Goodmans LLP Update

Pensions Law

March 30, 2012

2012 Ontario Budget: Pension Changes

The 2012 Ontario Budget (the "**Budget**"), released on March 27, contains several changes related to pension plans. This bulletin addresses those recommendations specifically related to private sector plans and that may be of interest to private sector employers. The Budget also contains recommendations pertaining to public sector pension plans, which are not discussed.

Continuing Pension Reforms

1. Regulations

Regulations are being drafted to implement many of the reforms in the *Pension Benefits Amendment Act, 2010* (Bill 236) and the *Securing Pension Benefits Now and for the Future Act, 2010* (Bill 120). The regulations, to be released in draft this spring, will include:

- provisions specifying the rights and responsibilities of "retired members";
- the clarification of pension surplus rules; and
- the implementation of certain asset transfer provisions.

Also this year draft regulations will be posted that include the strengthening of funding rules for defined benefit pension plans, such as eligibility conditions for contribution holidays and accelerated funding of benefit improvements.

The elimination of future partial wind-ups and the introduction of immediate vesting will become effective on July 1, 2012. This is consistent with the effective date for grow-in benefits becoming available to all eligible members terminated other than for cause. **Please note that if your pension plan does not currently provide for immediate vesting, it should be amended prior to July 1, 2012.**

2. Financial-Hardship Unlocking

Ontario allows locked-in account owners to withdraw funds where there are circumstances of financial hardship. The Government intends to change the program to make it simpler to access locked-in funds. The consent of the regulator would no longer be required, as applicants would be able to request withdrawals from their financial institutions. This change is consistent with the process employed for federally regulated locked-in accounts.

3. Solvency Funding Relief

The Government has proposed to extend solvency funding relief to sponsors of private-sector defined benefit pension plans. Consistent with the measures introduced in 2009, for the first filed actuarial valuation report on or after September 30, 2011, a plan administrator would be able to:

- Consolidate existing solvency payment schedules into a new 5-year payment schedule; and
- Extend the solvency payment schedule for a new solvency deficiency to a maximum of 10 years (as opposed to 5), subject to the consent of plan beneficiaries.

In addition, regulations are to be put in place this spring that would allow employers to use irrevocable letters of credit to cover up to 15 per cent of pension plans' solvency liabilities. Further flexibility will also be provided by permitting a deferral of solvency and going concern special payments for one year after a plan valuation date.

Canada's Retirement Income System

1. CPP Enhancement

The Budget provides that Ontario continues to support a modest, phased-in and fully funded enhancement to the Canada Pension Plan ("**CPP**"). The Ontario Government recommends that such a CPP enhancement would be fully funded by employees and their employers, with full implementation taking place over a 40-year period. This recommended gradual phase in of the enhancement would be a way to limit the negative impact on employers and employees.

2. Pooled Registered Pension Plans ("**PRPPs**")

The federal government has recently released the *Pooled Registered Pension Plans Act*, which outlines the legislative framework for PRPPs for federally regulated industries. In order for Ontario employers and employees to participate in PRPPs, Ontario would need to implement legislation and regulations. At this point, Ontario has indicated that it has a number of concerns with the federal model, but that it will continue to work collaboratively with the federal government and other provinces to develop the PRPP model. However, the Ontario Government is of the view that the implementation of pension innovation should be tied with enhancements to the CPP.

If you have any questions regarding the pension recommendations in the Budget, please contact any member of our Pensions, Benefits and Compensation Group.