

Office of the Superintendent - Pension Commission

Update #35 Special Payments Relief Regulation

Issued December 2008

Reference: *The Pension Benefits Regulation MR 190/2008*

This regulation gives plan sponsors more flexibility in managing the solvency funding of pension plans while continuing to safeguard members' rights to benefits promised.

The Special Payments Relief Regulation (Relief Regulation) is available only to plan sponsors whose funding payments are up-to-date and only for the first valuation report filed with the Office of the Superintendent – Pension Commission before January 2, 2011.

Existing solvency deficiencies under a pension plan that has a defined benefit provision, may in accordance with the regulation, be consolidated and the consolidated solvency deficiency (initial solvency deficiency) as reported in the plan's first actuarial valuation report and cost certificate prepared for a valuation date between December 30, 2008 and January 2, 2011 (initial deficiency date), amortized over a single, new, ten year period, with member and beneficiary buy-in.

Election not to make solvency special payments

The employer may, by filing an election with the plan administrator, elect to amortize the deficiency in accordance with the Relief Regulation instead of as required by the Pension Benefits Regulation.

In the case of a Multi-Unit Pension Plan (MUPP), the plan administrator may, by filing a written notice of the election with each participating employer, elect to amortize the deficiency in accordance with the Relief Regulation instead of as required by the Pension Benefits Regulation.

Before an election may be made the employer must notify the administrator, or in the case of a MUPP the administrator must notify each participating employer, of its intent to make the election.

The administrator must fully inform members and beneficiaries regarding the proposal to make an election by providing the written notice required by the Relief Regulation, and after the period allowed for the objections to the proposal has expired, be satisfied that:

- no more than one-third of members and former members object to the proposal, and
- no more than one-third of retirees and other beneficiaries object to the proposal.

After the election is made, the administrator must file the documents set out in the Relief Regulation with the superintendent within 60 days after providing the written notice to all the members and other parties outlined above.

Effect of Election

While the election remains in effect certain restriction apply including that:

- the plan cannot be amended to increase benefits if it were to affect the cost of benefits or the solvency or funding of the plan or would create an unfunded liability, unless sufficient contributions to the plan have been made to fully fund the cost of those benefits, or decrease employee contributions, and
- a solvency deficiency calculated after the initial deficiency date must be determined according to the Relief Regulation.

Revocation of election

An election may be revoked by the employer, or by the administrator in the case of a MUPP, at any time more than five years after the plan's initial deficiency date subject to the requirements set out in the Relief Regulation.

If an election is revoked, payment must be made to the plan, within 30 days after the end of the month in which the election is revoked, of an amount equal to the amount by which the total special payments that would have been made to the plan under the Pension Benefits Regulation, adjusted for interest, gains and losses experienced during that period, exceeds the total special payments that were made to the plan under the Relief Regulation, plus interest on those payments during that period.

Non effects of Election

The election does not affect any requirements under the Pension Benefits Regulation related to special payments to be made in the event of a plan termination or wind-up in whole or in part, and to contributions, tests for solvency and to reviews, except to the extent that they are modified by this regulation.

If you have any questions regarding this update you may contact us at:

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This update has no legal authority. The Pension Benefits Act of Manitoba and The Pension Benefits Regulation, 188/87 R amended should be used to determine specific requirements.