

Office of the Superintendent - Pension Commission

Update #10 – 01

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The Pension Benefits Act and Pension Benefits Regulation Summary of Changes

Please note that the requirements of *The Pension Benefits Amendment Act* and Pension Benefits Regulation 39/2010 come into effect on May 31, 2010 with the exception of the following.

Subsection 21(13) of the Act regarding portability came into force on March 31, 2010.

Subsections 28.1(1) to (1.2) of the Act regarding Pension Committees will come into force on May 31, 2011 for pension plans registered before May 31, 2010 or filed for registration before that date.

Note that the requirements of *The Pension Benefits Amendment Act* and Pension Benefits Regulation 39/2010 apply to events occurring and administrative filings with dates, on or after May 31, 2010.

For example, where the date of termination, death, retirement or separation occurs on or after May 31, 2010, the applicable benefits are to be administered according to the new requirements.

Similarly, administrative filings such as actuarial valuation reports with a valuation date as of May 31, 2010 or later, and member statements with a statement date as of May 31, 2010 or later, are to be prepared according to the new requirements.

This Update highlights **only the main changes** to *The Pension Benefits Amendment Act* (Act) and *Pension Benefits Regulation* (regulation).

All registered pension plans will be required to make certain amendments. These amendments must be filed with the Office of the Superintendent – Pension Commission by December 31, 2011.

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

Changes to Legislation Description of Change

<p>Definitions - Act ss. 1(1) and Reg. s. 1.1</p>	<p>These sections include a number of new definitions and amended definitions required as a result of the implementation of the Act and regulation.</p>
<p>Temporary interruption in employment - Act ss. 1(1) and Reg. s. 1.5</p>	<p>Section 1.5 of the regulation extends the period of temporary interruption in employment in subsection 1(1) of the Act to 54 weeks from 52 weeks.</p>
<p>Minimum benefits and entitlements may be exceeded - Act ss. 3.1(1)</p>	<p>Enables pension plans to contain provisions more advantageous to members than the minimum standards set by the Act and regulation, except where the provision would be contrary to an express prohibition or restriction in the Act or regulation.</p>
<p>No waiver or contracting out - Act s. 3.2</p>	<p>Limits the ability to waive or contract out of the requirements of the Act and regulation.</p>
<p>Vesting – Act ss. 21(1)</p>	<p>Prohibits minimum service requirements for vesting of a member’s entitlement to a pension for all benefits earned after July 1, 1976.</p>
<p>Ceasing to be an active member – Act ss. 21(1.1)</p>	<p>Clarifies when a member of a pension plan ceases to be an active member.</p>
<p>Locking-in - Act ss. 21(3), 21(3.2), 21(5), and 21(5.1)</p>	<p>Subsection 21(3) prohibits minimum service requirements for locking-in of a member’s pension earned after July 1, 1976.</p> <p>An exception under subsections 21(5) and 21(5.1) permits a member who is 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.</p> <p>Subsection 21(3.2) exempts voluntary additional contributions and optional ancillary contributions from the locking-in requirements in subsection 21(3) of the Act.</p>
<p>Commutation of small pension – Act ss. 21(4) and Reg. s 10.63 to 10.67</p>	<p>A small pension under a pension plan is commutable under subsection 21(4) of the Act.</p> <p>Section 10.64 of the regulation sets out rules for determining whether a pension is a small pension for this purpose.</p> <p>Sections 10.65 to 10.67 of the regulation set out rules under which the owner of a LIRA or LIF may similarly withdraw the entire balance.</p>
<p>Commutation on shortened life expectancy - Act ss. 21(6) and Reg. s. 10.68 and 10.71</p>	<p>Subsection 21(6) of the Act allows for pre-retirement payments in the event of a shortened life expectancy of a pension plan member.</p> <p>Section 10.70 of the regulation sets out the rules for such a commutation, including preventing the use of actuarial assumptions that take into account the member’s shortened life expectancy.</p>

	Section 10.71 of the regulation sets out the rules under which the owner of a LIRA or LIF with a shortened life expectancy may similarly withdraw all or part of the balance of the fund.
Normal retirement age - Act ss. 21(7)	Sets out minimum standards for normal retirement age which must be no later than the first day of the month following the month in which unreduced benefits are payable to a member under the <i>Canada Pension Plan</i> .
Postponed retirement - Act ss. 21(9) and 21(9.1)	Subsection 21(9) sets out the conditions for employment after normal retirement age. Subsection 21(19.1) sets out the rules for the accrual of benefits for members who continue to be employed and make contributions after reaching normal retirement age.
Early retirement – Act ss. 21(10) and 21(10.1)	Subsection 21(10) sets out the minimum standards for a member’s entitlement to commence a pension on early retirement which cannot be greater than 10 years before the member reaches early retirement age. Subsection 21(10.1) sets out the maximum reduction that may be applied.
50% Excess - Act ss. 21(11) and 21(11.1)	Subsection 21(11) clarifies the rule limiting an employee’s funding of a defined benefit plan to 50% of its commuted value. Subsection 21(11.1) describes the pension and contributions that may be ignored under the 50% rule.
Portability - Act ss. 21(13)	Amends the provisions for portability of pension benefits before retirement. This section no longer requires a defined benefit plan to permit a member, after reaching the early retirement age under the plan, to transfer the commuted value to a prescribed retirement savings plan or other prescribed arrangement. This section is effective March 31, 2010.
Mandatory Participation - Act ss. 21(19)	Revises the minimum standards for compulsory pension plan membership.
Death benefits & waiving death benefits - Act ss. 21(26) to (26.4) and Reg. s. 3.37, 6.5, 10.25 and 10.41	Subsection 21(26) of the Act provides a pension to a surviving spouse or common-law partner of a member who dies before his or her pension commences only if they were cohabiting immediately before death. Subsection 21(26.3) of the Act permits the survivor pension on pre-retirement death to be waived after being given prescribed information in accordance with section 3.37 of the regulation. Subsection 21(26.4) of the Act permits, in the prescribed manner, the death benefit waiver under subsection 21(26.4) to be revoked before the death of the member.

	Sections 6.5, 10.25 and 10.41 of the regulation permit the owner of a variable benefit, LIRA or LIF to waive the death benefit waiver and sets out the rules under which the owner may waive the death benefit.
Ancillary benefits - Act ss. 21.1(2)	Provides that an ancillary benefit becomes part of a member's pension and must be included in the member's pension benefit credit or commuted value of the pension once a member has met all of the eligibility requirements under the plan to receive the benefit.
Optional ancillary benefits - Act s. 21.2(1)	Provides that a defined benefit pension plan may permit a 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	<p>Section 21.3 of the Act permits a non-resident former plan member to withdraw the commuted value of the pension, or a non-resident owner of a locked-in retirement savings or benefit plan to withdraw the balance, after receiving prescribed information and with the consent of the cohabiting spouse or common-law partner.</p> <p>Sections 10.59 to 10.62 of the regulation set out the requirements that apply to a lump sum withdrawal by a non-resident.</p>
Phased retirement - Act s. 21.5 and Reg. s. 5.16	<p>Section 21.5 of the Act permits a plan to provide for phased retirement benefits to be paid to a member before they are fully retired and while they are still accruing benefits.</p> <p>Section 5.16 of the regulation sets out the rules for providing phased retirement benefits under a defined benefit plan provision which must comply with the ITA as they relate to eligibility, commencement, maximum amounts, redetermination of a member's retirement benefit and death of a member.</p>
Joint pension - Act s. 23	<p>Subsection 23(2) harmonizes the joint pension requirements with those of other jurisdictions by requiring a minimum 60% survivor's pension reducing on the member's death, subject to subsection 26(5) of the Act which does not permit accrued benefits from being affected.</p> <p>Subsection 23(3) permits the spouse or common-law partner to waive their right to a joint life pension after being given prescribed information.</p> <p>Subsection 23(5) permits the spouse or common-law partner to revoke the waiver in the prescribed manner.</p>
Surplus - Act s. 26(2.1) and Reg. s 4.28 and 4.29	<p>Subsection 26(2.1) of the Act allows surplus to be paid, subject to certain condition, to any employer whose proposal regarding the payment of surplus has received the required level of consent from plan members and other beneficiaries.</p> <p>Sections 4.28 and 4.29 of the regulation set out the rules for making an application.</p>

<p>Amendments to MUPP's - Act s. 26(5)(b) and Reg. s. 2.8(1) to 2.8(3)</p>	<p>Clause 26(5)(b) of the Act permits amendments to multi-unit plans that reduce benefits if the amendment is necessary for the plan to meet the prescribed solvency requirements.</p> <p>Subsections 2.8(1) - (3) of the regulation sets out the notice and filing requirements where benefits are to be reduced.</p>
<p>MUPP provisions - Act s. 26.1</p>	<p>Section 26.1 clarifies provisions relating to multi-unit pension plans and expands them to include certain multi-employer plans.</p> <p>Subsection 26.1(4) requires the Board of Trustees to include a member who represents the interests of those who are receiving or are entitled to receive a pension and are no longer contributing to the plan.</p>
<p>Pension Committee - Act s. 28.1(1.2) and Reg. s. 3.4, and 3.7 to 3.17</p>	<p>Section 28.1 of the Act requires certain pension plans to be administered by a pension committee that includes both member and employer representatives.</p> <p>Section 3.4 of the regulation sets the prescribed number of members for purposes of clause 28.1(1)(d) of the Act as 50.</p> <p>Section 3.7 of the regulation requires that where a plan is to be administered by a pension committee, in accordance with clause 28.1(1)(f) of the Act, the committee must be established and begin administering the plan within 120 days after clause 28.1(1)(f) of the Act applies.</p> <p>Section 3.8 of the regulation sets out the general rights and obligations of pension committee.</p> <p>Section 3.12 of the regulation outlines the provisions that must be included in a plan administered by a pension committee.</p> <p>Section 3.15 of the regulation outlines the rules regarding terms of office of committee members.</p> <p>Section 3.17 of the regulation sets out the requirements for a pension committee to establish written rules of procedures and governance.</p>
<p>Investments – Act ss. 28.1(2.1) & (2.2)</p>	<p>Clarifies the duty of administrators regarding the investment of pension assets.</p>
<p>Division of pension on breakdown of relationship - Act ss. 31(2) – 31(9) and Reg. s. 11.1 – 11.13</p>	<p>Subsection 31(2) of the Act requires a division of a pension or pension benefit credit between separated spouses or common-law partners not only when family assets are to be divided under an agreement or court order made under <i>The Family Property Act</i>, but also when a court of another Canadian jurisdiction requires a pension or pension benefit credit to be divided.</p> <p>Subsections 31(3.2) - (3.4) of the Act enables a separated</p>

	<p>common-law partner who is not eligible to apply for an order under <i>The Family Property Act</i> to apply to the Court of King's Bench for an order requiring his or her partner's pension benefit credit to be divided.</p> <p>Subsection 31(9) of the Act permits a person entitled to a division in respect of a member or former member who has died, to waive their entitlement after being given prescribed information as per section 11.10 of the regulation, by completing a form approved by the Superintendent.</p> <p>Section 11.4 of the regulation sets out the method for valuing the benefit or pension benefit credit that is subject to division and clarifies that voluntary additional contributions, optional ancillary contributions and excess member contributions are not locked-in.</p> <p>Section 11.5 of the regulation sets out the method for updating the pension benefit credit with interest from the date of separation until the benefits are settled. Under a defined benefit provision, the commuted value must now be updated with interest at the plan rate of return.</p> <p>Section 11.7 of the regulation requires that the adjustment to the residual pension cannot result in a gain or loss to the plan.</p> <p>Section 11.8 of the regulation permits the payment of a joint and survivor pension as two separate life only pensions, one to the member and one to the spouse or common-law partner. In any other case the form of pension may not be changed but the pension may be adjusted so that it becomes payable as two separate pensions, one to the member and one to the spouse or common-law partner.</p> <p>Section 11.9 of the regulation permits the parties to agree not to divide the pension or pension benefit credit subject to satisfying the requirements in this section.</p> <p>Section 11.11 of the regulation sets out the rules regarding the administrator's obligation to provide statements to the member.</p>
<p>Non-compliant amendment - Reg. s. 2.9</p>	<p>These sections provide for the registration of part of an amendment and the requirements where a part of an amendment is void.</p>
<p>Consolidated plan - Reg. s 2.10</p>	<p>Permits the superintendent to request that the administrator provide a revised plan text when more than four amendments have been made to the plan.</p>
<p>Member-directed investments - Reg. s. 3.22</p>	<p>Describes the administrator's responsibilities for plans with member-directed investments.</p>

Administrator's name and address – Reg. s. 3.24	Sets out the requirement for notifying the superintendent of an administrator's name and address.
Audited Financial Statements - Reg. s. 3.28 and 3.29	Requires the filing of audited financial statements of the pension fund, subject to certain exemptions.
Retention of records - Reg. s. 3.38	Sets out the minimum period for the retention of records.
Interest on late payments - Reg. s. 4.4	Requires the crediting of interest on late payments made to a pension plan.
Solvency assets – Reg. ss. 4.7(1)	Requires that wind-up expenses are included as an asset.
Cost Certificate - Reg. ss. 4.14 (2)	Requires that a cost certificate is filed in a form and manner approved by the superintendent.
Timeframe for remitting contributions - Reg. ss. 4.18(2)	Requires that normal actuarial cost, unfunded liability and solvency deficiency contributions are payable at least monthly, and no later than 30 days after the end of the period for which they are payable.
Solvency gains - Reg. s. 4.21	Permits solvency gains to be applied to reduce the outstanding balances of any solvency deficiencies, in the order in which they were established.
Surplus limit for contributions - Reg. s. 4.27	Permits surplus to be used to reduce employer contributions only if the reduction does not reduce surplus to less than 5% of the plan's solvency liabilities determined as of the latest actuarial review date.
Prescribed classes of employees – ss. 5.1(1)	Lists the classes of employees prescribed for purpose of subsection 21(18.1) of the Act.
Lump sum transfer to RRSP - Reg. s. 5.5	Require 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.
Updating commuted values with interest on plan termination - Reg. s. 5.8	Requires that on full termination of a plan, the commuted values must be updated with interest at a rate equal to the rate of return that can reasonably be attributed to the operation of the pension fund, for the period from the termination date of the plan to a date not earlier than the end of the month immediately preceding the date of payment or transfer.
Optional ancillary contributions - Reg. s. 5.13 to 5.14	Permits a member to make optional ancillary contributions with locked-in money and sets out the rules for the conversion of optional ancillary contributions to ancillary benefits.
Interest of late pension payments – s. 5.20	Sets out the rules regarding the payment of interest when the administrator fails to make the payment within the required time.
Termination and winding-up of plans – Reg. s. 7.1 – 7.17	Sections 7.3 to 7.5 clarify what constitutes a full and partial termination of a plan and any exceptions. Section 7.6 sets out rules regarding providing notice of the termination to members and other beneficiaries.

	<p>Section 7.7 clarifies the information that must be included in a termination report, including the names of the members and other beneficiaries under the plan.</p> <p>Section 7.10 sets out rules regarding when a wind-up must commence including the rules when the wind-up is delayed.</p> <p>Section 7.15 clarifies how benefits are to be settled for a MUPP.</p> <p>Section 7.16 sets out requirements for filing an Annual Information Return.</p>
Predecessor and successor plans an employers – Reg. s. 8.1 – 8.4	<p>Section 8.3 requires that notice is provided within a certain time frame.</p> <p>Section 8.4 clarifies the minimum information that must be filed with the commission.</p>
Definitions – Division 1 – Reg. ss. 10.2(1) - 10.5(2)	Sets out definitions and general rules applicable to Part 10 (transfers and withdrawals).
LIRA's and LIF's – Division 2 – Reg. s. 10.6 – 10.49	<p>Sections 10.6 to 10.9 set the rules for a financial institution to be registered by the superintendent for purposes of issuing a LIRA or LIF.</p> <p>Section 10.9 requires that a financial institution wishing to be registered must use the addendum set out in Schedule 1 or 2 of Division 10.</p> <p>Sections 10.10 and 10.11 set out transitional provisions for registration of financial institutions with approved forms of contracts under the former regulation.</p> <p>Section 10.44 requires the administrator to pay an amount to a LIF owner in accordance with the LIF contract in Schedule 2. The maximum payment under the new LIF is the greater of an amount determined based on prescribed annuity factors or the investment income earned under the LIF. It replaces the maximum under the LIF in the former regulation.</p> <p>Section 10.45 includes transitional provisions for LRIFs which are to be phased out by December 31, 2010.</p> <p>Sections 10.47 to 10.48 set out transitional provisions for LIRAs and LIFs to amend their existing LIRA or LIF contracts with the required addendum in Schedule 1 and Schedule 2 of this Division.</p>
Transfers from pension plans – Division 3 – Reg. s. 10.50 – 10.51	Replaces subsection 18(1) of the former regulation which provides that a pension plan or life annuity contract is a prescribed arrangement for purposes of subsection 21(13) of the Act.

<p>One-time transfer of up to 50% of LIF's – Division 4 – Reg. s10.52 – 10.58</p>	<p>Section 10.55 permits a member of a pension plan who is at least 55 to transfer no more than 50% of his or her pension benefit credit under a pension plan to a prescribed RRIF, similar to LIFs.</p> <p>Section 10.56 simplifies the process for applying to the superintendent for verification that the superintendent has no record of a one-time transfer by the applicant by streamlining the information to be provided to the superintendent and permitting the electronic filing of this information.</p>
<p>Transfer by spouse or common-law partner - Division 8, Reg. s. 10.72 – 10.77</p>	<p>Sections 10.73 and 10.74 prescribe plans or arrangements to which the surviving spouse or common-law partner of a deceased member under clause 21(26)(a) of the Act, and a current or former spouse or common-law partner entitled to a division of assets under section 31(2) of the Act, may transfer their entitlement.</p> <p>Section 10.75 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>This section sets out the time frame for a designated beneficiary or estate who is entitled to a death benefit under subsection 21(26)(b) of the Act to make an election and for the administrator to make the refund.</p>
<p>LIRA Addendum – Schedule 1 to Division 2</p>	<p>This addendum must be used by all financial institutions issuing Manitoba LIRAs.</p>
<p>LIF Addendum – Schedule 2 to Division 2</p>	<p>This addendum must be used by all financial institutions issuing Manitoba LIFs.</p>
<p>Schedule A – Statements</p>	<p>This schedule sets out the information that must be contained in the statements required to be provided under sections 3.33 to 3.36 and 7.9 of the regulation.</p>

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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.