Alberta Locked-in Money**

This term is introduced to clarify that funds moved into a LIRA / LIF must have been (and must continue to be) subject to the provisions of the Act and Regulation.

Locked-in monies subject to pension legislation of other jurisdictions are not to be held in an Alberta LIRA / LIF.

New Section: 3(2), (3) Reg

**Collection of Personal Information**

These subsections give the Superintendent explicit authority to collect and use personal information for the purposes of the Financial Hardship access program, as well as the sharing of this information with the Director of Maintenance Enforcement.

New Section: 4.1 Reg

**Attachment of Conditions to Consents**

If the Superintendent is entitled to consent to some action, this provision clarifies that he is permitted to place any relevant conditions on that consent which are appropriate considering the circumstances.

Amended Section: 6 Reg

**Fees**

This section is amended to reflect the new fee schedule for the registration of new plans and Annual Information Returns (AIR). This section also introduces a late-filing fee penalty on AIRs.

New Plan Registration and Annual Information Returns(AIR)

\$ 7.00 per member at effective date or year end, as applicable  
\$200.00 minimum fee  
\$20,000.00 maximum fee

Penalty for late filing of Annual Information Returns, an additional 10% of the total fee required for the AIR in question.

Amended Section 15, 16,  
17, 19, 39(20) Schedule 1.1  
Reg

**50% Unlocking Option**

Pension plan members and LIRA owners who are age 50 and are commencing retirement income by transferring their benefit/account to a LIF, annuity or DC RIA may now choose to unlock up to 50% of the value of that benefit or account.

Schedule 1.1 outlines the requirements for such unlocking. For more information see [Policy Bulletin #34 – 50% Unlocking](#).

Amended Section: 27 Reg

**Amendments to Pension Plans**

Where an amendment to the pension plan is made which affects the cost of benefits provided by the plan, creates an unfunded liability, or otherwise affects the solvency / funding of the plan, the administrator shall file (**along with** a certified copy of the amendment 60 days after the amendment was made) either:

- a) an interim cost certificate detailing the financial impact of the amendment OR a statement that the amendment does not have a material effect on the funding of the benefits provided by the plan; OR
- b) notice that a full valuation report will be completed to determine the financial impact of the amendment. Where the notice is provided, confirmation that the valuation report will be filed within 180 days after the amendment was made must be provided.

Notwithstanding a) or b), the Superintendent can instead require a plan to file, within 60 days, a full valuation report and cost certificate (completed as at the effective date of the amendment).

New Section: 28.1 Reg

**Administration Expenses** This section allows for the reimbursement of an employer if a plan allows for expenses to be paid from the plan fund, where the employer directly pays for expenses related to the operation of the plan. Prior to this provision, all administrative expenses had to be billed to, and paid directly from, the plan fund.

Amended Section: 29 Reg

**Commuted Value**

1. Plan administrators are no longer required to file Commuted Value Basis forms with the Superintendent.
2. A new section is added to require that when a pension plan with defined benefit provisions is **terminated** in full and where the commuted value for affected members is calculated, that commuted value is to be carried forward (from the date of termination of the plan to the ultimate date of payment) with interest at the fund rate of return **rather than** at the rate used to calculate that commuted value.

This provision eliminates the continual creation of experience gains / losses that can occur where a plan terminates but the payment of benefits does not occur in the month in which the commuted value of the benefit was determined.

Amended Section: 33 Reg

**Interest** The provisions in respect of the calculation and application of interest on contributions made to a pension plan are simplified considerably.

Terms such as CANSIM Rate and Fund Rate of Return are now defined and minimum standards concerning when member accounts are to be credited with interest is clarified. The changes reflect current administrative practice on interest calculation / application and will not require any administrative change to the operation of the pension plan as long as the plan is currently compliant.

Amended Section: 35(6)  
Reg

### **Manner and Extent of Transfers**

Section 35(6)(b) is removed from the Regulation. This provision previously permitted a pension plan with a solvency ratio less than 1.0 to pay out 100% of the commuted value of the benefit if the transfer deficiency in respect of every person eligible for a transfer is less than 5% of the YMPE and if the transfer deficiency in respect of all members eligible for a transfer is less than 5% of the market value of assets.

In addition to simplifying transfer provisions, this section was removed because the provision was not often used and was often applied incorrectly. Henceforth, any pension plan with a solvency deficiency can only pay out 100% commuted values if the plan sponsor immediately pays an additional amount of money equal to the transfer deficiency in respect of the terminating member.

Replaced Sections: 38 – 41  
New: Schedule 1, Form 1  
and 2; Schedule 2 Reg

### **Superintendent's List and Locked-in Products**

1. Financial institutions that offer Alberta locked-in products are required to provide all locked-in account owners with a copy of the relevant **prescribed** locking-in addendum.

To maintain their place on the Superintendent's List, financial institutions must submit a new [Form 42 - Application for Inclusion on List of Acknowledged Institutions](#) in the Form prescribed in Schedule 2.2 of the Regulation.

2. Locked-In Retirement Accounts – Summary of New Features:

- a) The pre-pension commencement death benefit entitlement can be waived by a pension partner.
- b) 50% unlocking option immediately prior to the transfer to LIF, DC RIA or annuity.
- c) **Cannot** transfer in funds from a LIF of DC RIA.
- d) **Can** invest in non-arm's length mortgages.
- e) Commutation due to non-residency and/or shortened life expectancy is mandatory.

Please also refer to the [Locked-In Retirement Account Addendum](#)

and [Policy Bulletin #10, Locked In Retirement Accounts](#).

### 3. Life Income Funds – Summary of New Features

- a) LIF maximum withdrawals based on greater of:
  - a. factors based on a term-certain annuity to age 85 (rather than age 90), or
  - b. investment gains and losses in the previous calendar year of the LIF. (Investment gains from previous years not withdrawn in that year cannot be “carried forward”).
- b) **No** requirement to covert the LIF to an annuity at age 80.
- c) The post-pension commencement death benefit entitlement can be waived by a pension partner.
- d) Commutation due to non-residency and/or shortened life expectancy is mandatory.
- e) **Can** invest in non-arm’s length mortgages.

Please also refer to the [Life Income Fund Addendum](#) and [Policy Bulletin #11](#).

- 3. LRIFs cannot be established on or after August 10, 2006. Any existing LRIFs must be converted to the new LIF by January 1, 2008. Similarly, all old LIRAs and LIFs must be converted to the amended versions by January 1, 2008.

Once converted the financial institution must provide each LIRA or LIF holder with a copy of the prescribed addendum. Please refer to [Policy Bulletin #12 Locked-In Retirement Income Funds](#).

Amended Section: 41.1 Reg

#### **Financial Hardship Unlocking**

Applications under the Financial Hardship Application program are limited to 2 per 12-month period.

Amended Section: 45 Reg

#### **Maximum Commutable Amounts**

- 1. The small amount commutation rules are amended to allow for a test of the value of a member’s benefit against the current small amount thresholds on the date of the request by the member, **rather than** testing against the small amount thresholds that existed on the termination date of the member.

2. Clarification is provided that on termination of membership, a consolidation of all benefits accrued by a member is required for the purpose of determining whether unlocking may occur, and that aggregate amount must be compared against the small amounts threshold.
3. For locked-in account owners age 65 or older, the 40% commutation threshold will apply on **individual** account balances (rather than on the aggregation of all locked-in account balances).

Amended Section: 48 Reg

**Solvency Tests and Funding of Plans**

1. Contributions to a pension plan made in respect of defined benefit provisions must be remitted on a monthly basis. This includes contributions made for normal cost, as well as unfunded liability and solvency special payments.
2. Clarification is provided regarding the use and application of actuarial gains (on both a solvency and going concern basis). Actuarial gains must be used to reduce / amortize any previously established unfunded liabilities or solvency deficiencies, starting first with the oldest deficiencies.

New Sub-Sections: 55(4.1), (7.1), and (7.2) Reg

**Allocation and Distribution of Assets on Winding Up**

These subsections are introduced to clarify the situations when a reduction of accrued benefits is permitted by the Act on termination of a pension plan.

New Section: Schedule 0.2

**Partial Exemptions**

Key exemption provisions of the legislation have been consolidated in Schedule 0.2. Many have just been moved from other sections of the Act and Regulation. The following are, however, new.

**Publicly Funded Plans**

Section 1(1) of Schedule 0.2 outlines the areas in which a plan that has been designated as public sector may apply for exemption. These include:

- Ongoing solvency funding

- If the plan is supplemental to a statute public plan,
  - Pension partner definition
  - Portability restrictions
  - Wind-up disbursement.

For more information see [Policy Bulletin #31 – Publicly Funded Plans](#).

### **Plans for Connected Individuals (PCIs)**

PCIs will no longer be required to file documents and Persons be registered under the Act. To that end, section 2(1) of Schedule 0.2 lists the filing sections of the Act from which these plans are exempt.

Notwithstanding the exemption to register, these plans must still comply with the Act in terms of benefits to be paid, funding, investment, etc. and the Superintendent retains the authority to take action against an administrator who fails to comply. These plans are, however, now required to do valuations every 4 years instead of 3, to match *Income Tax Act*, Canada requirements.

### **SMEPP Solvency Suspension**

The Administrator of a SMEPP may apply for consent to suspend solvency deficiency payments for a period not exceeding three years subject to certain conditions. These conditions include the funding of unfunded liabilities over 10 years rather than 15, continued filing of solvency valuations and prohibition of benefit improvements during the suspension period.

For more information see [Policy Bulletin #17 – Specified Multi-Employer Pension Plans](#).

For further information please contact:

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