



# Employee Benefits and Pensions: Top 5 Issues of 2019

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# Outline

1. Canada Pension Plan updates
2. NS Amendments to Pensions Benefits Act
3. CAPSA guideline changes
4. Discrimination in benefits and pension plans
5. Privacy and plan information

# 1. Canada Pension Plan Changes

- Long-awaited changes to CPP came into force January 1, 2019
  - Gradual increases in contributions phasing in over 7 years (employers and employees)
  - Aim is to increase CPP from replacing 1/4 of average work earnings to 1/3
- Question for pension plans with integrated benefits
- Adjustment is needed to offset shortfalls in contributions due to Canada's aging population

## 2. NS Bill 109 – Amendments to PBA

- Royal Assent April 12, 2019, not yet in force
- Greater flexibility in managing defined benefits plans
- New options:
  - Reserve accounts – Not only solvency reserve
  - Letters of credit – Removal of cap of 15% of solvency liabilities
  - Annuity purchase – Buyouts without wind up
- Clarification of protections:
  - Deemed trust
  - Confidentiality in information requests

# 3. CAPSA Guideline Changes

- Guidelines, not rules, but generally adhered to
- Guideline #8: Defined Contribution Guidelines (Feb 2019)
  - Changes/additions regarding defined contribution plans with **variable benefit options**
  - Info on investment choices
  - Impact of withdrawal choices on future income
- Guideline #9: Searching for Un-Locatable Members of a Pension Plan (Feb 2019)
  - Best practices related to record management/searching un-locatable members
- Guideline #2: Electronic Communication in the Pension Industry (May 2019)
  - Protect security of info sent electronically
- Guidance re Hypothetical Wind-Up Liabilities (May 2019)

## 4. Discrimination in Benefits and Pension Plans

- Pensions and benefits plans are increasingly being challenged under our anti-discrimination laws
  - Human rights legislation
  - *Canadian Charter of Rights and Freedoms*
- Grounds:
  - Age – Coverage ending at age 65 (*Talos*)
  - Disability – Coverage for medical cannabis (*Skinner*)
  - Gender – Accrual of service while job sharing (*Fraser*)
  - Religion – Prohibition against usury
- Risk is lower in NS as “*bona fide*” plans are exempt from age discrimination

## 4. Discrimination in Benefits and Pension Plans

*Does the distinction create a disadvantage by perpetuating prejudice or stereotyping?*

- Right to disability benefits ends on pregnancy or parental leave
  - But if employer offers disability benefits to employees on other leaves, this is discriminatory
- An employee with a disability can be treated differently in a life insurance/benefit plan where a pre-existing disability increases the risk to a high level
  - Employer must compensate employee if excluded from plan

# 5. Privacy and Plan Information

- Increasing obligations on plan administrator
- Annual information returns may be requested under access to information legislation (NS FOIPOP Decision)
- CAPSA guidelines
  - Defined contribution plans – Increase in requirements with respect to disclosure of fees and retirement income projections
  - Electronic communications – Data security
  - Un-locatable members – Steps to locate missing members



# 5. Privacy and Plan Information

Re. *Nova Scotia (Finance and Treasury Board)*, 2018 NSOIPC 4

- Applicant filed access to information request for information in annual information returns of each pension plan registered in NS
  - Plan name; defined benefit/contribution; name and contact info of administrator; number of active members; market value of plan at year's end
- OPIC granted request – found prohibition on disclosure under s. 15(3) of NS PBA refers only to information collected with s. 15
  - AIRs are required under s. 31
  - S. 15 applies only to info given in surveys and research programs used for statistical information



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