

Employment Pension Plans Amendment Regulation, 2009 – Frequently Asked Questions to the Funding Relief Provisions

In response to the needs of defined benefit pension plan sponsors, the Government of Alberta amended Schedule 0.2 – Partial Exemptions of the *Employment Pension Plans Regulation* (the Regulation) to provide temporary funding relief for DB plans. The regulatory amendments were made as a result of the decline in the funded and solvency position of Alberta registered defined benefit pension plans following the world wide investment losses of 2008.

This Update highlights frequently asked questions that our office has received regarding the *Employment Pension Plans Regulation Amendment, 2009* and [Policy Bulletin #41 – Funding Relief Provisions – 2009](#). Please note that we will continue to update this document as necessary, should additional questions arise on this topic.

1. *Can a non-SMEPP apply for funding relief before the end of 2009 using a December 31, 2009 actuarial valuation report that would be filed at some point before June 30, 2010?*

As a result of ongoing monitoring of defined benefit pension plans, and feedback received from stakeholders, the Superintendent will now allow plan sponsors to apply for funding relief before the end of 2009, with the valuation report to be filed on or before June 30, 2010.

Please note that in accordance with the Regulation, an application for funding relief must be filed with the Superintendent by at least December 31, 2009. The Superintendent's office will review each application and, in some instances, may require that the associated valuation report be filed sooner than June 30, 2010.

2. *When making an application for funding relief, should the valuation report be completed as though the relief has already been granted?*

Yes, the valuation report should be completed on the assumption that the Superintendent will consent to the funding relief. Should the specific circumstances of the plan result in the Superintendent denying the application, the valuation report must either be revised accordingly, or withdrawn as per question #6 (as applicable).

3. *Subsection 50(2) of the Regulation permits suspension of employer contributions while an actuarial valuation report and cost certificate is being prepared. Is this permitted where an actuarial valuation report and cost certificate are being prepared as part of an application for temporary funding relief?*

Yes. However, please note that contributions must recommence no later than the earlier of 30 days after the date the actuarial valuation report is filed and 30 days after the end of the second quarter, (or in the case of a specified multi-employer plan the third quarter), following the review date.

Further, the “catch up” contribution must also include interest from the latest date when the contribution would normally have been made, up to the date of actual remittance, at the same interest rate used in the valuation report.

4. *Will the Superintendent's office provide pre-approval for funding relief in advance of an actuarial valuation report and cost certificate being filed?*

No, the Superintendent's office will not provide pre-approvals. However, the Superintendent's office is open to discussing any plan specific issues with plan sponsors and consultants in advance of application for funding relief, highlighting where concerns may exist. Plan sponsors are encouraged to contact our office if they are considering applying for funding relief and have any questions relating to the new funding relief measures, or questions regarding any of the existing funding relief provisions (e.g., letters of credit).

5. *Policy Bulletin 41 states, “An actuarial certification that the current service costs shown in the valuation report are sufficient to fund the expected increase in the solvency liability over the current service cost is not required. Nonetheless, the Superintendent will reserve the right to require funding of any revealed shortfalls.”*

Does the last sentence refer to the shortfall between the expected increase in the solvency liability and the current service costs only, or the entire solvency deficiency?

Yes. That statement is only in reference to that particular shortfall. However, please note that as per section 4.1 of the Regulation, the Superintendent reserves the right to attach any conditions that are considered appropriate in the circumstances.

6. *If a plan administrator submits an application for funding relief and the Superintendent does not consent to the funding relief, will the plan administrator be permitted to withdraw the actuarial valuation report that accompanied the application?*

Yes. If the Superintendent denies funding relief for a particular pension plan, it will be because the Superintendent does not view that relief from solvency funding is appropriate, given the specific circumstances of that particular pension plan. This determination can only be made on a case-by-case basis.

Unless the plan administrator is required to file an actuarial valuation report and cost certificate due to a triennial filing cycle or annual filing requirement (i.e., either funded ratio is below .8500), the plan administrator will be permitted to withdraw the valuation report and cost certificate.

However, this does not preclude the Superintendent from requiring a plan administrator to file an actuarial valuation report at any time, as permitted by section 14(3)(b) of the *Employment Pension Plans Act* (the Act). Similarly, it does not absolve the plan administrator from carefully considering their fiduciary obligation to plan members, former members and others entitled to benefits, as outlined in section 13(5) of the Act.

7. *The Superintendent has the right to impose additional conditions, require additional funding, and/or withdraw consent at any time during a period of funding relief. In what circumstances is that likely to happen?*

While the Superintendent will retain the right to take such actions, the decision to do so will be specific to the particular pension plan and will be evaluated on a case-by-case basis. The decision to impose additional questions, require additional funding, or to withdraw consent will be made in consultation with the plan administrator.

8. *Policy Bulletin #41 references a baseline assumption set that all plans must use when completing the actuarial valuation, and where that assumption set varies from the baseline, the actuary must be prepared to demonstrate why the variation is appropriate. Does this requirement also extend to methodology (e.g. if the actuary changes the method for determining the utilized value of assets from pure market value to a smoothed asset value)?*

Due consideration will be given by the Superintendent's office where such a change in methodology is made. However, similar to the requirement on variations in an assumption set, the actuary and/or plan sponsor should be prepared to demonstrate why the variation in methodology is appropriate.

In addition to meeting compliance with funding regulations, administrators must also consider the impact of any changes made to a valuation report (either in terms of assumptions or methodologies) from the perspective of their fiduciary obligation.

If the sole reason for changing the methodology of determining the utilized value of going concern assets (from a market value approach to a smoothed value approach), is to reduce the contributions needed to fund for plan benefits, this change will generally not be accepted by the Superintendent. This would be considered as placing a member's benefits at greater risk, and is contrary to the objectives of the funding relief proposals.

9. *Where a pension plan successfully obtains a moratorium from making solvency deficiency payments, [Policy Bulletin #27](#) outlines that the requirement for the filing of annual valuation reports will be based on the pension plan's going concern funded ratio. How is that ratio determined?*

The going concern funded ratio is calculated as the ratio of the going concern assets over the utilized value of assets. The cost certificate details the calculation for the going concern funded ratio.

10. *[Policy Bulletin #41](#) indicates that where a person is entitled to a benefit payment, an additional "top up" payment equal to the transfer deficiency must be made before paying out the benefit, OR that the top up payment will be included in the next remittance of contributions. Does the top-up requirement extend to monthly benefit payments (e.g. pension payments) made out of the plan?*

The requirement of an additional top up contribution relates only to the payment of termination, death, or marriage breakdown payments out of the plan fund (i.e. where a member elects a portability option). This requirement does not extend to monthly pensions paid from the pension plan fund.

The regulation amendment does specifically mention that ongoing pension payments are exempted from this requirement. The policy bulletin has been updated accordingly.

Users of this summary are strongly urged to refer directly to the appropriate sections of the Regulation, as this summary is for information purposes only.

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