

Advisory

AMENDMENTS TO PENSION BENEFITS STANDARDS ACT (BILL 33)

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PURPOSE

On October 4, 2023, the Government of B.C. introduced [Bill 33: Pension Benefits Standards Amendment Act, 2023](#). The proposed amendments enable defined contribution plans to offer a new type of pension called variable life benefits. In addition, other proposed amendments reduce administrative burden, address policy issues, and make a number of technical corrections and clarifications.

This Advisory reflects BCFSA's views on the proposed amendments. The specific legal requirements will be set out in the *Pension Benefits Standards Act* ("PBSA").

BACKGROUND INFORMATION

The proposed amendments represent the first changes to the PBSA since it came into force in 2015. Consistent with the overall intent of the PBSA, the amendments aim to balance the interest of plan members and plan sponsors.

Plan administrators should review the proposed amendments to assess which of them would require changes to their plan text documents.

SUMMARY OF NOTABLE CHANGES

The following discussion highlights some of the important changes proposed by the amendments.

Introduction of Variable Life Benefits

With the enactment of the federal Bill C-30 on June 29, 2021, a new type of lifetime retirement benefit known as a variable payment life annuity ("VPLA") was permitted under the *Income Tax Act*. Amendments to pension benefits standards legislation are also required for VPLAs to be offered under defined contribution plans in each jurisdiction. In the proposed amendments to the PBSA, VPLAs are referred to as variable life benefits ("VLBs").

If the proposed amendments to the PBSA are enacted to enable B.C. registered plans to offer VLBs, amendments to the Pension Benefits Standards Regulation ("PBSR") will need to be developed for the implementation of VLBs. BCFSA understands that consultations will take place in 2024 between the Government of B.C and its federal and provincial partners on a regulatory framework for VLBs, to be based on a harmonized policy framework developed by a committee of the Canadian Association of Pension Supervisory Authorities ("CAPSA").

Plans for Specified Individuals

Under the proposed amendments, pension plans with members who are all specified individuals within the meaning of one or both of section 8515 (4) (a) or (b) of the Income Tax Regulations (Canada) are exempt from the PBSA and the PBSR, subject to the consumer protection provisions set out in the PBSR.

This change expands the existing exemption for plans for connected persons to both types of specified individuals. Amendments to the PBSR are needed to implement this change.

Auto-escalation of Member Contributions

Under the proposed amendments, defined contribution plans that include automatic enrollment for their members will be permitted to provide for automatic escalation of contributions made by members who are automatically enrolled. Automatic escalation requires notice of the right to opt out of the increase in the member's contributions.

Amendments to the PBSR are needed to implement this change.

Entitlement to Join a Collectively Bargained Multi-Employer Plan

Under the proposed amendments, collectively bargained multi-employer plans ("CBMEPs") have more flexibility to meet the minimum standard for when employees are entitled to become members. The existing condition is based on employee earnings.

Under the proposed amendments, CBMEPs are permitted to specify an alternate condition in the plan text document that is either based on hours of employment or is equivalent in the circumstances of the plan to the existing earnings condition or the proposed condition based on hours of employment.

Permitted Transfers

Under the proposed amendments, the plan text document of a pension plan must provide that a lump sum payable to a person may be transferred to the person's registered retirement income fund, in addition to the existing option of transferring to the person's registered retirement savings plan, to the extent permitted by the *Income Tax Act* (Canada).

Similarly, upon termination of active membership, plans must give members who are entitled to a commuted value transfer the option to transfer to a retirement income arrangement (i.e., a life income fund) or to an insurance company to purchase an annuity. It is no longer at the discretion of the plan to provide these transfer options.

Options for Pre-Retirement Survivor Benefits

Under the proposed amendments, surviving spouses of members who die before retirement have the right to choose a pension instead of being required by some plans to transfer their entitlement. The options for survivor benefits remain subject to general rules enabling plans to require transfers of defined contribution benefits and small benefits.

Discharge for Annuity Purchase

The proposed amendments clarify that the discharge available for annuity contracts purchased by plan administrators for persons entitled to benefits under a defined benefit provision of the plan is available to all persons entitled to those benefits, including:

- Members who are active members under another provision of the plan, as long as they are no longer accruing benefits under the defined benefit provision; and
- Surviving spouses entitled to deceased members' benefits under the defined benefit provision.

Amendments to the PBSR are needed to implement this change.

ADDITIONAL INFORMATION

If you have any questions, please contact the BCFSA via email at Pensions@bcfsa.ca or by phone at 604-660-3555.