Pension Alert — ORPP Update: New Key Developments on the Ontario Retirement Pension Plan

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The Ontario Government has made two major announcements in the last two months regarding the Ontario Retirement Pension Plan ("ORPP"): a one-year delay of enrolment and first phase of contributions, and further design details of the ORPP.

One-Year Delay

On February 10, 2016, the Ontario Government announced the delay of phased-in enrolment to January 1, 2017 (from January 1, 2016) and the delay of the first phase of contributions to January 1, 2018 (from January 1, 2017). The delay will give "big" employers (i.e., an employer with 500 or more employees) more time to arrange their affairs and more time for the federal and provincial governments to explore possible enhancements to the Canada Pension Plan ("CPP").

Further Design Details and Funding Policy of the ORPP

As the Ontario Government will likely proceed with the ORPP unless the CPP is enhanced, employers need to continue to be on the watch for key developments on the ORPP. On January 26, the Ontario Government provided more information about the ORPP design features and the ORPP funding policy.

Membership: The Ontario Government clarified a number of uncertainties regarding ORPP membership:

- An employer is required to enrol those of its employees who are "employed in Ontario" in the ORPP. An employee is "employed in Ontario" for ORPP purposes if the employee reports to work at the employer's establishment in Ontario or the employee's salary or wages are paid from an Ontario-based employer (if the employee is not required to work at the employer's place of business). An employee who is not a Canadian resident but works in Ontario with earnings above the minimum threshold and who has income which is taxable for Canadian and Ontario income tax will be included, unless the employee is exempt from tax under a tax treaty.

- The ORPP would have a religious exemption mirroring the CPP.
- If a comparable workplace pension plan has a waiting period before an employee is eligible to join the plan, the employee must participate in the ORPP during the waiting period.
- Employers with comparable workplace pension plans can opt in to the ORPP from January 1, 2020.
- On-reserve First Nation employers and their employees can voluntarily participate in the ORPP.

Comparability: An employer is not required to enrol employees who are participating in a "comparable" workplace pension plan. The Ontario Government has released more information on the "comparability" test.

- A pension plan which has subsets of members with different benefits will be subject to a "comparability" test at the level of each subset of members.
- The "comparability" test will be applied to the employer's collective bargaining or employee agreements at the subset level in respect of a multi-employer pension plan and employers have the option to be evaluated using the defined benefit or the defined contribution threshold.
- Voluntary contributions to a workplace defined contribution pension plan will not be included to determine whether the plan is "comparable" to the ORPP.

Benefits: The ORPP is designed to provide members with a 15% income replacement rate after they contribute to the ORPP over 40 years, using average earnings over the years of making contributions to the ORPP.

- Benefits are subject to pre-retirement indexation (according to the average growth of wages and salaries outlined by Statistics Canada) and post-retirement indexation (based on the Consumer Price Index).
- If an ORPP member dies before retirement, the actuarial value of pension will be paid to the member's spouse (or beneficiary or estate, as the case may be).
- If an ORPP member dies after retirement, the post-retirement death benefit payable depends on whether the ORPP member has a spouse at retirement. If there is a spouse, the member will receive an adjusted pension over their lifetime and the surviving spouse will receive a survivor benefit equal to 60% of the member's adjusted pension. If the member does not have a spouse or the spouse has waived the survivor benefit, the member will receive a full pension with a 10-year guarantee period (and if the member dies within the guarantee period, the remaining value will be paid to the member's beneficiary or estate).

Funding Policy: A funding policy has been established, based on sustainability over the next 100 years, subject to adjustments. There are prescribed sets of action for a funding shortfall (including reduction of benefit indexation and increase of contribution rates by up to 0.2%).

Fundamental Changes to ORPP: A fundamental change to the nature of the ORPP that would impact plan members' benefits substantially (not as a direct result of funding policy adjustments) would require the consent of at least 60% of ORPP members.

If you have any questions or comments, please contact Sonia T. Mak, Partner and Leader of the Pension and Benefits Group of the Toronto office, or any member of

our Pension and Benefits Group. Our Pension and Benefits Group will continue to monitor the development of the ORPP and issue ORPP Updates on new key developments

By

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