

Policy Bulletin #17

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Specified Multi-Employer Pension Plans

This bulletin is designed to assist plan administrators, their consultants and legal counsel in understanding the special provisions of the *Employment Pension Plans Act* and *Regulation* (the Act and the Regulation) that apply only to a pension plan designated by the Superintendent of Pensions (the Superintendent) as a Specified Multi-Employer Pension Plan (SMEPP).

This bulletin highlights only those sections of the Act and Regulation unique to SMEPPs. Some of the information is based on the funding rules for SMEPPs which offer defined benefits, but it should be remembered that some SMEPPs are defined contribution plans.

The rest of this bulletin applies to both types of plans. This bulletin does not identify any other requirements of the Act and Regulation that apply to SMEPPs and all other pension plans. The administrator of a SMEPP should ensure that these other requirements are understood and followed. This Bulletin has no legal authority. The Act and Regulation should be used to determine specific legislative requirements.

Definition of a SMEPP A SMEPP is a pension plan that

- has collectively bargained contributions
- covers employees of 2 or more employers and
- has been designated, in writing, by the Superintendent as a SMEPP **Act 1(1)(qq)**

Administrator of a SMEPP The administrator of a SMEPP is a board of trustees (the Board) or other similar body constituted under a trust deed or agreement or other similar document acceptable to the Superintendent. Where a SMEPP is established, or maintained pursuant to contributions required, under a collective bargaining agreement, the number of union trustees on the Board must be at least equal to the number of employer trustees. **Act 10**

Eligible employees of a participating employer must be permitted to enroll in the pension plan no later than the first day of the month that follows the end of any two consecutive fiscal years of the SMEPP in which the employee has completed at least 350 hours of employment over those two years. **Act 29(2)(a)(i); Reg 30(1)(c)**

Contributions to a *Participating Employer Contributions*

**SMEPP and the Effect of
the Trust on
Participating Employers**

Where a SMEPP is established under a trust agreement, the participating employers of the plan are bound by the trust and any amendments to that trust, whether or not they were parties to any agreement pursuant to which the trust was established or amended.

Act 17

A participating employer's liability for funding benefits in a SMEPP is limited to the amounts that are negotiated in the collective bargaining agreement. This means that the terms of the collective bargaining agreement setting contributions are not nullified if a subsequent actuarial valuation reveals that the plan requires a larger hourly contribution. **Act 48**

It is important to note that this liability to fund benefits means that employers' negotiated contributions are expected to cover the cost of providing benefits related to current service as well as the cost of amortizing any shortfall that may arise during the life of the plan with respect to the benefits previously earned, in accordance with the funding rules set out in the Act and Regulation. This liability does not, however, extend beyond the termination of the pension plan. **Act 73(2)**

Contributions are required by a participating employer only for the service rendered by a member while employed by that participating employer. Contributions must be remitted to the Board who then must remit those funds to the custodian of the plan fund (referred to in the Act as the ultimate recipient).

It is recognized that holding accounts may be needed to receive payments from employers, temporarily, in order to reconcile them and distribute the payments among several accounts. **Act 49(1.1) and (1.2); Act 50(1)(a); Act 50(2)**

Participating employers must remit the required contributions to the Board within 30 days from the end of the month for which those contributions are payable. The Board of Trustees then has 30 days to remit those contributions to the ultimate recipient. **Act 50(2); Reg 49(1)(c)**

Member Contributions

Where a member is required to make contributions to a defined benefit provisions of a SMEPP, not more than half of the commuted value of the pension, so far as it relates to his/her membership on and after January 1, 1987, can be provided by those contributions, with interest. **Act 37(1)**

However, contributions that are made by a member in order to purchase the maximum benefit under the pension plan for any particular year (often known as self-payments) are not to be included when making this determination. Similarly, additional voluntary contributions made by the plan member are not included. **Act 37(5)**

Any contributions made by a member of a SMEPP must be remitted to the plan fund within 30 days after the end of the month in which the contributions were made. **Reg 49(1)(a)**

Where the SMEPP plan text so provides, some or all of the assets and liabilities (including excess assets, unfunded liabilities or solvency deficiencies) and administrative expenses relating to each participating employer are to be separately determined and allocated. **Reg 48(12)**

Vesting

A member of a SMEPP is vested in that plan after completing two years of continuous employment. A member in a SMEPP accrues a year of continuous employment if he/she has worked a minimum of 350 hours of employment in a fiscal year of the plan. **Act 31(3); Act 1(1)(ccc)**

However, if the Administrator applies for exemption and if the Superintendent considers that it would cause an undue hardship on the participating employers or the plan members to apply this definition, then continuous employment is measured as a period of employment in years, (or portions of years), including any temporary periods of lay-off not exceeding 52 consecutive weeks. **Act 31(4)**

The circumstances in which the Superintendent might allow this alternate rule to apply are unique to a pension plan and must be reviewed on a case-by-case basis.

Locking-in

Benefits earned by a member in a SMEPP are locked-in after two

years of continuous employment. Self-payments made by a plan member are subject to locking-in. If a member has not accrued two years of continuous employment, the contributions made by the member if any, plus interest, are not locked-in. Additional voluntary contributions, if any, are also not subject to locking-in at any time. **Act 35(1); Act 35(3); Act 35(4)**

Disclosure of Information on Request

An explanation of the provisions of the SMEPP, as well as a summary of any amendment made to that plan, is to be supplied to a member at the earlier of:

- 30 days after a request for such information has been made by a member, or
- as part of the member's annual statement.

Reg 12(1)(b); Reg 12(2)(b)

A member of a SMEPP may request that he/she or his/her agent be given access to review plan documents or may request copies of those documents (where copies are requested a reasonable fee may be charged). The documents that must be made available for review are listed in **Act 15(4) and Reg 25(1)**

Access must be given at the office of the union that is nearest the residence of the person making the request, unless other arrangements agreeable to both parties have been made. **Act 15(4) and 6(b), Reg 25(1)**

Information from a non-administrator employer

On written request from the Board and within the timeline specified in the request, a participating employer shall provide the Board with the information or records that are required by the Board in order to comply with the SMEPP and to discharge the Board's responsibility under section 13 of the Act. **Act 18(1)**

If the participating employer does not provide the information requested within the period specified, the Board may apply to the Court by notice of motion supported by an affidavit for an order to compel the provision of the information or records. **Act 18(3)**

If the participating employer requests that any record supplied to

the Board be returned to them, the Board shall return them within a reasonable period and may make copies of the record or information. **Act 18(5)**

Information to a Participating Employer

A participating employer may request, and the Board shall provide, copies of any of the plan documents listed in **Act 15(4) and Reg 25(1)** except those that provide personal information about a member. A reasonable fee may be charged for the copies. **Act 15(8.1)**

Partial Plan Termination

A SMEPP must specify the consequences of the withdrawal of a participating employer with respect to the funding and vesting of benefits for those individuals affected by the withdrawal. **Act 56**

The suspension of contributions by a participating employer does not constitute a termination of part of the SMEPP, unless the plan text identifies this situation as being a partial plan termination. **Act 70(8)**

Notwithstanding the above, if all members of a trade union that is party to the collective bargaining agreement cease to become members of the SMEPP and if all (or a specific and identifiable group of) persons do not become members of another plan, that constitutes a partial plan termination (or full plan termination, as the case may be). For further information on partial plan terminations, please consult [Policy Bulletin #6: Termination of a Pension Plan](#). **Act 70(9)**

Individual Termination / Pension Commencement

A member in a SMEPP is considered to terminate membership in the plan when he/she has completed less than 350 hours of employment during a period of 2 consecutive fiscal years of the plan unless the plan provides otherwise. The actual date of termination corresponds to the date that the 2-year period commenced. Where the Superintendent has permitted a SMEPP to apply an alternate definition of a year of continuous service, additional provisions of the Act may apply. **Act 1(1)(xx)(i); Act 1(1)(xx)(iii)**

The member is deemed to have terminated membership in the

province or territory where he/she last was employed and was enrolled in the plan. Upon being considered a terminated member, the normal portability options would be granted to the individual, to the extent permitted under the Act and the provisions of the SMEPP. Further, a SMEPP may provide that a member who is no longer working for a participating employer, or who no longer belongs to a class of members covered by the pension plan, may elect a transfer of his/her benefit entitlement.

Act 2(1); Act 38(3); Act 38(6)

Member required to Commence Pension

A SMEPP may require that a member commence his/her pension at pensionable age. **Act 44(4)**

Transfer Statements for Terminating Members

If a member of a SMEPP has less than 350 hours of employment in the period of 2 completed fiscal years of the plan, and has not been notified otherwise, a statement informing the member that he/she is eligible to apply for a transfer of the termination benefit must be included with the annual statement. **Reg 14(1)(j)**

The Board of Trustees shall provide a terminating member with a statement containing the following information, within 90 days after the Board has received the member's completed application (in the form required by the administrator) to receive a transfer of termination benefits:

- (a) The name of the pension plan and its Canada Revenue Agency registration number;
- (b) The member's name;
- (c) The date of the commencement of his/her employment;
- (d) The value of contributions that have been transferred from another plan that are:
 - a. used to purchase an additional years of service under the SMEPP and the value of that additional pension;
 - b. locked-in but not used to purchase an additional pension under the SMEPP; and
 - c. not locked-in, including additional voluntary contributions and optional ancillary contributions to the extent they are applicable.

unless these contributions do not represent a significant portion of the commuted value of the benefit.

- (e) The period of employment credited for purposes of determining

- the member's benefit;
- (f) The estimated annual pension accrued to the end of the fiscal year and the payable at pensionable age (assuming full vesting);
- (g) The commuted values of the respective pensions and excess contributions (if any);
- (h) An explanation of the options available for excess contributions and voluntary contributions, if any;
- (i) An explanation of the options available for the accrued pension; and
- (j) The date when pension payments may commence.

Reg 18(2)

Participation Agreements

Participation agreements, as they relate to a SMEPP, are agreements between participating employers and the Board of Trustees of a SMEPP that:

- (a) Set the terms of the employer participation in the plan;
- (b) Bind all the participating employers to the terms of the trust establishing the SMEPP; and
- (c) Make each participating employer responsible for remitting the contributions and special payments to the SMEPP as required by the collective agreement. **Reg 5(1)**

Effect of Transfer Agreements

If an individual who is receiving a pension resumes employment with a participating employer of another SMEPP that has a transfer agreement with the first SMEPP, the pension **may** continue to be paid from the first SMEPP. The member would not be reinstated as an active member in the first plan; however, **he would become a Plan member in the second SMEPP and would accrue additional benefits under that plan.** Alternatively, the pension from the first SMEPP can be suspended and additional benefits can accrue with either plan, as long as both plan texts provide for the suspension and re-employment. **Reg 31(2)**

Where a SMEPP has entered into a transfer agreement with another

SMEPP in a province other than Alberta, that agreement may require the Alberta plan to collect contributions on behalf of out-of-province members and send them to the non-Alberta plan. Where a member from the non-Alberta plan participates under the Alberta plan, the contributions remitted to the Alberta plan are not subject to the locking-in provisions of the Act, (although they may be subject to similar rules of the other province), and he/she is not considered as a member of the Alberta plan. **Reg Schedule 0.2, Section 6**

Transfers between RPPs and Group RRSPs

Many reciprocal agreements between two or more union Locals require that “money follow the member”. That is, where a member under one Local (the Home Local) works for a participating employer in the jurisdiction of another Local (the Visiting Local) under a “Travel Card”, the pension contributions remitted on behalf of the Travel Card Member are transferred back to the registered pension plan (RPP) in the Home Local.

If the Home Local has an RPP whereas the Visiting Local has a Group RRSP (or vice versa), the transfer of funds between the two Locals is permissible provided that the contributions remitted on behalf of the Travel Card Member are kept in an account that is separate from the Group RRSP fund or RPP fund. Upon the Travel Card Member’s return to the Home Local, the funds contributed on his behalf may be transferred back to the fund in the Home Local.

Filing of Documents

The Board is the fund holder of the SMEPP for the purposes of the Act and is required to file with the Superintendent the custodial agreement enacted between Board and the custodian of the funds. **Act 19(1)(a)(iii); Act 49(1)(b)(ii)**

A copy of the collective bargaining agreement, and any amendment to that document, must be filed within 30 days after the Superintendent has requested those documents, in writing, from the Board. **Act 14(3)(c); Reg 11(1)**

The audited financial statement of the plan must be filed with the Superintendent within 180 days after the plan fiscal year end. **Act 14(3)(d); Reg 11(2)**

Valuation Report / Cost

An actuarial valuation must be completed at least once every three

Certificate

years and be performed as at the review date of the SMEPP. The valuation and cost certificate must contain information regarding:

- (i) The weighted average rate per hour per member that will be contributed by a participating employer;
- (ii) A breakdown of this rate to identify the rate per hour attributed to the normal actuarial cost, the applicable special payments, and the contingency reserve; and
- (iii) The average number of hours of employment per member per fiscal year that has been assumed for the completion of the review. **Reg 10(3)(i)**

The valuation report must be filed with the Superintendent within 270 days from the date as of which the review was performed.

Reg 10(2)(a)

Insufficient Contributions

Where the negotiated contribution rate is insufficient to meet the funding requirements of the Act, the actuary must bring this to the attention of the Board and outline what remedial steps are available to bring the plan into compliance with the funding requirements of the Act. **Reg 48(17); Reg 48(18)**

If the proposed remedial action is insufficient to address the funding shortfall, the SMEPP may be permitted by the Superintendent to implement a retroactive reduction of accrued benefits upon approval of the Superintendent following a written application by the Board. **Reg Schedule 0.2 Section 7**

Right to Refuse Amendment

The Superintendent may refuse to register an amendment to a SMEPP if, before taking into account the effect of the amendment, the pension plan has a solvency deficiency. The refusal is at the discretion of the Superintendent and will be determined on a case-by-case basis. **Act 81(5)**

Effective August 10, 2006, the Act and Regulation were amended to permit SMEPPs to temporarily suspend solvency special payments. An extension was granted in the *Employment Pension Plans Amendment Regulation, 2009*. The *Employment Pension Plans Amendment Regulation, 2011*, permits SMEPPs whose three year suspension period expires on or after December 31, 2011, or for SMEPPs that hadn't previously done so, the opportunity to apply for a three year moratorium from solvency deficiency payments. The application for a new moratorium may be made at any time prior to 2013. The valuation requesting the new moratorium must have a review date as at or before December 31, 2012. The moratorium on solvency payments must end on or before December 31, 2014. See Schedule 0.2(3) of the Regulation for more details.

Application to the Superintendent for the Suspension of Solvency Special Payments

Administrators of SMEPPs must apply in writing to, and receive approval from, the Superintendent if they wish to temporarily suspend solvency deficiency amortization payments. Application to the Superintendent must confirm:

- any previously established unfunded liabilities, or new unfunded liabilities, must be amortized within their remaining amortization periods or over a period not exceeding ten years (whichever is shorter),
- benefit improvements under the Plan are not permitted while solvency special payments are suspended,
- members will be informed that the Plan has a moratorium from making solvency deficiency special payments, and
- the Superintendent may require other documents, or impose other conditions related to the consent. These conditions are detailed in [Policy Bulletin #41](#).

The application to the Superintendent must also include an actuarial valuation report, completed as at the review date. Upon obtaining the consent of the Superintendent, the moratorium goes into effect as of the effective application date.

No more than one application can be made. Where the temporary suspension of solvency special payments is granted, the suspension will be in effect for a period of no more than three years from the date specified in the application. The Superintendent will notify the SMEPP of the period to which the temporary suspension applies.

Length of Temporary Suspension

An administrator who wishes to revoke their application may do so at any time within the period of the suspension by notifying the Superintendent of that fact in writing, and by submitting an actuarial valuation report. Note: once this is done, a subsequent application for suspension is not permitted.

Application of the amended funding rules on and after the coming into force date

The valuation report submitted along with the written application must calculate the going-concern funded position of the SMEPP as at the most recent review date for the Plan.

- Any newly established unfunded liability as of the review date must be amortized in monthly payments over an amortization period of 10 years.
- Any previously established unfunded liabilities with more than 10 years remaining in their amortization period must be re-adjusted to reflect the 10-year amortization period. That is:
 - Any unfunded liabilities that would ordinarily have a remaining amortization schedule between 14 to 10 years must be adjusted so that the remainder of that unfunded liability is amortized over 10 years.
- Any unfunded liabilities that would ordinarily have a remaining amortization schedule of less than 10 years must continue to amortize that deficiency within that remaining time frame.
 - For example, an unfunded liability with a remaining amortization period of 8 years must continue to be amortized within that time frame. Re-adjustment of the remaining amortization period to 10 years is not permitted.

The valuation report must also identify the solvency position of the SMEPP; however, there is no requirement to amortize the solvency deficiency.

Application of the funding rules upon the completion of the temporary period (or upon revocation of the application)

Upon the completion of the temporary suspension period, an actuarial valuation report must be filed with the Superintendent within 270 days after the end of the suspension period.

Going Concern Funded Status

The application of the 10-year amortization period for previously established unfunded liabilities must continue. That is, unamortized unfunded liabilities continue to be subject to the remainder of the 10-year amortization period in force during the period of temporary solvency payment suspension.

Any new unfunded liabilities created as at the completion of the temporary period can be amortized over 15 years.

Solvency Funded Status

If the actuarial valuation report identifies that the Plan has a solvency deficiency at the end of the temporary solvency suspension period, the entire solvency deficiency can be amortized over a 5-year period commencing from the end of the temporary suspension period.

Payment of Termination Benefits, Pre-Retirement Death Benefits, and Division of Pension Benefits due to Marital Breakdown where solvency exemption has been granted.

Where the transfer ratio of a SMEPP is less than one, section 35 of the Regulation restricts the amount to be transferred if a member terminates, retires or dies. Nonetheless, the full amount of an individual's entitlement may be transferred during a period of solvency payment suspension, as long as incoming contributions exceed normal costs and special payments for unfunded liabilities by a sufficient margin to cover the transfer. Otherwise the plan must hold back funds in accordance with s.35 of the Regulation.

For further information please contact:

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