Manitoba

Office of the Superintendent - Pension Commission

Update #25
Administrative Issues

Revised February 2009

Reference: *Pension Benefits Act, Section 21(1) - 21(2.2), 21(6) - 21(10), 21(13) - 21(18), 21(26), 22, 23, 24, 26(1), 31.1, 31(2) - 31(8). Regulation, Sections, 2.3(1), 2.3(2), 4.3, 9(2), 10(3), 10(3.1), 10(3.2), 10(3.3), 14(3), 23(2), 23(6), 23(9), 23(10), 26.1*

On April 30, 1999 revisions were made to the Regulation under The Pension Benefits Act. The purpose of this Update is to provide an overview of various revisions made to the Regulation.

PART 1 – BENEFITS

Interest payable on refunds or transfers

Where a person becomes entitled to a refund or transfer under Section 22 of the Act, interest shall be applied at whichever of the following rates is provided for in the plan.

a. a rate calculated by dividing 365 into the product of the number of days in the uncompleted fiscal year with respect to which interest is to be paid and the applicable rate provided for by subsection (4) or subsection 25(3) of the Act at the end of the immediately preceding fiscal year;
b. the actual net rate of interest earned by the plan during that portion of the uncompleted fiscal year; or
c. an estimate of the actual net rate of interest determined solely on the basis of information regarding the performance of the investments of the assets of the plan during that portion of the uncompleted fiscal year, as reported to the employer by the fund holder or person charged with the investment of the funds of the plan.

Rounded downward to the next full 1/10 of 1%. Where this interest rate results in a negative interest rate the interest rate shall be 0%.

Once a method of calculating the rate provided for in the plan has been chosen, this method must be used for all benefit payments made in the fiscal year.

A method other than those described may only be used if the Superintendent considers the method to be reasonable and approves such method in writing.

Time frame for electing transfer

A member who on termination of employment elects to transfer the value of their accrued benefits, shall now have 90 days after the receipt of the option statement to make an election.

Option statements

Where the plan has a transfer deficiency, the option statements provided on termination of employment or death must include a statement indicating that:

a. a transfer deficiency exists and that the entire benefit will not be transferred until it has been funded;
b. the amount of the benefit which will not be transferred;
c. the latest date on which it must be transferred;
d. a statement advising the employee that they are obligated to notify the employer 60 days prior to the transfer date of where the transfer is to be made.

Annual member statements

Where a plan has a solvency ratio of less than 1, the annual statement must include a statement that:

a. as of the last review date, the plan's assets are not sufficient to cover the liabilities;
b. special payments are being made to the plan to make the plan solvent.

For a multi-unit pension plan, the statement must include a statement that the plans' assets are not sufficient to cover the liabilities and the pension benefits could be reduced.

Documents available for inspection

In addition to the documents available under Section 23(2) of the Regulation a member, member's spouse or common-law partner or an authorized agent, is entitled to a copy of the written statement of investment policies and procedures required by the Regulation under the Act.

PART II - PLAN ADMINISTRATION

Remitting contributions

Section 26(1) of the Act requires that a plan be funded in accordance with a filed actuarial valuation report. An employer is required to make contributions that are sufficient to provide for all benefits in accordance with the prescribed tests for the solvency of the plan. Employees contribute to a plan only if so required by the plan.

Section 2.3(1) of the Regulation requires that the employer shall make payments to a plan:

a. in the case of employee contributions, not later than 30 days after the end of the month in which the contributions are received or are deducted;
b. in the case of employer contributions to a money purchase plan, (i) if related to the profits of the employer and are not minimum required contributions, not later than 90 days after the end of the fiscal year of the plan, and (ii) if not related to the profits of the employer, or are minimum required contributions, not later than 30 days after the end of the month for which the contributions are payable;
c. in the case of employer contributions to a defined benefit plan, employer contributions relating to normal actuarial cost and special payments, quarterly, not later than 30 days after the end of each quarter; and
d. in the case of employer contributions to a multi-unit pension plan, 30 days after the end of the month for which the contributions are payable.

In the event that a review is being made, the employer contributions in respect of normal actuarial cost and special payments that are payable in respect of the first quarter after a review date may be made with employer contributions in respect of the second quarter, but the contributions must include interest from the date they would otherwise be required to be paid to the date of payment, at the same rate of interest used to determine the employer contributions under clause (1)(c).

Plans for specified individuals

The Regulation provides that a defined benefit plan or money purchase plan in which every member is a "specified individual" as described in subsection 8515(4) of the Income Tax Act Regulations made under the Income Tax Act (Canada) is exempt from all provisions of The Pension Benefits Act except

a. section 23 (joint pension);
b. subsection 21(1) to (2.2), (6) to (10), (13) to (18) and (26) (deferred life annuities);
c. section 24 (no termination of survivor benefits);
d. subsection 31(2) to (8) (division of benefits); and
e. section 31.1 (garnishment).

As a result of these legislative changes, where all members of a plan are "specified" individuals, the plan will not be required to be registered under The Manitoba Pension Benefits Act

Due to the removal of the registration requirement for these plans, the documents required to register the plan, or maintain registration of the plans, as the case may be, are not required to be filed with the Pension Commission. Such documents include those governing the plan, Annual Information Returns and Actuarial Valuation Reports/Cost Certificates.

This new Regulation does not impact on the filing requirements for these plans with Canada Revenue Agency Taxation.

It should be noted however, that if a non-specified individual subsequently joins the plan, registration of the plan will be required under The Manitoba Pension Benefits Act.

Filing of amendments

Section 9(2) of the Regulation has been amended to require that Amendments are required to be filed within 60 days after the Amendment is made.