

## Pensions Law

December 2, 2015

### Ontario to Eliminate the 30% Pension Investment Rule, Move Forward with the ORPP and Provide Solvency Funding Relief

#### Elimination of the 30% Rule

Without any fanfare, the Ontario government has announced its plans to eliminate the 30% Rule for pension investments. The *2015 Ontario Economic Outlook and Fiscal Review (Economic Review)* released by the Ontario government on November 26, 2015, includes the following statement buried at page 65:

*“To open up new investment opportunities and tap the capacity of the pension sector to contribute more to economic growth, the government intends to eliminate the “30 per cent rule,” which restricts Ontario pension funds from owning more than 30 per cent of the voting shares of a corporation.”*

The government notes that it intends to post a description of the proposed regulation for consultation in early 2016. No further information is provided, including when the proposed amendment will come into force.

This proposed amendment to Ontario’s *Pension Benefits Act* will be a significant development for pension plans registered in Ontario. This latest announcement is consistent with the Ontario government’s earlier efforts to liberalize the pension investment rules. As noted in our November 11, 2014 Update, *Ontario Proposes Exemption to the 30% Rule for Pension Investment in*

*Infrastructure*, the Ontario government had previously proposed an amendment to the regulations under the *Pension Benefits Act* to provide an exemption from the 30% Rule for pension investment in infrastructure. That proposed amendment was never enacted, as it appears that it has been subsumed by the government’s plan to eliminate the 30% Rule entirely.

Despite repeated calls for the elimination of the 30% Rule, the previous federal Conservative government announced in May 2010 that it had no intention of changing the 30% Rule for federally regulated pension plans. It remains to be seen whether the federal Liberal government will follow the Ontario government’s lead in this regard.

#### Forging Ahead with the Ontario Retirement Pension Plan (ORPP)

The Economic Review states the Ontario government’s goal is to ensure that, by 2020, every eligible Ontario employee would be covered by the ORPP or a comparable workplace pension plan. The government will support an enhancement to the Canada Pension Plan (CPP) that is consistent with the ORPP’s objectives regarding adequacy and coverage. For now, the Ontario government is moving forward with implementing the ORPP in 2017, while allowing for potential integration of the ORPP with a CPP enhancement in the future. The government plans to release a cost-benefit analysis of the ORPP by the end of 2015.

Since the 2015 Budget, the following steps have been taken:

- The government intends to confirm that the ORPP minimum earnings threshold will be aligned with the CPP’s Year’s Basic Exemption of \$3,500 for eligible employees between the ages of 18 and 70.

# Goodmans<sup>LLP</sup> Update

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- Ontario intends to define a “comparable plan” to the ORPP as a plan subject to federal and provincial regulation that meets certain minimum thresholds, such as mandatory employer contributions and locked-in funds. Comparable plans would include certain defined benefit plans, defined contribution plans, and pooled registered pension plans, once they are established in Ontario.
- The government has proposed a staged enrolment of employers in the ORPP, along with phasing in of contribution rates. To facilitate enrolment, all Ontario employers will be provided with information in early 2016 that enables them to verify the comparability of their existing pension plans and assess the coverage offered to employees.
- An initial board of the ORPP Administration Corporation has been appointed.

For more details regarding the ORPP, please refer to our November 10, 2015 Update, *ORPP and CPP: Pension Reform Update*.

## **Solvency Funding Relief**

The Economic Review also notes that the government will initiate, on an expedited basis, a review of the current solvency funding rules for defined benefit pension plans, focusing on plan sustainability, affordability and benefit security.

To provide private-sector sponsors with immediate assistance in the face of persistently low interest rates, the government intends to offer temporary solvency funding relief.

Existing measures, provided in 2009 and 2012, would be extended for an additional three years for valuation reports dated in the three-year period starting on December 31, 2015. For the first valuation report filed in the three-year period, plan sponsors will have the option of: (i) consolidating existing payment schedules into a new, longer five-year payment schedule; and (ii) subject to the consent of plan beneficiaries, extending the solvency payment schedule for new solvency deficiencies from the current maximum of five years to a maximum of 10 years.

Please contact any member of our Pension, Benefits and Compensation Group for further information.