

Pension Plan Amendment Guide

Effective May 31, 2010 amendments to *The Pension Benefits Act* and *Pension Benefits Regulation* came into force. As a result, all registered pension plans will be required to make certain amendments.

These amendments must be filed before January 1, 2012 with the Office of the Superintendent – Pension Commission (OSPC).

There are some additional filing requirements as well as some changes that will need to be made to employee booklets and various member statements.

To assist administrators and those drafting amendments, the following guide has been developed. It highlights the plan provisions, that must, may and must not, be included in a pension plan.

The OSPC website <http://www.manitoba.ca/pension/> also provides further information on the legislative changes.

Users of this guide are strongly urged to refer directly to the appropriate sections of the Act and regulation, as this document is for information purposes only.

Act/Reg Provision	Amendment	MUST	MAY	MUST NOT
Definitions - Act ss. 1(1) and Reg. s. 1.1	New definitions and amended definitions should be reviewed	✓		
Temporary interruption in employment - Act ss. 1(1) and Reg. s. 1.5	Changed from 52 to 54 weeks	✓		
Discretionary Benefits - Act ss. 3.1(2)	Pensions or other benefits provided at the discretion of employer or administrator			✓
No waiver or contracting out - Act s. 3.2	Waiving or contracting out of any provision of the legislation			✓
Surplus provisions in plans - Act ss.18(2.1)	Specify entitlement to surplus under new defined benefit pension plan filed for registration, including resolution of disputes regarding surplus withdrawal	✓		
Vesting – Act ss. 21(1) and 21(2)	Full vesting of all benefits earned after July 1, 1976	✓		
Ceasing to be an active member – Act ss. 21(1.1) and Reg. s. 5.2	Sets out events or circumstances triggering cessation of active membership Regulation sets out exception to ss. 21(1.1)	✓		
Locking in – Act ss. 21(3) to (3.2)	Membership on and after July 1, 1976 is locked in, excluding voluntary additional contributions and optional ancillary contributions	✓		
Commutation of small pension – Act ss. 21(4) and Reg. s. 10.64	Requires commutation of small pension under a pension plan Regulation sets out rules for determining a small pension	✓ ✓		
Partial Commutation - Act ss. 21(5) and 21(5.1)	Provides exception and permits those at least age 45 with 10 years of service to unlock 25% of the value of the pension earned between July 1, 1976 and December 31, 1984		✓	
Commutation on shortened life expectancy - Act ss. 21(6)	Permits commutation of pension on shortened life expectancy unless pension has commenced		✓	

and Reg. s. 10.68 and 10.70	Regulation sets out rules for such commutation			
Normal retirement age - Act ss. 21(7)	Sets out minimum standard for normal retirement age	✓		
Postponed retirement - Act ss. 21(9) and 21(9.1)	Sets out requirements for benefit accrual after normal retirement age where employment continues and rules for determining pension at late retirement date	✓		
Early retirement – Act ss. 21(10) and 21(10.1)	Sets out minimum standard for early retirement and maximum permitted reduction	✓		
50% Excess - Act ss. 21(11) and 21(11.1) and Reg. s. 5.11	Clarifies rule limiting employee’s funding of a defined benefit pension to 50% of its commuted value and describes pension and contributions that must be ignored	✓		
	Regulation requires surviving spouse or common-law partner have same rights as member would have had to excess contributions	✓		
Portability - Act ss. 21(13) and Reg. Divisions 1, 2 and 3 of Part 10	Effective March 31, 2010,			
	<ul style="list-style-type: none"> defined contribution plan must permit transfer of employee and employer contributions to prescribed retirement savings plan or other prescribed arrangement 	✓		
	<ul style="list-style-type: none"> defined benefit plan must permit transfer of commuted value to prescribed retirement savings plan or other prescribed arrangement, prior to early retirement age defined benefit plan may permit transfer of commuted value to prescribed retirement savings plan or other prescribed arrangement, on or after early retirement age 	✓	✓	
Transfer on retirement – Act ss. 21(13.1) and Reg. Divisions 2 and 3 of Part 10	<ul style="list-style-type: none"> Defined contribution plan must permit transfer to a prescribed retirement benefit plan or other prescribed arrangement 	✓		
	<ul style="list-style-type: none"> Defined benefit plan may include provisions permitting transfer to a prescribed retirement benefit plan or other prescribed arrangement 		✓	
Prescribed classes of employees – Act ss. 21(18.1)	Plan must identify one or more prescribed classes eligible for membership Regulation lists prescribed classes	✓		

and Reg. ss. 5.1(1)				
Mandatory Participation - Act ss. 21(19) to 21(19.2)	Revises the minimum standards for compulsory pension plan membership for non full time employees	✓		
Death benefits & waiving death benefits - Act ss. 21(26) to (26.4) and Reg. s. 3.37, 6.5 and 10.75	<p>Provides for pension to cohabiting surviving spouse or common-law partner on death before pension commencement</p> <p>Permits cohabiting spouse or partner to waive survivor pension after receiving prescribed disclosure</p> <p>Permits joint written revocation before member's death</p> <p>If no spouse or partner entitled to survivor pension, payment is made to designated beneficiary (other than spouse or partner), or to member's estate</p> <p>Value of pension or payment not to be less than the commuted value of member's pension at time of death, less any amount payable under ss. 31(2)</p> <p>Regulation</p> <ul style="list-style-type: none"> • sets out disclosure requirements for waiver, • provides for <ul style="list-style-type: none"> ○ payment of member's variable benefit account to cohabiting spouse or common-law partner on death ○ permits cohabiting spouse or partner to waive survivor benefit after receiving prescribed disclosure ○ permits joint written revocation before member's death • sets out time frame for making an election 	✓		
Ancillary benefits - Act ss. 21.1(1) and Reg. ss. 5.14(1)	<p>Provide for one or more prescribed ancillary benefits</p> <p>Regulation lists prescribed classes</p>		✓	
Ancillary benefits - Act ss. 21.1(2)	Ancillary benefit part of pension and included in pension benefit credit or commuted value once member has met all eligibility requirements under the plan to elect to receive that benefit	✓		

Optional ancillary benefits - Act ss. 21.2(1)	Defined benefit plan may permit member to make optional ancillary contributions for conversion to optional ancillary benefits		✓	
Commutation for non-residency - Act s. 21.3 and Reg. s. 10.59 to 10.62	Subject to certain conditions, permits withdrawal by non-resident former member of commuted value, less any amount payable under ss. 31(2), after receiving prescribed information and with consent of cohabiting spouse or common-law partner Regulation sets out administrative requirements		✓	
Phased retirement - Act s. 21.5 and Reg. s. 5.16	Permits a plan to provide phased retirement benefits to a member before they are fully retired and while they are still accruing benefits Regulation sets out rules for provision of phased retirement benefits		✓	
Joint pension - Act s. 23	Requires a minimum 60% survivor pension reducing on the member's death to cohabiting spouse or common-law partner Permits cohabiting spouse or partner to waive survivor benefit after receiving prescribed disclosure Permits joint written revocation before pension commences	✓		
Interest – Act ss. 25(1) to 25(3) and Reg. Division 3 of Part 5	Requires minimum interest be credited Regulation specifies rates to be used	✓		
Amendments to MUPP's - Act clause 26(5)(b) and Reg. ss. 2.8(1) to 2.8(3)	Permits MUPP to be amended to reduce accrued benefits if <ul style="list-style-type: none"> • plan so provides • if amendment is necessary for plan to meet the prescribed solvency requirements, and no more than necessary to meet those requirements, and • is approved by superintendent Regulation sets out notice and filing requirements where benefits are to be reduced		✓	
MUPP provisions - Act s. 26.1	Requires that trustees include a member who represents those receiving or entitled	✓		

	to receive pension and no longer contributing to plan			
Pension Committee - Act ss. 28.1(1.2) and Reg. s. 3.4 and 3.7 to 3.17	Act requires certain plans with more than 50 members to be administered by pension committee and provides for appointment or election of pension committee members, ensuring that <ul style="list-style-type: none"> • active members, as a group, appoint or elect at least one voting member • non-active members, as a group, appoint or elect at least one voting member • each group may appoint or elect one additional non-voting member, and • committee members are given prescribed rights and obligations. 	✓		
	Regulation <ul style="list-style-type: none"> • requires committee be established and begin administering plan within 120 after clause 28.1(1)(f) begins to apply to plan • permits plan to provide for payment of compensation to, and/or reimbursement of, committee member • requires plan to <ul style="list-style-type: none"> ○ give committee rights, powers and obligations necessary to administer plan in accordance with Act and regulation ○ set number of members to be appointed or elected ○ establish term or terms of office consistent with regulation ○ establish procedures for electing or appointing members consistent with regulation 	✓	✓	
	Regulation sets out requirements for written rules of procedures and governance (separate from plan document)	✓		
	Funding and Investments – Act ss. 26(1)	Funding and investments must be in accordance with Act and regulation	✓	
Division of pension on breakdown of relationship - Act ss. 31(2) –	Requires division in prescribed manner of a pension or pension benefit credit between separated spouses or common-law partners not only when family assets are to be divided under written agreement or <i>Family Property Act</i> order, but also if	✓		

<p>31(9) and Reg. Part 11</p>	<ul style="list-style-type: none"> • court of competent Canadian jurisdiction requires a pension or pension benefit credit to be divided, or • under certain conditions, separated common-law partner obtains order under ss. 31(3.2) - (3.4) requiring pension benefit credit to be divided <p>Permits parties to enter into written agreement containing prescribed terms to waive division after receiving prescribed disclosure</p> <ul style="list-style-type: none"> • Regulation sets out definitions respecting and rules for division of pension or pension benefit credit sets out method for valuing pension or pension benefit credit • sets out method for updating pension benefit credit with interest • permits parties to enter into written agreement to divide net difference between pension or pension benefit credit • requires that adjustment to residual pension cannot result in gain or loss to plan • permits parties to enter into written agreement for the payment of a pension-in-pay as two separate lifetime pensions provided actuarial values of two pensions together equal actuarial value of pension • sets out prescribed terms for written agreement between parties to waive division • sets out content of, and conditions for providing, disclosure to member and person entitled to division 			
<p>Required Information - Reg. s. 2.4</p>	<p>Lists provisions plan document must set out or include</p>	<p>✓</p>		
<p>Refund of contributions to avoid revocation – Reg. ss. 2.11(1) and 2.11(2)</p>	<p>Sets out conditions for, and filing requirements respecting, refund of contributions or reduction of benefits to comply with <i>Income Tax Act</i></p>	<p>✓</p>		

Responsibility for directing investments - Reg. s. 3.21	Requires plan set out party responsibility for directing investments	✓		
Member-directed investments - Reg. s. 3.22	Sets out administrator's responsibility regarding available investments under defined contribution plans that allow member-directed investments	✓		
Formula to be uniform – Reg. ss. 5.3(1)	Unless otherwise provided under regulation, requires formula for determining benefits or member contributions to be uniform for each year service or all members of a class	✓		
Integration and coordination with government benefits – Reg. ss. 5.4 (1) to (4)	If as permitted by ss. 21(14) and 21(16) of the Act, a defined benefit plan coordinates or integrates pensions with CPP, QPP or OAS, certain conditions must apply.	✓		
Lump sum transfer to RRSP - Reg. s. 5.5	Requires that if an amount is payable to a person as a lump sum under a plan, the plan must allow it to be transferred, at the person's option to an RRSP	✓		
Optional ancillary contributions - Reg. s. 5.13 and ss. 5.14(3)	If defined benefit provision permits member to make optional ancillary contribution with Manitoba locked-in money, contribution and interest earned continues to be locked in	✓		
	If a defined benefit provision permits optional ancillary contributions, sets out rules for conversion of optional ancillary contributions to optional ancillary benefits	✓		
Variable Benefits - Reg. Part 6	Defined contribution provision may provide for variable benefits in accordance with this Part		✓	
Timeframe for electing commuted value transfer – Reg. ss. 10.5(1)	Requires plan to give member at least 60 days to make an election	✓		
One-time transfer of up to 50% of LIF's or LRIF's – Reg. Division 4 of Part 10, – Reg. s.10.52 – 10.58	Subject to certain conditions, permits transfer by member who is at least 55 of commuted value, less any amount payable under ss. 31(2), to a prescribed RRIF after receiving prescribed information and with consent of cohabiting spouse or common-law partner Sets out administrative requirements		✓	

<p>Transfer by spouse or common-law partner – Reg. Division 8 of Part 10, Reg. s. 10.72 – 10.77</p>	<p>Sets out plans or arrangements to which surviving spouse or common-law partner under clause 21(26)(a) of the Act, and a current or former spouse or partner under ss. 31(2) of the Act, may transfer his or her locked in entitlement</p> <p>Requires that a surviving spouse or common-law partner entitled to transfer their entitlement under clause 21(26)(a) of the Act be given at least 90 days to make the election</p>	✓		
<p>Refunds to designated beneficiary or estate - Division 10, Reg. s. 10.81 – 10.83</p>	<p>Sets out the time frame for a designated beneficiary or estate who is entitled to a death benefit under clause 21(26)(b) of the Act to make an election and for the administrator to make the refund</p>	✓		

For more information please contact:

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This update has no legal authority. The Pension Benefits Act of Manitoba and the Pension Benefits regulation should be used to determine specific requirements.