HUMAN RESOURCES LAW AND ADVOCACY

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SUMMARY OF SOLVENCY FUNDING REGULATIONS ACROSS CANADA
SINGLE EMPLOYER DEFINED BENEFIT PLANS

Jurisdiction	Regulation (Section)	In Effect or Proposed (Year)	Solvency Funding Relief	Conditions	Term (If Temporary Measure)
Federal	*Solvency Funding Relief Regulations* SOR/2006-275	In Effect (2006)	Permitted consolidation of outstanding solvency payment schedules into a new 5 year funding schedule. Permitted extension of funding over 10 years, with “consent”. Alternative: may fund the difference between the 5 and 10 year amortization period using a letter of credit.	For new rules to apply, plans must have been current with payments in respect of prior solvency deficiencies. For new 5 year funding schedule, a notice to the Superintendent is required at the time of the filing of the report. For extension to 10 years – after provision of prescribed information by employer, 2/3 of members <u>and</u> 2/3 of beneficiaries must not object. Beneficiary representatives, such as unions, may object on behalf of members or beneficiaries. When funding with letter of credit, notice must be given to members and letter of credit and trust agreement must meet prescribed requirements and standards. Must file required information and documents with Superintendent.	Applies to solvency deficiencies identified in actuarial reports with a valuation date between 2005/12/31 and 2008/01/01

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Federal	*Air Canada Pension Plan Solvency Deficiency Funding Regulations* SOR/2004-174	In Effect (2004)	Funding over 10 years with payments in each year calculated on the basis of a payment schedule in regulation.	Beneficiary representatives (i.e. union or court-appointed representative) required to consent on behalf of members, former members and beneficiaries. Conditional on issuance of a promissory note and security agreement in respect of the plan. Limit on contribution holidays. Limit on benefit improvements. Provision made for funding on termination of plan. May opt out, with notice to the Superintendent and corresponding adjustment to payments. Prescribes use of actuarial gains (cannot reduce payments in years prior to 2006). Must file required information and documents with Superintendent.	2004/01/01 to 2013/12/31
Federal	*Pension Benefits Standards Act Regulation*	Proposed (2008 Economic and Fiscal Update/2009 Budget)	Temporary relief for deficits created by current economic conditions. Extension of amortization period from 5 to 10 years for deficits revealed in 2008, or difference secured by letter of credit.	Requires consent of members and former members (including retirees receiving payments form plan) or letter of credit, by 2009/12/31, for extension of amortization period. If consent or letter of credit is not obtained by 2009/12/31, solvency deficiency must be amortized over	2008-2009

Jurisdiction	Regulation (Section)	In Effect or Proposed (Year)	Solvency Funding Relief	Conditions	Term (If Temporary Measure)
Federal	*Pension Benefits Standards Act Regulation* (cont')		Permit smoothing of assets over 5 years to stabilize short term fluctuations and increase current 110% limit on use of asset values in excess of market value.	following 5 years. The amount of any deferral of funding that results from the use of an asset value in excess of 110% subject to a deemed trust.	
British Columbia	*Pension Benefits Standards Act Regulation* (section 35.1) B.C. Reg. 197/2008	In Effect (2008)	Funding via letters of credit. Employer to use letter of credit to secure those payments for a particular year, in lieu of making some or all required solvency deficiency payments.	Letter of credit must satisfy prescribed requirements and the issuer must have an acceptable credit rating from specified credit rating agencies. Letter of credit must be an irrevocable and unconditional standby letter of credit, issued in Canadian currency, that makes issuer contractually liable to make payments, on demand, under its terms. Must be made out to the benefit of a fund holder (not the employer), in trust, for deposit into the pension fund. On initial use, administrator must file copy of letter of credit and prescribed statement with Superintendent at least 90 days before next solvency deficiency payment following issue date falls due.	2008 - ongoing

Jurisdiction	Regulation (Section)	In Effect or Proposed (Year)	Solvency Funding Relief	Conditions	Term (If Temporary Measure)
British Columbia	*Pension Benefits Standards Act Regulation* (section 35.1) B.C. Reg. 197/2008			Each letter of credit can only be used for up to one year, with possibility of renewal or replacement. Notification of renewal or replacement must be provided to Superintendent. On expiry, administrator must provide Superintendent with notice and a current actuarial report. Employer must make additional payment to fund if member entitlement to payment transfers benefits out of fund. Employer must make interest payments in respect of the solvency deficiency secured by the letter of credit. Value of letter of credit cannot be used as an asset for the purpose of determining the solvency ratio or the going concern assets. On plan termination, Superintendent reserves right to call on letter of credit if required to make plan solvent.	
British Columbia	*Pension Benefits Standards Act* (section 6)	In Effect (Bulletin released 2009)	Permits an administrator to make a written request to the Superintendent for extension of the amortization time periods.	Request must be based on extenuating reasons and may be for an extension up to 15 years. Plan sponsor must provide	Ongoing

Jurisdiction	Regulation (Section)	In Effect or Proposed (Year)	Solvency Funding Relief	Conditions	Term (If Temporary Measure)
British Columbia	*Pension Benefits Standards Act* (section 6) (cont')			assurance of financial viability for the period of the extension of amortization periods. Administrator must not increase plan benefits during the extended amortization period without the approval of the Superintendent. If granted, the administrator must disclose details of the extension to all plan members.	
Alberta	*Employment Pension Plans Act Regulation* (section 48.1) Alta. Reg. 224/2007	In Effect (2007)	Funding via letters of credit. Employer to use letter of credit to secure those payments for a particular year, in lieu of making some or all required solvency deficiency payments.	Letter of credit must satisfy prescribed requirements and the issuer must have an acceptable credit rating from specified credit rating agencies. Letter of credit must be an irrevocable and unconditional standby letter of credit, issued in Canadian currency, that makes issuer contractually liable to make payments, on demand, under its terms. Must be made out to the benefit of a fund holder (not the employer), in trust, for deposit into the pension fund. On initial use, administrator must file copy of letter of credit and prescribed statement with	2007 - ongoing

Jurisdiction	Regulation (Section)	In Effect or Proposed (Year)	Solvency Funding Relief	Conditions	Term (If Temporary Measure)
Alberta	*Employment Pension Plans Act* (section 48.1) (cont')			Superintendent at least 90 days before next solvency deficiency payment following issue date falls due. Each letter of credit can only be used for up to one year, with possibility of renewal or replacement. Notification of renewal or replacement must be provided to Superintendent. On expiry, administrator must provide Superintendent with notice and a current actuarial report. Employer must make additional payment to fund if member entitlement to payment transfers benefits out of fund. Employer must make interest payments in respect of the solvency deficiency secured by the letter of credit. Value of letter of credit cannot be used as an asset for the purpose of determining the solvency ratio or the going concern assets. On plan termination, Superintendent reserves right to call on letter of credit if required to make plan solvent.	

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Alberta	*Employment Pension Plans Act Regulation* Schedule 0.2 O.C. 54/2009	In Effect (2009) (based on Alberta Finance Policy Bulletin #41)	Permit use of new CIA standards for determining commuted values on and after 2009/04/01. New CIA standards permitted for actuarial valuations performed after 2008/09/01. Temporary extension of amortization period from 5 to 10 years for new solvency deficiencies revealed in actuarial valuation between 2008/09/01 and 2009/12/31. Previously established deficiencies must be amortized over the remainder of the existing 5 year schedule; or Solvency moratorium for single employer pension plans, (similar to that provided to SMEPPs) permitting employer to apply for 3 year exemption from making any solvency payments.	Both the extension of amortization periods and the moratorium of solvency payments are subject to Superintendent consent. Limits placed on ability to implement benefit improvements and employers would be required to top-up the pension fund if commuted value transfers were made during the relief funding period. Provides for enhanced notice to members to advise on the plan sponsor's use of funding remedies via members' annual statements. Member and retirees consent is not required for either form of relief. Actuarial valuations may not use smooth assets in excess of 115% of market value. When moratorium is elected, going concern unfunded liabilities must be funded over lesser of balance in existing schedules or 10 years.	Extension – 2008/09/01-2009/12/31, Moratorium – sponsor could apply up to 2011/12/31. Must apply before 2010.
Saskatchewan	*Pension Benefits Act Regulation*	Proposed (2008/12/11 – released discussion paper)	Considering options of 3 year moratorium from solvency deficiency funding or extension of amortization period from 5 to 10 years; in either case only in respect of "new" deficiencies	Benefits cannot be improved on or after date the election has been filed with the Superintendent. If the plan terminates during the relief period, the balance of all outstanding solvency deficiencies	TBA (expected to be retroactive to 2008/12/31)

Jurisdiction	Regulation (Section)	In Effect or Proposed (Year)	Solvency Funding Relief	Conditions	Term (If Temporary Measure)
Saskatchewan	*Pension Benefits Act Regulation* (cont')		identified in actuarial valuations with review dates between 2008/12/31 and 2009/12/31, and not applicable to solvency deficiencies previously established. (Does not recommend letter of credit funding but raises it as a possibility that the Commission views favourably.)	must be fully funded over the remainder of the amortization periods. (As Sask. PBA does not currently require terminal funding, this would be a significant amendment.) Notice of intention to elect solvency relief must be provided to plan members and beneficiaries.	
Manitoba	Special Payments Regulation (Tolko Pension Plans) Man. Reg. 151/2007	In Effect (2007)	Regulation applies only in respect of 2 specific pension plans. Permits employer election to extend amortization period from 5 to 10 years for "initial solvency liability" determined at 2006/12/31.	Employer must notify administrator of intention to elect under regulation. Administrator must provide notice including prescribed information to all members, former members and other persons entitled to benefits under the plan (and unions).Relief available provided that less than 1/3 of all members and former members (as one group) and 1/3 of all other persons entitled to benefits under the plan do not object within a prescribed time. Plan administrator must file required documents with Superintendent. Cannot improve benefits (unless employer has made sufficient contributions to fully fund cost) or decrease employee contributions.	2006/12/31 to 2016/12/31

Jurisdiction	Regulation (Section)	In Effect or Proposed (Year)	Solvency Funding Relief	Conditions	Term (If Temporary Measure)
Manitoba	*Special Payments Regulation* (Tolko Pension Plans) (cont')			Employer may opt out after 2011, with payment of special payments that would have been required but for the regulation, after taking into account payments made under the regulation. Employer may make accelerated payments.	
Manitoba	*University Pension Plans Exemption Regulation* Man. Reg. 141/2007	In Effect (2007)	Exemption from solvency and transfer deficiency provisions of the *Pension Benefits Act* for 3 specific university pension plans.	Employer must notify administrator of intention to elect under regulation. Administrator must provide notice including prescribed information to all members and former members (and unions) and to any other persons entitled to benefits under the plan. The election is irrevocable. If the plan is terminated, the employer must fund any solvency deficiency that exists at that time, in accordance with the Pension Benefits Act Regulations. Plan must continue to be valued on a solvency basis. Plan cannot be amended if the amendment would increase the cost of benefits and would reduce the plan's solvency ratio under 0.9.	2007 - ongoing

Jurisdiction	Regulation (Section)	In Effect or Proposed (Year)	Solvency Funding Relief	Conditions	Term (If Temporary Measure)
Manitoba	*Special Payments Relief Regulation* Man. Reg. 190/2008	In Effect (2008)	Permits employer election to extend amortization period from 5 to 10 years. Permits consolidation of previous funding schedules.	Relief available provided that less than 1/3 of members and former members and less than 1/3 of retirees and beneficiaries do not object within a prescribed period of time. Relief also conditional upon employer being up to date with current funding for previously identified solvency deficiencies. Cannot improve benefits (unless employer has made sufficient contributions to fully fund cost) or decrease employee contributions. Employer may opt out of funding relief, subject to regular solvency funding rules.	Applies to solvency deficiencies identified in actuarial report having a valuation date between 2008/12/30 and 2011/01/02
Ontario	*Pension Benefits Act Regulation*	Proposed (2008) Clarification provided in 2009 Ontario Budget	Would permit extension of amortization period from 5 to 10 years and would permit consolidation of previous funding schedules into new 5 year schedule. One year deferral of catch up payments (both going-concern and solvency) that would be required after filing of valuation report. Adoption of new CIA standard	Extension of amortization periods available provided that less than 1/3 of the aggregate of all active member, deferred members and retirees do not object before the extended payments commence. Enhanced notice to members and former members would be required. Benefit improvements must be funding over 5 years on both a going-concern and solvency basis. Would place temporary limitations	TBA (To be retroactive to 2008/09/30)

Jurisdiction	Regulation (Section)	In Effect or Proposed (Year)	Solvency Funding Relief	Conditions	Term (If Temporary Measure)
Ontario	*Pension Benefits Act Regulation* (cont')		regarding calculation of commuted values for solvency valuations that would be performed after 2008/12/31. Would permit use of actuarial gains to reduce or eliminate cash payments	on contribution holidays for plan years ending in 2010 to 2012, unless a cost certificate reveals a surplus or the plan is a designated plan under the *Income Tax Act*.	
Ontario	*Stelco Inc. Pension Plans Regulation* O. Reg. 99/06	In Effect (2005)	Annual lump sum payments for all 4 covered pension plans (allocated among the plans according to a formula set out in the Regulation), separate and apart from the amount required by the valuation report and based, in part, on the total deficit of all plans.	Amendment providing benefit improvements to be funded in accordance with general regulation.	2005/12/31 to 2016/05/16
Ontario	*Algoma Steel Inc. Pension Plan Regulation* O. Reg. 202/02	In Effect (2001)	Applies only to 2 specific new plans of Algoma. Solvency liabilities defined to exclude certain benefits, such as special plant closure benefits. Extended amortization period for solvency deficiencies from 5 to 15 years.	New plans exempted from PBGF contributions and excluded from PBGF coverage. Restriction on amendments providing benefit improvements until deficiency is liquidated.	2001/09/17 to 2016/09/16
Quebec	An *Act* respecting the funding of certain pension plans (Bill 102)	In Effect (2005)	Permits the extension of amortization period from 5 to 10 years where: • Plans are sponsored by	Contribution holidays are limited to periods when valuations reveal surplus.	2004/12/31 – 2010/01/01 (as Bill 30 repeals Bill

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Quebec	An *Act* respecting the funding of certain pension plans (Bill 102) (cont')		• municipal and university employers; • Deficiency is secured by letter of credit in an amount equal to the difference between the present value of future payments based on a 10 year period versus a 5 year period; or • 70% of active and inactive member (including beneficiaries) consent with consent being deemed to have been given unless 30% or more of active members or 30% or more of inactive members and beneficiaries object. Also allows consolidation of deficits.	Benefit improvements must be funded in accordance with specified funding rules. When funding with letter of credit, notice must be given to members and letter of credit and trust agreement must meet prescribed requirements and standards. Letter of credit must be an irrevocable and unconditional standby letter of credit, issued in Canadian currency, that makes issuer contractually liable to make payments, on demand, under its terms. Provides for enhanced notice to members and beneficiaries.	102 effective this date)
Quebec	*Act to amend the Supplemental Pension Plans Act*, particularly with respect to the funding and administration of pension plans (Bill 30)	Passed (2006), Effective (2010)	Continues to permit the use of letters of credit to fund plans in certain circumstances.	Requires the creation of reserve in actuarial valuation to assist in maintaining funded status of plans. Benefit improvements must be funded by special payment immediately if adversely affect funded status of plan below prescribed threshold. Value of letter of credit cannot exceed 15% of solvency liabilities of plan.	2010/01/01 - (certain portions may not come into effect given new proposed regulations)

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Quebec	*Act to amend the Supplemental Pension Plans Act*, particularly with respect to the funding and administration of pension plans (Bill 30) (cont')			Extension of amortization period to 10 years no longer available for deficiencies in valuations after 2010/01/01.	
Quebec	*Supplemental Pension Plans Act Regulation* (Tabled as Bill 1, An *Act to amend the Supplemental Pension Plans Act* and other legislative provisions in order to reduce the effects of the financial crisis on plans covered by the *Act*	Proposed (2008) Tabled (2009)	Government has proposed the consolidation of solvency deficiencies and the extension of amortization period from 5 to 10 years. (Would repeal changes in Bill 30) – Not contained in Bill 1. Would allow for faster use of actuarial gains to reduce cash payments. – Not contained in Bill 1. Adopts the application of revised CIA standards to calculate commuted values. – Contained in Bill 1. Will allow the smoothing of assets over 5 years – Not contained in Bill 1.	Unclear as to whether it will apply to all DB plans or only those experiencing major financial difficulties.	TBA (Bill 1 is retroactive to 2008/12/31, with some provisions coming into effect on other dates)
New Brunswick	*Pension Benefits Act Regulation* (section 36(1.2)) N.B. Reg. 2003-87	In Effect (2003)	Permits amortization periods to be extended up to 2018 with the Superintendent's approval (up to 15 years for plans that	Administrator must file actuarial valuation report that has a review date within 9 months prior to the request for a reduction in special	2003/12/01 to 2018/12/31

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New Brunswick	*Pension Benefits Act Regulation* (section 36(1.2)) N.B. Reg. 2003-87 (cont')		applied when regulation passed).	payments. Plans must have sufficient assets to meet cash flows during extended amortization funding period. Notice with prescribed information (including invitation for comments to employer and Superintendent) must be provided to all members and former members, with certification and copy provided to Superintendent (who must wait 45 days before approving election). Employer must immediately advise Superintendent of any circumstance that places employer at risk of not making special payment.	
New Brunswick	*Pension Benefits Act Regulation* (section 42.01) N.B. Reg 2005-156; 2006-77	In Effect (2005/6)	Plans sponsored by municipality and university employers are exempt from making solvency payments in accordance with the *Pension Benefits Act Regulation*.	Requires a minimum of 51% (affirmative) consent of members, former members and beneficiaries who vote (as one group). Notice is required to all members and former members and any other persons entitled to payments under the plan. No benefit improvements allowed if adversely affect solvency of plan, unless fully funded before effective date of amendment or the amendment is required by by-law.	2005 - ongoing

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New Brunswick	*Nursing Homes Pension Plans Act*	In Effect (2008)	Special exemption from special payments for specified nursing home plans. Also stays orders in respect of applicable plans requiring solvency funding in accordance	If valuations reveal that assets of plan are less than 95% of the going concern liabilities of plan, normal contributions are required to be increased until the plan is 100% funded.	2008 - ongoing
New Brunswick	*Nursing Homes Pension Plans Act* (cont')		with *Pension Benefits Act*.	Plan must establish a funding policy as set out in *Act*. Benefit improvements may only be made if assets of plan are greater than 120% of the plan's going concern liabilities. No more than 33% of surplus may be used to fund improvements. Valuations must be prepared annually and continue to disclose any solvency deficiencies.	
Nova Scotia	*Pension Benefits Act Regulation* (section 6) N.S. Reg. 88/2005; 328/2007	In Effect (2004 & 2007)	Permits the extension of amortization periods from 5 to 15 years for pension plans sponsored by university employers. Municipalities are only required to fund solvency deficiencies arising up to 2016/08/30, up to 85% over 5 year period after the review date in the valuation identifying the deficiency.	For universities, solvency deficiency must have arisen between 1988 and 2006.	2004 – ongoing 2007 - ongoing

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Nova Scotia	*Pension Benefits Act Regulation*	Tentatively proposed (2008 – Position in interim paper of review panel – released October)	Creation of new funding standard based on the cost of “accrued benefits”, which is a blending of going concern and solvency valuations (including 5 years of salary projections and early retirement decrements). Would permit the straight line amortization of deficits over 8 years. Funding of deficits between 95% and 100% would not be required.	Funding valuations would require inclusions of all benefits (including indexing). Full funding on plan termination would be required. Benefit improvements would be prohibited during periods of deficit periods. Contribution holidays would not permitted unless plan funded to at least 105%.	TBA
Newfoundland	*Solvency Funding Relief Regulation* N.L.R. 30/08	In Effect (2008)	Provides 3 relief options (the availability of any of the options is conditional on the employer being current with all required payments at the time the relief is sought): • Consolidate previous solvency funding payment schedules and amortize the entire solvency deficiency over a single, new 5 year period; • Extend the solvency funding period to 10 years, or; • Extend the solvency	The extension to a 10 year amortization period is permitted only if less than 1/3 of the members and less than 1/3 of the former members object. Employer may opt out of funding relief, with adjustments to special payments. When funding with letter of credit, notice must be given to members and letter of credit and trust agreement must meet prescribed requirements and standards. Letter of credit must be an irrevocable and unconditional	Relief available based on actuarial valuation reports with a review date between 2007/01/01 and 2009/01/01

Jurisdiction	Regulation (Section)	In Effect or Proposed (Year)	Solvency Funding Relief	Conditions	Term (If Temporary Measure)
Newfoundland	*Solvency Funding Relief Regulation* N.L.R. 30/08 (cont')		funding payment period to 10 years by securing the difference between 5 year and 10 year level of payments with a letter of credit.	standby letter of credit, issued in Canadian currency, that makes issuer contractually liable to make payments, on demand, under its terms.	