

Pensions and Benefits

MAY 2013

Pension Changes Proposed in Ontario Budget

On May 2, 2013, the Liberal government in Ontario released its proposed budget. While the NDP has not yet lent the proposed budget support in order to ensure its passage, the Heenan Blaikie Pensions, Benefits and Compensation Group has prepared a brief summary on its potential impact on pension law in Ontario should it ultimately be passed.

Last November, in *Carrigan v. Carrigan Estate*, the Court of Appeal overturned the commonly understood interpretation of the death-benefit entitlement provisions of the *Pension Benefits Act*. Previously, the provisions were understood to mean that where an individual had a legally married spouse, from whom they were separated but not yet divorced, and a common law spouse with whom they lived, the common law spouse would be entitled to receive the death benefits. The Court of Appeal's reversal of this interpretation potentially disentitles many common law couples from their spouses' pensions. In this budget, the government has committed to reviewing this case and its potential effects in order to determine whether amendments to the PBA would be appropriate.

In a significant shift from the position taken by the McGuinty government, this budget proposes that Ontario consult with interested parties about how Pooled Registered Pension Plans (PRPP) could be implemented in Ontario. The federal government created PRPPs in an attempt to provide individuals without a workplace pension with the ability to participate in larger asset-management arrangements. PRPPs are currently available only to employees in federally-regulated sectors, but other provinces are currently examining how to implement these plans. Under the McGuinty government, the position of the government had been that Ontario would not implement these plans, but it seems the current Ontario government does not want to be left behind as other provinces do implement them. Even if the plans were implemented, participation would be voluntary.

Previous budgets have also committed the government to developing a framework for single employer Target Benefit Plans in collectively bargained workforces. These plans vary employer and employee contributions with the goal of funding the plan such that it can pay out a target (but not guaranteed) benefit upon retirement. This budget reiterates the commitment to making rules and regulations to allow employers to introduce these plans, but does not comment on whether these plans may eventually be available for non-unionized workplaces. At this time, the framework is only being put in place for unionized workplaces.

Finally, the budget reiterates previous announcements relating to public sector pensions, but does not add anything new in this area. It continues a previous commitment to move public sector pension plans away from fragmented Single Employer Pension Plans (SEPP) and to move all existing SEPPs towards a 50% employee contribution ratio over the next five years. In addition, the budget confirms the government's intention to put in place a framework and mechanisms for pooled asset management for public sector pension funds.

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