

On November 15, 2011, the Minister of Labour and Advanced Education introduced a new Pension Benefits Act (the “Act”) to modernize the Act, and to harmonize with the legislation of other jurisdictions.

If passed, the new Act will enable Government to identify specific categories of plans, and through regulations, provide for specific funding requirements for those categories.

The new Act seeks to:

- increase transparency and access to information
- harmonize/update benefit standards
- enable flexibility to allow for new plan design
- improve plan administration and compliance costs
- clarify funding rules
- enhance regulatory oversight

The actual funding regulations will be key to the implementation of the Act. The Minister invites all concerned stakeholders to provide input on the draft funding regulations, which will be posted the week of Dec 7, 2011, for public comment.

The Department is using a number of working principles as a guide for the development of the draft funding regulations under the Act. These are outlined in the chart below.

The Minister welcomes stakeholder comment on these principles prior to the release of the draft funding regulations. After the draft regulations are posted, stakeholders will have additional opportunity to provide written comments on the draft funding regulations.

Please note that names of individuals and groups who make comments or submissions may be publicly listed. Unless comments are marked confidential, it is assumed respondents agree to the Minister’s referring to comments made and sharing them with the appropriate Departmental staff.

Written Submissions can be made to:
C/O Labour and Advanced Education
Policy Division – PO Box 697
Halifax NS, B3J 2T8
fax: (902)428-2203
email: LAEPOLICY@gov.ns.ca

Funding Principles:

Type of Defined Benefit Plan	Solvency Rules
1. Jointly Sponsored Pension Plans	80% threshold funding for solvency; no time limits for exemption.
2. Specified Multi-Employer Pension Plans	Exempt from solvency funding
3. University Pension Plans	Continue existing rule - exemption for 3 years until 2013; payment of remaining solvency plus interest over 7 years.
4. Municipal Pension Plans	Continue existing rule - fund to 85% of solvency until 2016.
5. Private Employer Pension Plans	Solvency funding over 10 years for actuarial reports first filed between December 30, 2008, and January 2, 2011
6. Target Benefit Plans	Regulations under development - similar

- 1 Jointly Sponsored Pension Plans (“JSPP”) – Currently, only the Halifax Regional Municipality qualifies as a JSPP. Under the current solvency relief provided to municipalities, it is only required to fund to 85% solvency until 2016. On wind up (or partial wind up) of the pension plan, the proposed *Act* allows pension benefits to be reduced if the assets of the plan are not sufficient to meet the liabilities. Classification as a JSPP under the proposed *Act*, and funding regulations will require an 80% solvency funding to balance funding requirements demands while at the same time providing long term security for plan members. Once implemented, the 80% solvency rule will apply to pension plans that meet the JSPP criteria.
- 2 Specified Multi-Employer Pension Plans – benefits have to be reduced retroactively if funding is insufficient. If an employer participating in the plan goes bankrupt, the employees remain as members of the plan and accrue new benefits when they are employed by another employer participating in the plan.
 - a. Union’s role - negotiate contribution rates for the union local(s) participating in the plan
 - b. Employer’s role – remit negotiated contributions, not required to fund any solvency deficiency or unfunded liabilities in addition to what was negotiated
 - c. Board of Trustees - joint trustee with union and employer

Removing the requirement for benefit reductions to address solvency will address the concerns of industry and labour. Benefit reductions will still be required when ongoing actuarial valuations report an insufficiency of contributions to support the benefit accrual rate. As this is currently the only type of plan where benefits can be reduced retroactively if funding is insufficient, there is a strong incentive for prudent management of the plan by the trustees.

3. University Pension Plans – University pension plans have not been required to make solvency deficiency payments for the last 2 1/2 years. The proposed *Act* and anticipated regulations continues the existing solvency funding payments exemption for universities until 2013, after which the universities are required to make payment of remaining solvency plus interest over 7 years.
4. Municipal Pension Plans - Until 2016, municipalities only need to fund to an 85% solvency level. The proposed *Act* and funding regulations does not change this current exemption or the requirement for municipalities to start funding their solvency deficiencies on September 1, 2016. This will ensure that the benefits promised are no greater than can be provided by the assets in the plan.
5. Private Employer Pension Plans - No substantive changes are recommended at this point. Such plans would be subject to the disclosure changes as noted below.

The new *Pension Benefits Act* will also empower regulations in the following areas:

1. Disclosure

All defined benefit pension plans must, at least annually, disclose information to members regarding the funded status of their plan. The annual statement provided to members must

include the transfer ratio of the pension plan as of the valuation date of each of the two most recently filed actuarial valuation reports, and an explanation of the transfer ratio and how it relates to the level of funding of members' benefits.

For multi-employer pension plans, a statement must be included that if, on wind up of the plan, assets of the plan are not sufficient to meet the liabilities of the plan, pension benefits may be reduced.

For JSPPs, a statement must be included that on wind up (or partial wind up) of the pension plan, the Act allows pension benefits to be reduced if the assets of the plan are not sufficient to meet the liabilities of the plan, It must also state that contribution rates for an employer and for members could change depending on how well the pension plan is funded on a going concern basis. The regulations would also require information setting out the contribution rates for an employer and for members for the year before, and the year after, the date of the statement. Other disclosures could be required depending on the funding status of the plan.

2. Annual Valuations

"Solvency Concerns" exist if the ratio of solvency assets to liabilities is less than 0.85.

If an actuarial valuation report filed indicates Solvency Concerns, the next report must be prepared and certified with a valuation date within one year rather than the three year interval otherwise required. This would not apply to a plan that is established for less than 3 years, to JSPPs or Specified MEPP's.

3. Grow in Benefits

These are benefits that provide the right to "grow in" to subsidized early retirement benefits provided under a pension plan, in the event that the plan winds up. Grow in benefits are only in plans where these benefits are specified, and then only in the event of a wind up. The cost of these benefits is currently excluded from the solvency liabilities calculation, and this will continue. On wind-up, the benefits must be provided, to the extent that there assets available to fund the benefit.

4. Indexation

The Pension Review Panel and the Department support the concept that benefits promised under a pension plan must be funded and this would include a promise to index benefits in the future. The plan is to require funding on an ongoing basis for future accruals on a go forward basis only.