

2014 Bill 10

Second Session, 28th Legislature, 63 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 10

EMPLOYMENT PENSION (PRIVATE SECTOR) PLANS AMENDMENT ACT, 2014

THE PRESIDENT OF TREASURY BOARD AND MINISTER OF FINANCE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 10

2014

EMPLOYMENT PENSION (PRIVATE SECTOR) PLANS AMENDMENT ACT, 2014

(Assented to _____, 2014)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends SA 2012 cE-8.1

**1 The *Employment Pension Plans Act*, SA 2012 cE-8.1, is
amended by this Act.**

2 Section 1(1) is amended

(a) by repealing clause (b) and substituting the following:

- (b) “actuarial excess”, in relation to a pension plan that is not terminated, means the amount, if any, by which the value of the assets of the plan exceeds the value of the liabilities of the plan, both calculated in the prescribed manner;

(b) by repealing clause (k)(ii) and substituting the following:

- (ii) in relation to benefits that a person is entitled to receive under a defined contribution provision of a pension plan, means the balance in the person’s defined contribution account;

(c) by repealing clause (p)(i) and substituting the following:

- (i) contemplates that an actual or notional account will be maintained to record

Explanatory Notes

1 Amends chapter E-8.1 of the Statutes of Alberta, 2012.

2 Section 1 presently reads in part:

1(1) In this Act,

- (b) “actuarial excess”, in relation to a pension plan that is not terminated, means the value of the assets of the plan less the value of the liabilities of the plan, both calculated in the prescribed manner;*
- (k) “commuted value”,*
 - (ii) in relation to benefits that a person is entitled to receive under a defined contribution provision of a pension plan, means the total amount of the contributions that are or were required to be made in relation to those benefits, and includes interest on those contributions;*
- (p) “defined contribution provision” means a provision of the plan text document of a pension plan that*
 - (i) contemplates that an actual or notional account will be maintained to record what is provided by*

- (A) the contributions, other than additional voluntary contributions, made by or on behalf of a member,
 - (B) the interest allocated to the account, and
 - (C) administration expenses and other amounts deducted by payment, transfer or withdrawal from the amounts referred to in subparagraphs (A) and (B),
- (d) in clause (jj) by adding “or territory” after “province”;**
- (e) in clause (bbb) by adding “or territory” after “province”;**
- (f) by repealing clause (mmm) and substituting the following:**
- (mmm) “surplus” means, in relation to a pension plan that has been terminated, the amount, if any, by which the value of the assets of the plan exceeds the value of the liabilities of the plan, both calculated in the prescribed manner;

3 Section 3(2) is repealed and the following is substituted:

(2) This Act and the regulations apply to a publicly funded pension plan except to the extent provided for in the regulations.

4 Section 16 is repealed and the following is substituted:

Superintendent may cancel plan registration

16 The Superintendent may cancel the registration of a pension plan that has been terminated and wound up in accordance with this Act and the regulations.

5 Section 20 is amended

(a) by repealing subsection (1)(a) and substituting the following:

- (a) reduce a person’s benefits relating to employment in which the person was engaged on or after the initial

- (A) *contributions, other than additional voluntary contributions, made by or on behalf of a member, and*
 - (B) *interest and any other amounts allocated to the account,*
- (mmm) *“surplus” means, in relation to a pension plan that has been terminated, the value of the assets of the plan less the value of the liabilities of the plan, both calculated in the prescribed manner;*

3 Section 3(2) presently reads:

(2) Except as provided in the regulations, this Act and the regulations apply to a publicly funded pension plan.

4 Section 16 presently reads:

16 The Superintendent may cancel the registration of a pension plan that has terminated and wound up in accordance with this Act and the regulations.

5 Section 20 presently reads:

20(1) An amendment to the plan text document of a pension plan must not

- (a) reduce a person’s benefits relating to employment in which the person engaged on or after the initial legislation date and*

legislation date and before the later of the date on which the records referred to in section 18 are filed in relation to the amendment and the effective date of the amendment,

(b) in subsection (2) by striking out “or” at the end of clause (b), by adding “or” at the end of clause (c) and by adding the following after clause (c):

- (d) if the plan text document of the plan contains a defined benefit provision, may amend the plan text document to convert, in accordance with the rules prescribed for the purposes of section 112, the defined benefit provision to a target benefit provision, which conversion may apply to accrued benefits.

before the later of the date on which the records referred to in section 18 are filed in relation to the amendment and the effective date of the amendment,

- (b) reduce a person's benefits in respect of remuneration, employment or membership before January 1, 1966 by taking into account the person's pension under the CPP Act or the QPP Act, or*
- (c) reduce a person's ancillary benefits if the person has met all the requirements of the plan text document that are necessary to exercise the right to receive the benefit.*

(2) Despite subsection (1), the administrator of a pension plan,

- (a) if the plan is either a negotiated cost plan or a jointly sponsored plan and the plan text document of the plan does not contain a target benefit provision, may, with the written consent of the Superintendent, amend the plan text document to reduce benefits if the circumstances of the plan require reduced benefits,*
- (b) if the plan text document of the plan contains a target benefit provision, must, in the prescribed circumstances and within the prescribed period, amend the plan text document to do one or more of the following:*
 - (i) reduce or eliminate the ancillary benefits under the plan in accordance with section 92(3);*
 - (ii) reduce the benefit that, under the target benefit provision, was intended to be paid, which reduction may, but need not, apply to accrued benefits;*
 - (iii) increase the amount of the contributions payable under the plan,*

or

- (c) may amend the plan text document to reduce benefits if the amendment is for the purpose of compliance with the Income Tax Act (Canada).*

6 Section 38(1)(c) is amended by adding “in prescribed circumstances,” **before** “prescribed financial”.

7 The following is added after section 51:

**Division 6
Electronic Documents**

Electronic documents

51.1 Subject to and in accordance with the regulations, information and records that are prescribed to be provided under this Act or the regulations may be in electronic form.

8 Section 52(3) and (4) are amended by striking out “sponsored pension” **and substituting** “sponsored”.

9 Section 58 is amended by adding the following after subsection (3):

(4) If there is, in respect of a participating employer, a proceeding

6 Section 38(1)(c) presently reads:

38(1) Subject to this section, the administrator of a pension plan must, at the times prescribed and in the form and manner required by the Superintendent, file

(c) prescribed financial statements prepared in accordance with prescribed standards.

7 Electronic documents.

8 Section 52(3) and (4) presently read:

(3) For a negotiated cost plan, the liability of a participating employer, or in the case of a jointly sponsored pension plan, the liability of the participating employers and the active members, for funding the benefits under the plan is limited to the amount that the participating employer is, or the participating employers and active members are, contractually required to contribute to the plan.

(4) For a pension plan the plan text document of which contains a target benefit provision, the liability of a participating employer, or in the case of a jointly sponsored pension plan, the liability of the participating employers and the active members, for funding the benefits under the target benefit provision is limited to the amount that the participating employer is, or the participating employers and active members are, contractually required to contribute to the plan.

9 Section 58(3) presently reads:

(3) Subsections (1) and (2) apply whether or not the contributions have been kept separate and apart from other money or property of the participating employer or the administrator.

- (a) under the *Companies' Creditors Arrangement Act* (Canada),
- (b) under the *Winding-up and Restructuring Act* (Canada) or similar legislation of another province or territory,
- (c) in relation to liquidation, receivership or secured creditor enforcement, or
- (d) in relation to insolvency other than under the *Bankruptcy and Insolvency Act* (Canada),

an amount equal to the amounts deemed to be held in trust under subsection (1) is deemed to be separate and apart from, and to form no part of, the estate of the participating employer, whether or not that amount has in fact been kept separate and apart from the participating employer's own assets or from the assets of the estate.

10 Section 59 is repealed and the following is substituted:

Refund of contributions

59 Despite anything in this Act but subject to Division 4 of Part 8, the administrator of a pension plan may return to a person a contribution made by the person if the return is required or permitted under the *Income Tax Act* (Canada) and the Superintendent consents in writing to the return after receiving

- (a) a written request from the administrator for the return, and
- (b) all supporting information required by the Superintendent.

11 Section 62(3) is repealed.

10 Section 59 presently reads:

59 Despite anything in this Act but subject to Division 4 of Part 8, the administrator of a pension plan may return to a person a contribution made by the person if

(a) the Superintendent consents in writing to the return after receiving

(i) a written request from the administrator for the return, and

(ii) all supporting information required by the Superintendent,

and

(b) the return is necessary to avoid the revocation of the plan's registration under the Income Tax Act (Canada).

11 Section 62(3) presently reads:

(3) Pension plan assets must be held and invested

(a) in the name of the plan, or

12 Section 63(a) is amended by adding “or member-required contributions to a jointly sponsored plan” **after** “provision”.

13 Section 64(3) and (4) are repealed and the following is substituted:

(3) If the plan text document of a pension plan does not clearly provide for the distribution of actuarial excess or surplus or to whom it may be distributed, the administrator may, subject to and in accordance with the regulations, provide to the members and to the persons, if any, prescribed for the purposes of this subsection a proposal

- (a) to distribute actuarial excess or surplus, to the person or persons, and on the basis, set out in the proposal, and
- (b) to seek the consent of the persons referred to in subsection (4) to the proposed distribution.

(4) If, after being provided with a proposal referred to in subsection (3), at least

- (a) 2/3 of the active members who were provided the proposal referred to in subsection (3), and
- (b) 2/3 of the group of persons comprising
 - (i) deferred and retired members who were provided the proposal referred to in subsection (3), and

(b) in the name of a custodian or trustee in accordance with a custodial agreement, trust agreement or Act, in which case the custodial agreement, trust agreement or Act must clearly indicate that the investments are held for the benefit of the plan.

12 Section 63(a) presently reads:

63 Interest, gains and losses, calculated in the prescribed manner, must be credited or debited to the following at the prescribed rates and prescribed times:

(a) all contributions to a pension plan, other than participating employer contributions required under a benefit formula provision;

13 Section 64(3) and (4) presently read:

(3) If the plan text document of a pension plan does not provide for the distribution of actuarial excess or surplus or to whom it may be distributed, the administrator may, subject to and in accordance with the regulations, present to the members and to the persons, if any, prescribed for the purposes of this subsection a proposal

(a) to distribute actuarial excess or surplus, to the person or persons, and on the basis, set out in the proposal, and

(b) to seek the consent of the persons referred to in subsection (4) to the proposed distribution.

(4) If, after being presented with a proposal referred to in subsection (3), at least

(a) 2/3 of the active members of the pension plan, and

(b) 2/3 of the group of persons comprising

(i) deferred and retired members, and

(ii) the persons, if any, prescribed for the purposes of subsection (3),

- (ii) the persons, if any, prescribed for the purposes of subsection (3) who were provided the proposal referred to in subsection (3),

notify the administrator, in writing, that they consent to the proposal, the participating employer may apply to the Superintendent in writing for consent to the distribution of the actuarial excess or surplus.

14 Section 65(1) is amended

- (a) **by striking out** “that the plan has actuarial excess, other than actuarial excess or surplus in a solvency reserve” **and substituting** “that a defined benefit provision has actuarial excess, other than actuarial excess in a solvency reserve”;
- (b) **in clause (b) by striking out** “benefit formula” **and substituting** “both a defined benefit”.

15 Section 66(1) is amended by striking out “and surviving pension partners, if section 89(1)(a) applies,” **and substituting** “and if section 89(1)(a) applies, surviving pension partners,”.

notify the administrator, in writing, that they consent to the proposal, the participating employer may apply to the Superintendent in writing for consent to the distribution of the actuarial excess or surplus.

14 Section 65(1) presently reads:

65(1) If an actuarial valuation report or cost certificate filed in relation to a pension plan reveals that the plan has actuarial excess, other than actuarial excess or surplus in a solvency reserve account as defined in section 54(1), the actuarial excess may, subject to and in accordance with the regulations, be applied to do one or both of the following in relation to contribution funding requirements:

- (a) to reduce or eliminate contributions of the participating employers, or, in the case of a jointly sponsored plan, to reduce or eliminate contributions of the participating employers and the active members, that would otherwise be required to comply with the funding requirements applicable to the plan;*
- (b) if the plan text document of the plan contains a benefit formula provision and a defined contribution provision, to reduce or eliminate contributions of the participating employers that are required in relation to the defined contribution provision,*

unless the plan documents specifically provide that those contributions may not be reduced or eliminated by the use of actuarial excess.

15 Section 66(1) presently reads:

66(1) The plan text document of a pension plan must provide for

- (a) a specific age, or*
- (b) a date, determined with reference to a specific age,*

16 Section 70(a) is amended by striking out “receive the commuted value of” and substituting “receive”.

17 Section 71 is amended

(a) by repealing subsection (1) and substituting the following:

Exceptions to locking in commuted value of benefits

71(1) The plan text document of a pension plan must provide that a deferred member or a retired member receiving life income type benefits or, if the deferred member or retired member is deceased, the deferred member’s or retired member’s surviving pension partner, is entitled to receive payment of a lump sum amount equal to the total of the commuted values of the benefits to which the deferred member, retired member or surviving pension partner is entitled under the plan if that total does not exceed the prescribed amount.

(b) by repealing subsection (2) and substituting the following:

(2) The contract in relation to a locked-in retirement account or retirement income arrangement must provide that the owner of the account or arrangement is, if the prescribed conditions are met, entitled to receive payment of a lump sum

at which the active members or deferred members of the plan, and surviving pension partners, if section 89(1)(a) applies, are entitled to start receiving a pension under the plan without reduction or increase to the pension.

16 Section 70(a) presently reads:

70 Subject to Divisions 7 and 8 and sections 57 and 71, the commuted value of benefits that have been earned on and after the initial legislation date must be applied towards the provision of a pension, and except for that purpose,

- (a) a member must not withdraw, surrender or receive the commuted value of any or all of that portion of the commuted value of his or her benefits that relates to his or her membership in the pension plan on and after the initial legislation date, and*

17 Section 71(1), (2), (4)(b) and (6) presently read:

71(1) The plan text document of a pension plan must provide that a deferred member or, if the deferred member is deceased, the deferred member's surviving pension partner, is entitled to receive payment of a lump sum amount equal to the total of the commuted values of the benefits to which the deferred member or surviving pension partner is entitled under the plan if that total does not exceed the prescribed amount.

(2) The contract in relation to a locked-in retirement account or retirement income arrangement must provide that the owner of the account or arrangement or, if the owner is deceased, the owner's surviving pension partner, is, if the prescribed conditions are met, entitled to receive payment of a lump sum amount equal to the commuted value of the benefit to which the owner or surviving pension partner is entitled.

(4) If a benefit has been transferred to a locked-in retirement account or a retirement income arrangement, the contract for the locked-in retirement account or retirement income arrangement must provide the following:

- (b) a person who is the owner of the account or arrangement, or his or her surviving pension partner, may, subject to and in*

amount equal to the commuted value of the benefit to which the owner is entitled.

(c) by repealing subsection (4)(b) and substituting the following:

- (b) the person who is the owner of the account or arrangement may, subject to and in accordance with the regulations, withdraw as a lump sum the money held in the account or arrangement on providing to the person who maintains the account or arrangement written evidence that the Canada Revenue Agency has confirmed the status of the owner as a non-resident for the purposes of the *Income Tax Act* (Canada);

(d) by repealing subsection (6) and substituting the following:

- (6)** If a member who is eligible to make an election under subsection (3) or (5) has a pension partner, the member must not make that election unless the administrator has received a statement from the pension partner in the prescribed form that
- (a) states that the pension partner is aware of the pension partner's entitlements under the pension plan,
 - (b) waives those entitlements, and
 - (c) was signed by the pension partner in the presence of a witness and outside the presence of the person eligible to make the election.

18 Section 72(1)(c)(i) is amended by striking out “or 89(1)(a)(i) or (3)” and substituting “, 89(1)(a)(i) or (3) or 100.1”.

accordance with the regulations, withdraw as a lump sum the money held in the account or arrangement on providing to the person who maintains the account or arrangement written evidence that the Canada Revenue Agency has confirmed the status of the owner or his or her surviving pension partner as a non-resident for the purposes of the Income Tax Act (Canada);

(6) If a person who is eligible to make an election under subsection (3), (4) or (5) has a pension partner, the person must not make that election unless the administrator or, in the case of a locked-in retirement account or retirement income arrangement, the person who maintains the account or arrangement, has received a statement from the pension partner in the prescribed form that

- (a) states that the pension partner is aware of the pension partner's entitlements under the pension plan,*
- (b) waives those entitlements, and*
- (c) was signed by the pension partner in the presence of a witness and outside the presence of the person eligible to make the election.*

18 Section 72(1) presently reads in part:

72(1) Subject to subsections (3) to (6), the following must not be assigned, charged, alienated or anticipated and are exempt from execution, seizure or attachment:

- (c) money transferred under*
 - (i) section 57(4)(b), (c) or (d) or 89(1)(a)(i) or (3),*
 - (ii) Division 8, or*

19 Section 77(a) is amended by striking out “is authorized by” and substituting “complies with”.

20 Section 80(2) is repealed and the following is substituted:

- (2) This Division applies only with respect to a matrimonial property order made or agreement entered into
- (a) on or after the coming into force of this subsection, or
 - (b) before the coming into force of this subsection if there is filed with the administrator a written election by both pension partners to have this Division apply.

21 Section 84(2) is amended by striking out “, unless the matrimonial property order or agreement provides otherwise”.

22 Section 89(1)(b) is amended by striking out “but in no case is the surviving pension partner entitled to receive any benefit as designated beneficiary under subclause (i) or from the estate under subclause (ii),” and substituting “but in no case is the surviving

(iii) Part 9.

19 Section 77 presently reads:

77 Subject to the regulations, the plan text document of a pension plan may authorize payment of life income type benefits to be made in any manner that

- (a) is authorized by the Income Tax Act (Canada), and*
- (b) is in accordance with the regulations.*

20 Section 80(2) presently reads:

(2) This Division applies only with respect to a matrimonial property order made or agreement entered into

- (a) on or after March 1, 2000, or*
- (b) before March 1, 2000 if there is filed with the administrator a written election by both pension partners to have this Division apply.*

21 Section 84(2) presently reads:

(2) A matrimonial property order or agreement that provides that

- (a) a pension partner has no share of benefits, or*
- (b) a pension partner's share is satisfied by a means other than by dividing benefits under this Division*

is to be treated for the purposes of subsection (1) as if the matrimonial property order or agreement provides that the benefits are subject to division under this Division, unless the matrimonial property order or agreement provides otherwise.

22 Section 89(1)(b) presently reads:

89(1) If a member dies before reaching his or her pension commencement date,

pension partner entitled to receive, by way of lump sum payment, any benefit as a designated beneficiary under subclause (i),”.

23 Section 90 is amended

(a) by repealing subsection (4)(a) and substituting the following:

(4) A member may elect to receive a pension that does not comply with this section by providing to the administrator

(a) a statement in the prescribed form by the member’s pension partner that

(i) states that the pension partner is aware of his or her entitlement to a joint and survivor pension under subsection (1),

(ii) waives that entitlement, and

(iii) was signed by the pension partner, not more than 90 days before the member’s pension commencement date, in the presence of a witness and outside the presence of the member,

(b) in subsection (6) by striking out “, before the member reached the member’s pension commencement date and before the member’s death,”.

(b) if there is a surviving pension partner and that pension partner has provided to the administrator a statement in the prescribed form that waives the entitlement referred to in clause (a), the total of the commuted value of the pension referred to in clause (a)(i) and the value of the benefits referred to in clause (a)(ii) is payable by way of a lump sum payment

(i) to the designated beneficiary, or

(ii) if there is no living designated beneficiary, to the personal representative of the member's estate in his or her capacity as personal representative,

but in no case is the surviving pension partner entitled to receive any benefit as designated beneficiary under subclause (i) or from the estate under subclause (ii), or

23 Section 90(4)(a) and (6) presently read:

(4) A member may elect to receive a pension that does not comply with this section by providing to the administrator, not more than 90 days before the member's pension commencement date,

(a) a statement in the prescribed form by the member's pension partner that

(i) states that the pension partner is aware of his or her entitlement to a joint and survivor pension under subsection (1),

(ii) waives that entitlement, and

(iii) was signed by the pension partner in the presence of a witness and outside the presence of the member,

(6) Subsection (5) does not apply if the administrator, before the member reached the member's pension commencement date and before the member's death, received

(a) a statement in the prescribed form by the pension partner that

(i) states that the pension partner is aware of his or her entitlement under subsection (5),

24 Section 94(1) is repealed and the following is substituted:

Lump sum payments — pre-retirement

94(1) A defined contribution provision of the plan text document of a pension plan may provide that an active member

- (a) whose working time and remuneration are reduced by agreement with a participating employer,
- (b) who has not reached his or her pension commencement date, and
- (c) who is within 10 years of the pension eligibility date,

is entitled to receive from the plan, when the prescribed conditions have been met, a lump sum payment representing partial compensation for the reduction in remuneration for each year covered by the agreement.

25 Section 99 is amended

- (a) **in subsection (1)(a)(iii) by striking out “deferred annuity” and substituting “deferred life annuity”;**
- (b) **in subsection (1)(b)(i) by striking out “an annuity” and substituting “a life annuity”.**

- (ii) waives that entitlement, and*
 - (iii) was signed by the pension partner in the presence of a witness and outside the presence of the member,*
- or*
- (b) confirmation, in a form and manner satisfactory to the administrator, that section 84 applies.*

24 Section 94(1) presently reads:

94(1) The plan text document of a pension plan may provide that an active member

- (a) whose working time and remuneration are reduced by agreement with a participating employer,*
- (b) who has not reached his or her pension commencement date, and*
- (c) who is within 10 years of the pension eligibility date,*

is entitled to receive from the plan, when the prescribed conditions have been met, a lump sum payment in an amount not exceeding the prescribed amount representing partial compensation for the reduction in remuneration for each year covered by the agreement.

25 Section 99(1) presently reads:

99(1) Subject to this section and the regulations, a transfer under this Division may be made from a pension plan to one or more of the following:

- (a) at any time,*
- (i) to another pension plan, if the plan text document of the other plan*
 - (A) allows the transfer, and*

26 The following is added after section 100:

Life annuity purchases

100.1(1) Subject to this section and the regulations, if the plan text document of a pension plan that has not terminated contains a defined benefit provision, the plan text document may provide that the administrator of the pension plan may, in respect of a deferred member or a person who is receiving a pension and who is entitled to a benefit under the defined benefit provision, transfer assets of the plan to an insurance company to purchase a life annuity in the form of a pension that is required or allowed by this Act.

(2) If a life annuity is to be purchased under subsection (1), the administrator must ensure that the life annuity,

- (B) *requires that the transferred money be paid out of that other plan in the form of a pension that is required or allowed by this Act,*
- (ii) *to a locked-in retirement account on the prescribed conditions, or*
- (iii) *if the plan text document of the plan from which the transfer is to be made so provides, to an insurance company to purchase a deferred annuity that*
 - (A) *will not start, in relation to a member, earlier than the date on which the member reaches 50 years of age, and*
 - (B) *will be in the form of a pension that is required or allowed by this Act;*
- (b) *if the plan text document of the plan from which the transfer is to be made so provides in relation to a deferred member, at any time after the member reaches 50 years of age,*
 - (i) *to an insurance company to purchase an annuity in the form of a pension that is required or allowed by this Act, or*
 - (ii) *to a retirement income arrangement on the prescribed conditions.*

26 Life annuity purchases.

- (a) in respect of a deferred member, provides the member with the same benefits as the member would have received from the pension plan had the transfer not been made, and
- (b) in respect of a person who is receiving a pension, provides payments to the person in the same amount and form as the pension that the person would have received from the pension plan had the transfer not been made.

(3) When the administrator has complied with this section and the regulations in respect of the purchase of a life annuity referred to in subsection (1), the administrator, a participating employer, a former participating employer or another person who is or was required to make contributions to the plan is discharged from further liability to the person in respect of whose benefits the life annuity has been purchased.

27 Section 122(b) is repealed and the following is substituted:

- (b) file, within the prescribed period, any other record relating to the termination of a pension plan required by the Superintendent, and

28 The following is added after section 124:

Purchase of life annuity on winding-up

124.1(1) Subject to section 125(b), as part of the winding-up of a pension plan, the administrator must purchase for each person in receipt of a pension under the defined benefit component of a plan

- (a) a life annuity that provides the same type of benefit and the same income that the retired member is receiving from the plan, or
- (b) in prescribed circumstances, a life annuity described in the regulations.

27 Section 122(b) presently reads:

122 The administrator must

(b) file, within the prescribed period after the effective date of the termination of a pension plan, any other record required by the Superintendent, and

28 Purchase of life annuity on winding-up.

(2) When the administrator has complied with this section and the regulations in respect of the purchase of a life annuity referred to in subsection (1), the administrator, a participating employer, a former participating employer or another person who is or was required to make contributions to the plan is discharged from further liability to the person in respect of whose benefits the life annuity has been purchased.

29 Section 125 is repealed and the following is substituted:

Transfer rights on winding-up

125 Subject to the rules prescribed for the purposes of section 110, as part of the winding-up of a pension plan,

- (a) an active member, a deferred member and any other person entitled to benefits may elect a transfer under Division 8 of Part 8, and
- (b) despite section 96(3), a retired member and any other person in receipt of a pension may elect a transfer under Division 8 of Part 8 in the prescribed circumstances.

30 Section 128(3) is repealed and the following is substituted:

(3) A person appointed as an administrator of a pension plan under this section

- (a) may, in accordance with Divisions 2 and 3 of Part 4, amend the plan documents
 - (i) to ensure compliance of the plan documents with this Act and the regulations, or
 - (ii) to maximize the benefits that may, given the surplus in the plan, if any, be made available to the persons who may receive a benefit under the plan,

and

- (b) subject to this Act and the regulations, if he or she provides written notice to the other party to a contract that was entered into by any person contracting on

29 Section 125 presently reads:

125 Subject to the rules prescribed for the purposes of section 110, as part of the winding-up of a pension plan,

- (a) an active member and a deferred member may elect a transfer under Division 8 of Part 8, and*
- (b) despite section 96(3), a retired member may elect a transfer under Division 8 of Part 8 in the prescribed circumstances.*

30 Section 128(3) presently reads:

(3) A person appointed as an administrator of a pension plan under this section

- (a) may, in accordance with Divisions 2 and 3 of Part 4, amend the plan documents*
 - (i) to ensure compliance of the plan documents with this Act and the regulations, or*
 - (ii) to maximize the benefits that may, given the assets in the plan, be made available to the persons who may receive a benefit under the plan,*

and

- (b) subject to this Act and the regulations, assumes, in relation to any contract that had been entered into by any person contracting on behalf of the plan, the rights and duties of that person under the contract.*

behalf of the plan, assumes, in relation to the contract, the rights and duties of that person under the contract.

31 Section 154(1)(d) is amended by adding “all of” after “which”.

32 Section 159(1) is amended

- (a) in clause (e) by striking out “delivery of” and substituting “providing”;**
- (b) in clause (i) by adding “or surplus” after “amount of the actuarial excess”;**
- (c) by repealing clause (l) and substituting the following:**
 - (l) respecting transfers to and from a locked-in retirement account or a retirement income arrangement, including, without limitation, prescribing conditions on which the transfers may be made and requiring that transfers be made to an entity on the list referred to in clause (k);
 - (l.1) establishing terms and conditions that must be included in a contract for a locked-in retirement account or retirement income arrangement before a transfer to that account or arrangement may occur and deeming
 - (i) the terms and conditions to be included in all contracts for locked-in retirement accounts or retirement income arrangements, whether entered into before or after the regulation establishing the terms and conditions comes into force, and
 - (ii) amendments made to the terms and conditions referred to in subclause (i) to be included in all

31 Section 154(1)(d) presently reads:

154(1) In this section,

- (d) “specified multi-jurisdictional plan” means a pension plan to which the following apply:*
 - (i) this Act and the regulations;*
 - (ii) the pension legislation of a jurisdiction.*

32 Section 159(1) presently reads:

159(1) The Lieutenant Governor in Council may make regulations

- (e) respecting the notice referred to in section 29(2)(b), including, without limitation, respecting the form, contents, timing and manner of delivery of the notice and the person by whom the notice must or may be provided;*
- (i) respecting the actuarial excess or surplus, in the solvency reserve account of a pension plan, that may be withdrawn from the plan under section 54(5), including, without limitation, the amount of the actuarial excess that may be withdrawn, the conditions on which that amount may be withdrawn, the basis on which that amount may or must be calculated, the manner in which, the times at which and the period within which that amount may be withdrawn and any notice that may or must be provided in relation to that withdrawal;*
- (l) prescribing conditions on which transfers to a locked-in retirement account or a retirement income arrangement may be made, including, without limitation, requiring that the transfer be to an entity on the list referred to in clause (k), and establishing terms and conditions that must be included in the contract for the locked-in retirement account or retirement income arrangement before a transfer to that account or arrangement may occur;*

contracts for locked-in retirement accounts or retirement income arrangements, whether entered into before or after the amendments come into force;

- (1.2) respecting the duties and responsibilities of issuers of locked-in retirement accounts or retirement income arrangements, including, without limitation, the duties and responsibilities of issuers when they transfer money from a locked-in retirement account or retirement income arrangement contrary to this Act and the regulations;
- (1.3) setting out the liabilities of an issuer of a locked-in retirement account or retirement income arrangement or a pension plan when a transfer of money from a locked-in retirement account or retirement income arrangement has been made by the issuer or plan contrary to this Act or the regulations;
- (1.4) establishing, in prescribed circumstances, a right of action of a pension plan or an issuer of a locked-in retirement account or retirement income arrangement against a prescribed person who has received money from an issuer or a plan contrary to this Act or the regulations;

(d) by adding the following after clause (n):

- (n.1) respecting the circumstances and life annuities for the purpose of section 124.1(b);

(e) by adding the following after clause (p):

- (p.1) respecting the exemption from or the modification of the application of all or any portion of this Act or the regulations to a publicly funded pension plan;

(f) by adding the following after clause (v):

- (w) allowing an administrator, without limiting any other mode of service, to meet a requirement under this Act to provide any statement, information or notice by sending the statement, information or by ordinary mail to a member or other person at the last known postal address

(v) *for meeting or removing any difficulty arising out of the transition to this Act from the Employment Pension Plans Act, RSA 2000 cE-8, and for that purpose providing that any provision of this Act does not apply or is varied in its application.*

of the member or other person and, in prescribed circumstances, relieving the administrator of the requirement in relation to that member or other person.

33 Section 160 is amended

(a) by repealing subsection (3)(a) and substituting the following:

(a) by repealing section 6 and substituting the following:

Application of Employment Pension Plans Act

6 The Lieutenant Governor in Council may make regulations for the purpose described in section 2(a) of the *Employment Pension Plans Act*.

(b) by repealing subsection (5)(b) and substituting the following:

(b) by repealing section 15 and substituting the following:

Application of Employment Pension Plans Act

15 The Lieutenant Governor in Council may make regulations for the purpose described in section 2(b) of the *Employment Pension Plans Act*.

33 Amends RSA 2000 cP-41 and RSA 2000 cT-1.

