

BULLETIN NUMBER: PENS 20-004

TITLE: COVID-19: Frequently Asked Questions (UPDATED)

LEGISLATION: *Pension Benefits Standards Act*

DATE: May 27, 2020

PURPOSE

The BC Financial Services Authority (BCFSA) has prepared this information bulletin to address some common questions plan stakeholders may have regarding issues stemming from the COVID-19 pandemic. BCFSA has prepared these questions and answers, together with the extensions of certain regulatory filings previously announced, to protect pension plan members, former members and other beneficiaries and to allow plan administrators to focus their efforts on addressing the challenges posed by this crisis.

BCFSA is continuing to monitor the situation closely. This is a dynamic document and our office will provide updates as warranted.

FREQUENTLY ASKED QUESTIONS REGARDING COVID-19 PANDEMIC

Q1: Can defined contribution pension plans suspend contributions as a result of the COVID-19 pandemic?

A1: Yes. As provided under [sections 17 and 18](#) of the *Pension Benefits Standards Act* (Act), and [section 40](#) of the Pension Benefits Standards Regulation (Regulation), a plan administrator may reduce the level of employer or employee contributions to a defined contribution plan by filing a pension plan amendment. These amendments cannot be retroactive.

Where the employer wishes to suspend employer contributions, employee contributions, if required, including additional voluntary contributions, must also be suspended for the full period.

Further, if benefits cease to accrue under the plan, an administrator must apply to the Superintendent to continue the pension plan in accordance with [section 95](#) of the Act. In the absence of such an application, the plan is terminated and must be wound up.

Q2: Can employers in a defined contribution pension plan remit contributions based on full-time salaries, even where employees are working a reduced schedule?

A2: If the plan terms include provisions that allow for deemed earnings for continued accruals (contributions) during a temporary leave of absence or eligible period of reduced pay, then employers may continue to make contributions for such periods using the prescribed compensation rules under the Income Tax Regulations. Otherwise, contributions must be made based on earnings that reflect employees' current work schedule and in accordance with the plan text document.

Q3: Can benefit formula pension plans (defined benefit or target benefit) extend the amortization period and/or contribution rate remittance deadline?

A3: Extensions to the amortization periods for unfunded liabilities and/or solvency deficiencies are subject to approval from the Superintendent of Pensions. Administrators wishing to extend the deadline must make an application, in writing, to the Superintendent. The application must include a description of the circumstances and any other information, including financial statements, required by the Superintendent to make a determination.

Where an amortization period and/or contribution rate remittance deadline extension is granted, an amended Schedule of Expected Contributions must be filed with the plan's fundholder.

Q4: Can a DB plan administrator restrict the transfer of the commuted value of a member to a solvency ratio lower than that provided in the last filed valuation?

A4: **Yes.** As provided under [section 72\(3\)](#) of the Act, an administrator of a pension plan must not, without the consent of, or without being directed to do so by the Superintendent, transfer assets out of the pension fund, if such transfer would impair the solvency of the plan. It is the administrator's responsibility to determine whether a transfer would impair the solvency of the plan and restrict lump-sum transfers, where appropriate.

If the administrator intends to suspend a commuted value payment or transfer a lump-sum out of a defined benefit plan based on a lower solvency ratio of the plan, our office expects that the plan will notify the Superintendent of that decision in writing, and include an actuarial cost certification from the plan's actuary attesting to the deterioration in the solvency position of the

defined benefit plan and a description of the administrator's proposal for suspension of payment of commuted values during the interim period.

Please note that section 72(4) of Act provides that the Superintendent may impose terms and conditions on any such transfers.

Q5: Can I access funds from my Locked-in Retirement Account (LIRA) due to the COVID-19 pandemic?

A5: No. There is no relief that allows withdrawals from a LIRA due to the COVID-19 pandemic situation. There are specific provisions for unlocking pension funds in British Columbia. If you qualify for unlocking under any of the provisions, you must complete the required form and submit to the Financial Institution holding your funds.

Q6: Can the witness requirement on pensions prescribed forms be waived due to the social distancing resulting from the COVID-19 pandemic?

A6: No. These forms are prescribed by statute and the requirement to have them witnessed cannot be waived. The Superintendent understands that the legal requirements related to the witnessing of documents in the time of the COVID-19 pandemic are under consideration (that is, remote witnessing by electronic means may be acceptable in certain circumstances). If you require more guidance on this matter, please seek legal advice. **(NEW)**

ADDITIONAL INFORMATION

If you have any questions, please contact the Office of the Superintendent of Pensions at Pensions@bcfsa.ca or by phone at 604-660-3555.

As the BC Financial Services Authority, we issue information bulletins to provide technical interpretations and positions regarding certain provisions contained in the *Pension Benefits Standards Act*, the Pension Benefits Standards Regulation and other pertinent legislation. While the comments in a particular part of an information bulletin may relate to provisions of the law in force at the time they were made, these comments are not a substitute for the law. The reader should consider the comments in light of the relevant provisions of the law in force at the time, taking into account the effect of any relevant amendments to those provisions or relevant court decisions occurring after the date on which the comments were made. Subject to the above, an interpretation or position contained in an information bulletin generally applies as of the date on which it was published, unless otherwise specified.