

EPPA Update **14-02**

Issued July, 2014

New Legislation – Administrative Information and Checklists

On July 22, 2014, the [Employment Pension Plans Regulation](#) (the new Regulation) was passed by Cabinet. The new Regulation supports the [Employment Pension Plans Act](#) (the new Act) which was passed in December of 2012. Although the new Regulation is passed, proclamation of the new Act and Regulation is delayed until September 1, 2014.

This Update is designed to provide Plan Administrators and service providers with checklists of items that may require an amendment to the plan text document, or any plan supporting documents. This Update is not exhaustive, and a comprehensive review of the new Act and Regulation should be used to determine all specific legislative requirements.

New Terms defined in legislation and used in this Update

“Benefit Formula Plans” means either or both of a pension plan that provides for a defined benefit provision, or a target benefit provision.

“Non-Collectively Bargained Multi- Employer Plans (NCBMEPs)” means a multi-employer plan that is established other than through a collective agreement (formerly known as Multi-Unit Pension Plans or MUPPs).

“Collectively Bargained Multi- Employer Plans (CBMEPs)” means a multi-employer plan that is established through a collective agreement (formerly known as Specified Multi-Employer Pension Plans or SMEPPs).

“Life Income Type Benefit” this term refers to the account that may be set up under a defined contribution plan to permit a retiring member to receive LIF like payments from the plan rather than transferring his funds out of the plan to a LIF. This term replaces the term DCRIFA from the former Regulation.

CHECKLISTS

Fundholder Agreement – Amendment due date December 31, 2014

If the fundholder agreement specifies a default account, then the agreement must be amended to comply with the new requirements. The administrator must advise the fundholder as to which option the administrator wishes to use.

Act / Reg Section	Topic	Must Contain	May Contain
Reg s.72(4)(b)	In the case of a defined contribution provision which permits members to make investment decisions, the funding agreement must provide a default investment option which is either <ol style="list-style-type: none">i. a balanced fund, orii. a portfolio of investments that takes into account a member's age	X	

If the fundholder agreement does not specify a default investment options, procedures must nonetheless be changed to provide for one of the prescribed default options, as selected by the administrator of the plan.

This is also a good time to review the funding agreement to make sure there are no conflicts with plan text document.

General Requirements of Plan Text Documents

Section 8(1) of the new Act outlines the general requirements for pension plan text documents. A plan text document must contain information about the plan as follows (NOTE: not all of these are new requirements):

- the administration and maintenance of the plan;
- who is to pay the administration and investment expenses of the plan;
- that the pension fund must be held and invested in accordance with this Act and regulations;
- the conditions for membership in the plan;

- benefits and entitlements on
 - termination of active membership,
 - death,
 - pension commencement dates, and
 - termination of the plan;
- the deadline for selecting any option and the consequences of not meeting the deadline;
- how interest is to be calculated on, and when interest is to be credited or debited to, the contributions referred to in section 63(a);
- the treatment and allocation of actuarial excess and surplus;
- the method for determining benefits, member and participating employer contributions and the allocation of contributions, which method must use formulas that comply with the prescribed criteria;
- the method for converting optional ancillary contributions to optional ancillary benefits;
- any other matter that under this Act must be included in a plan text document.

In addition to the items listed in Act section 8(1), above, the following table outlines the references in the new legislation to items / provisions which may or must be included in the plan text document.

Plan Amendment – due December 31, 2014

Act / Reg Section	Topic	NEW	Must Contain	May Contain
Act s.1(6)	Cessation of employment does not constitute termination of a member's active membership in an NCBMEP.			X
Act s.8(2)	Where a lump sum is to become payable to a person, that sum may be transferred to an RRSP.		X	

Act / Reg Section	Topic	NEW	Must Contain	May Contain
Act s.9(2)	<ul style="list-style-type: none"> For each benefit, contribution, or obligation contemplated / provided / required under a provision of the legislation, the plan text must include details related to those items. For each defined term in section 1 of the Act which applies to the plan, to set out that term's definition. <p>This requirement does not apply to Act and Regulation provisions that, in the opinion of the Superintendent, do not and will not be applicable to the plan.</p>		X	
Act s.11	The fiscal year of a pension plan is January 1 to December 31, unless provided differently in the plan text document.			X
Act s.21 Reg s.22	A plan that provides a target benefit may provide retired members with a temporary increase in benefits.	X		X
Act s.29(1)(b)	Enrolment in an NCBMEP may include recognition of service with two or more participating employers.			X
Act s.29(2) Reg s.26(2)	<p>Provision for (a) mandatory enrolment or (b) automatic enrollment, with opt out clause, into active membership.</p> <p>Where the plan text provides for automatic enrollment, the plan text must also specify the time period within which the employee can opt out.</p>	X		X
Act s.31	Provisions around the suspension of active plan membership.			X
Act s.32	Immediate vesting, for all service	X	X	

Act / Reg Section	Topic	NEW	Must Contain	May Contain
Act s.52	The plan must be funded by the participating employers, or in the case of a jointly sponsored plan, by the participating employers and active members, in accordance with the funding requirements of legislation.		X	
Act s.54	Creation / establishment of a solvency reserve account for the purposes of holding solvency deficiency payments (and accumulated interest).	X		X
Act s.57(5)	Where a terminated DB or TB member elects a deferred pension, the determination of excess contributions will be determined on that person's subsequent pension commencement date.			X
Act s.66(1)	Description of the plan's pension eligibility date.		X	
Act s.66(2)	Recognition that an active member, deferred member, or surviving pension partner must start to receive his or her pension from the plan no later than the last day permitted under the <i>Income Tax Act</i> .		X	
Act s.67(1)	Ability for a member to elect pension commencement prior to plan's pension eligibility date.		X	
Act s.68(1)	Pension accrual must continue in the same manner if a member remains in employment past the plan's pension eligibility date.		X	
Act s.68(2)	Other options that may be offered to a member who remains in employment past the plan's pension eligibility date.			X
Act s.71(1)	Provision for small amount unlocking.		X	

Act / Reg Section	Topic	NEW	Must Contain	May Contain
Act s.71(3)	Provision for unlocking due to shortened life expectancy and non-residency	X	X	
Act s.75	Establishment of a maximum number of years of employment that may be taken into account in calculating the pension, or setting a maximum amount for the pension. In these instances, no further contributions are payable by the member.			X
Act s.76 Reg s.14(4) Reg s.77	Provisions related to an increase in a member's pension by an amount determined in reference to amounts payable under CPP / QPP / OAS.			X
Act s.77	Provisions related to the payment of life income type benefits from a pension plan.			X
Act s.89(2)	Application of optional ancillary contributions, to purchase optional ancillary benefits, if a member dies before pension commencement.			X
Act s.89(3)	"Forced Transfer" of a benefit entitlement, payable to a pension partner, if a member dies before pension commencement.			X
Act s.90(1)	Provision for a joint and survivor form of pension for a member with a pension partner at pension commencement.		X	
Act s.92(1)	As part of satisfying the requirements under section 8(1)(e) of the Act, if a plan wishes to provide for ancillary benefits then they must be specified in the plan text document.			X
Act s.92(2)	IF a plan provides for ancillary benefits, the plan text must establish the basis / qualifications for the ancillary benefit.		X	
Act s.93 Reg s.87	Provision for phased retirement benefits.	X		X

Act / Reg Section	Topic	NEW	Must Contain	May Contain
Act s.94	Provision for lump-sum payments.			X
Act s.95(1)	Rules for the payment of additional voluntary contributions (AVC) and optional ancillary contributions (OAC) to active members.			X
Act s.95(2)	Rules for the payment of AVC's and OAC's to terminated members.		X	
Act s.95(3)	Rules for the purchase of optional ancillary benefits with OAC's, and rules for payment of AVC's for retired members.		X	
Act s.96(1)(c)	The election of a portability option for a member in a CBMEP, if that member is no longer employed by a participating employer.			X
Act s.96(2)	Ability for a CBMEP to deny portability if a member who has elected a transfer becomes an active member in the plan before the termination option statement is returned.			X
Act s.98(1)	Restrictions on portability in a DB or TB if a member is within 10 years of the plan's pension eligibility date.			X
Act s.98(2)	Restrictions on portability if a member terminates membership in one plan due to that person becoming a member of another plan, if that second plan is funded by the same employer.			X
Act s.99(1)	Required portability provisions for terminated members.		X	
Act s.99(1)	Optional portability provisions for terminated members.			X
Act s.100(1)	Forced portability – DC provision.			X

Act / Reg Section	Topic	NEW	Must Contain	May Contain
Act s.100(2)	Forced portability – DB / TB provision.			X
Act s.113	CBMEPs must specify the consequences to the funding of benefits if a participating employer withdraws.		X	
Act s.127	Rules for the allocation of surplus on plan windup.		X	
Reg s.14(2)	Rules around the formula used to determine member and employer contributions in a DC provision. (This provision is in reference to Act s.8(1)(i).		X	
Reg s.14(3)	Rules around the formula used to determine the amount of benefits in a DB / TB provision must be specified in the plan text document. (This provision is in reference to Act s.8(1)(e).	X	X	
Reg s.14(5)	Plan text must specify the plan’s effective date.	X	X	
Reg s.14(6)	Plan text must be separate from a collective agreement, and from any other document that creates the plan.	X	X	
Reg s.14(7)	IF the benefit provided in a negotiated cost plan (which includes a CBMEP) is determined in reference to contributions (i.e. a benefit accrued associated with the amount of contributions received, or a percentage accrual based on the collectively bargained contribution rate), the plan text must also provide that a change in the contribution rate cannot impact accrued benefits.	X	X	
Reg s.14(8)	Plans with a DC provision must specify whether the administrator, plan members, or both, have responsibility for the direction of the plan’s investments.	X	X	

Act / Reg Section	Topic	NEW	Must Contain	May Contain
Reg s.15(1) Reg s.15(2)	Plan text must provide what is to occur if a retired member recommences work or service under the plan.		X	
Reg s.15(4)	Plan text may provide that options applicable to retired members can apply in different circumstances which are acceptable to the Superintendent.			X
Reg s.15(5)	IF plan text provides that a retired member's pension is suspended, and IF the retired member was receiving income from a life income type benefits account, the plan text must provide specific information regarding the accumulation of additional benefits while re-employed.		X	
Reg s.15(6)	IF plan text provides that a retired member's pension is suspended, the plan text must specify rules related to the recalculation of additional pension at the subsequent retirement date.		X	
Reg s.48(5)	Option to specify a review date (for actuarial valuation purposes) which is different from the plan's fiscal year end.			X
Reg s.73(1)	IF the plan is required to calculate and apply interest, the method of interest application (example: CANSIM or fund rate) and the period within which (example: monthly, annually) interest will be calculated and applied.		X	
Reg s.78(2)	IF the plan provides for the payment of life income type benefits, the authorization for the payment of those benefits must come from a defined contribution component.		X	

Act / Reg Section	Topic	NEW	Must Contain	May Contain
Reg s.78(5)	A member may elect pension commencement from the plan by establishing a life income type benefits account.			X
Reg s.78(7)	Permitted transfers of assets into a life income type benefits account.			X
Reg s.81(5)	On marriage breakdown, where the member's pension is already in pay when the division occurs, the non-member pension partner's share may be given portability options.	X		X
Reg s.83(3)	On marriage breakdown, where a member's pension is already in pay when the division occurs, the continuing pension payable to the member must be in the form of a single life pension, unless the plan text provides that the member may elect a different form of pension.	X		X
Reg s.92(2)	Where a member is entitled to exercise certain options under various sections of the legislation, the plan text may specify the consequences if the member fails to make an election / decision.			X

Participation Agreements (NCBMEPs) – Must be amended by June 1, 2015 - NEW

Act / Reg Section	Topic – required provisions for a participation agreement	Must Contain	May Contain
Act s. 36(1) Reg s.29 and s. 56	(a) set out <ul style="list-style-type: none"> i. the information and records that must be provided by the participating employers to the administrator, ii. when and how the information and records must be provided by participating employer to the administrator, and iii. the other duties and obligations to be performed by participating employers 	X	
	(b) bind each participating employer to the terms of the plan documents	X	
	(c) make each participating employer responsible for making contributions and special payments to the plan as required under the Act or the plan text document	X	
	(d) set out the consequences to a participating employer of failing to meet the terms of the participation agreement which consequences must be additional to and not in conflict with any consequences set out under the Act for the failure.	X	

Please note these are the minimum issues that must be addressed. Other items may be added at the discretion of the Plan Administrator.

Note that within 60 days of becoming a participating employer that employer must enter into a participation agreement that includes the noted provisions. An updated copy of the agreement should be sent to all existing participating employers.

Governance Policy – Must be in place by August 31, 2015 - NEW

Act / Reg Section	Topic – required provisions for a governance policy	Must Contain	May Contain
Act s.42 Reg s.53	(a) sets out the structures and processes for overseeing, managing and administering the plan	X	
	(b) explains what those structures and processes are intended to achieve	X	
	(c) identifies all participants who have authority to make decisions in respect of those structures and processes, and describes the roles, responsibilities and accountabilities of those participants	X	
	(d) sets performance measures and establishes a process for monitoring, against those performance measures, the performance of each of the participants identified in clause (c)	X	
	(e) establishes procedures to ensure that the plan administrator and, as necessary, any other participants in those structures and processes have access to relevant timely and accurate information	X	
	(f) establishes a code of conduct for the administrator and a procedure to disclose and address conflicts of interest	X	
	(g) identifies the educational requirements and skills necessary to perform the duties associated with those structures and processes	X	
	(h) identifies material risks that apply to the plan and established internal controls to manage those risks	X	
	(i) establishes a process for the resolutions of disputes involving members and other persons who are entitled to benefits under the plan	X	

Please note these are the minimum issues that must be addressed. Other items may be added at the discretion of the Plan Administrator.

Funding Policy (benefit formula provisions) – Must be in place by August 31, 2015- NEW

Act / Reg Section	Topic – items to be dealt with in a funding policy	Must Contain	May Contain
Act s.44 Reg s.55	(a) sets out the funding objectives of the plan as it relates to <ul style="list-style-type: none"> i. benefit security ii. benefit levels iii. if applicable, stability of contributions iv. if applicable, contribution levels 	X	
	(b) identifies the material risks that impact the plan’s funding requirements, the tolerances for those risks , and establishes internal controls to manage those risks	X	
	(c) sets out expectations for the going concern funded ratio and , if applicable, the solvency ratio of the plan	X	
	(d) sets out the expectations for the amortization of unfunded liabilities and, if applicable, solvency deficiencies	X	
	(e) sets out the expectations for the reduction of benefits under section 20(2) of the Act, in the event that the circumstances of the plan require a reduction of benefits for <ul style="list-style-type: none"> i. a jointly sponsored plan, ii. a negotiated cost plan, iii. a target benefit provision 	X	
	(f) sets out the expectations for the utilization of actuarial excess and surplus	X	
	(g) establishes a standard for the frequency of actuarial valuation reports, whether or not those actuarial valuation reports are filed with the Superintendent	X	

Please note these are the minimum items that must be addressed. Other items may be added at the discretion of the Plan Administrator. An up-to-date copy of the funding agreement must at all times be filed with the plan actuary.

For further information please contact:	
Superintendent of Pensions Alberta Treasury Board and Finance Room 402, 9515 - 107 Street Edmonton, AB T5K 2C3 For toll-free dialling within Alberta, call 310-0000 and then dial 780-427-8322.	Telephone: (780) 427-8322 Fax: (780) 422-4283 Internet: http://www.finance.alberta.ca Sign up for electronic notifications: http://www.finance.alberta.ca/subscribe/epen/