

# Proposed Regulations for Discharge of Pension Plan Administrator Regarding Purchase of Annuities

January 10, 2018

This Pension Alert contains information relevant to a pension plan registered in Ontario which has a defined benefit component.

**The Pension Benefits Act (Ontario) will be amended to provide for the discharge of the plan administrator of a single-employer plan that provides a defined benefit pension benefit and which has purchased annuities in respect of a pension, a deferred pension or an ancillary benefit. The discharge is available for purchases before or after the legislative amendments come into effect if the prescribed conditions are satisfied.**

The Ontario Ministry of Finance is seeking comments on the proposed regulations regarding the discharge. Stakeholders are invited to submit their comments by January 29, 2018.

Below is a high-level outline of the key features regarding the proposed discharge relating to annuities purchased after the legislative amendments come into effect.

- The discharge is available only for purchases of annuities for former and retired members and not active members.
- The annuity must be purchased from an insurance company which is authorized to sell annuities.
- The annuity must provide the same benefits (to a former member) or payments in the same amount or form (to a retired member or his/her spouse) as they would have received from the pension plan if the annuity has not been purchased.
- The annuity contract must describe clearly the benefit purchased and include provisions prescribed by the regulations, including exemption from execution, prohibition against assignment, division on the breakdown of marriage or common-law relationship, joint and survivor benefit, pre-retirement death benefit.
- Plan solvency funding levels must be maintained after the annuity purchase at higher of 100 per cent (or 85 per cent under the proposed new funding rules) and **the plan's solvency funding ratio immediately before the annuity purchase.**
- The administrator must provide notice to the affected former members or retired members advising them of the purchase and the discharge and providing them with other prescribed information including a summary of the annuity contract.

- A compliance certificate and a copy of the annuity contract must be filed with the Ontario pension regulator.

Discharge in respect of annuities purchased before the legislative amendments come into effect will be available if certain prescribed requirements are satisfied, including adjustments of the annuity contracts to comply with the new rules and the maintenance of the plan solvency funding levels.

The Pensions and Benefits Group will continue to keep you posted in our Pension Alerts.

By

[Sonia Mak](#)

Expertise

[Labour & Employment](#), [Pensions & Benefits](#)

## **BLG | Canada's Law Firm**

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 725 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

[blg.com](http://blg.com)

## **BLG Offices**

### **Calgary**

Centennial Place, East Tower  
520 3rd Avenue S.W.  
Calgary, AB, Canada  
T2P 0R3

T 403.232.9500  
F 403.266.1395

### **Ottawa**

World Exchange Plaza  
100 Queen Street  
Ottawa, ON, Canada  
K1P 1J9

T 613.237.5160  
F 613.230.8842

### **Vancouver**

1200 Waterfront Centre  
200 Burrard Street  
Vancouver, BC, Canada  
V7X 1T2

T 604.687.5744  
F 604.687.1415

### **Montréal**

1000 De La Gauchetière Street West  
Suite 900  
Montréal, QC, Canada  
H3B 5H4

T 514.954.2555  
F 514.879.9015

### **Toronto**

Bay Adelaide Centre, East Tower  
22 Adelaide Street West  
Toronto, ON, Canada  
M5H 4E3

T 416.367.6000  
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing [unsubscribe@blg.com](mailto:unsubscribe@blg.com) or manage your subscription

preferences at [blg.com/MyPreferences](https://www.blg.com/MyPreferences). If you feel you have received this message in error please contact [communications@blg.com](mailto:communications@blg.com). BLG's privacy policy for publications may be found at [blg.com/en/privacy](https://www.blg.com/en/privacy).

© 2024 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.