

Caution:

This consultation draft is intended to facilitate dialogue concerning its contents. Note that it will not become law unless a bill is passed by the Legislative Assembly. Should the decision be made to introduce a bill in the Legislative Assembly, the comments received during consultation will be considered during the preparation of the bill. The content, structure, form and wording of both language versions of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.

Pension Benefits Amendment Act - A Consultation Draft

Proposed Bill

Pension Benefits Amendment Act - A Consultation Draft

1. The Act is amended by adding the following sections:

Special exemption, certain individual pension plans and designated plans

102.4 (1) An employer of a pension plan that is an individual pension plan or a designated plan for the purposes of the *Income Tax Act* (Canada) and for which a certificate of registration has been issued under section 16 of this Act may elect to be exempt from the application of this Act, the regulations and the Authority rules, except as necessary to give effect to this section, if the following requirements are satisfied at the time of the election:

1. Every member of the pension plan, if any, is connected with the employer within the meaning of subsection 8500 (3) of the *Income Tax Regulations* (Canada).
2. Every former member of the pension plan, if any, and every retired member of the plan, if any, was connected with the employer within the meaning of subsection 8500 (3) of the *Income Tax Regulations* (Canada) immediately before becoming a former member or retired member, as the case may be.
3. Every member, former member, retired member and other person entitled to benefits under the pension plan has consented to the exemption in accordance with subsection (3).

Election

(2) The election referred to in subsection (1) must be filed with the Chief Executive Officer and must contain the following information:

1. The name of the individual pension plan or designated plan and its provincial registration number.
2. A statement from the employer certifying that, as of the date the election is filed, the requirements set out in paragraphs 1 and 2 of subsection (1), as applicable, are satisfied.
3. A statement from the employer certifying that consent to the exemption has been obtained from every member, former member, retired member and other person entitled to benefits under the plan.

4. A copy of every consent obtained from each member, former member, retired member or other person entitled to benefits under the plan.
5. The date on which the exemption is effective, which must be at least 14 days after the date on which the election is filed.
6. A statement from the employer acknowledging that, after the election is filed, no individual may become a member of the plan unless the individual would be connected with the employer within the meaning of subsection 8500 (3) of the *Income Tax Regulations* (Canada) on the date they become a member.

Consent

(3) For the purposes of paragraph 3 of subsection (1), the consent of a member, former member, retired member or other person entitled to benefits under a plan to the exemption of a pension plan must be in writing and signed by the member, former member, retired member or other person and must include both of the following:

1. A statement that the member, former member, retired member or other person entitled to benefits under the plan consents to the exemption.
2. A statement that the member, former member, retired member or other person entitled to benefits under the plan acknowledges that as a result of the exemption, this Act, the regulations and the Authority rules would not apply to any benefits or entitlements accrued by that person under the plan, whether the benefits or entitlements accrued before or after the effective date of the exemption.

Exemption

(4) The following apply if an employer of a pension plan files an election under this section and the requirements set out in subsections (1), (2) and (3) have been met:

1. Except as necessary to give effect to this section, this Act, the regulations and the Authority rules do not apply as of the effective date of the exemption set out in the election in respect of any matter relating to the pension plan, including in respect of any benefits or entitlements accrued under the plan, whether the matter arose or the benefits or entitlements accrued before or after the effective date.
2. The powers and duties conferred on or assigned to the Chief Executive Officer, the Authority, the Tribunal or any other person, body or court on or to whom powers and duties related to the enforcement of this Act, the regulations or the Authority rules are conferred or assigned, do not apply in respect of any matter relating to the pension plan as of the effective date of the exemption set out in the election, including in respect of any benefits or entitlements accrued under the plan, whether the matter arose or the benefits or entitlements accrued before or after the effective date.

However, those powers and duties do apply in respect of the requirement set out in subsection (5).

Restriction re new members

(5) After an election referred to in subsection (1) is filed in respect of a pension plan, no individual may become a member of the plan unless the individual would be connected with the employer within the meaning of subsection 8500 (3) of the *Income Tax Regulations* (Canada) on the date they become a member.

Exemption not cancelled

(6) An exemption under this section continues to apply with respect to a pension plan even if a member, former member or retired member who was connected with the employer within the meaning of subsection 8500 (3) of the *Income Tax Regulations* (Canada) ceases to be connected with the employer.

Special exemption, certain new individual pension plans and designated plans

102.5 (1) This section applies with respect to a pension plan that is an individual pension plan or a designated plan for the purposes of the *Income Tax Act* (Canada) that is established after [*the day on which this section comes into force*] and all the members of which are, as of the date the plan is established, connected with the employer within the meaning of subsection 8500 (3) of the *Income Tax Regulations* (Canada).

Exemption

(2) The pension plan is exempt from the application of this Act, the regulations and the Authority rules, except as necessary to give effect to this section, as of the date on which the plan is established.

Same

(3) The powers and duties conferred on or assigned to the Chief Executive Officer, the Authority, the Tribunal or any other person, body or court on or to whom powers and duties related to the enforcement of this Act, the regulations or the Authority rules are conferred or assigned, do not apply in respect of any matter relating to the pension plan. However, those powers and duties do apply in respect of the requirement set out in subsection (5).

No registration

(4) For greater certainty, the administrator of the pension plan shall not apply to the Chief Executive Officer for registration of the pension plan under this Act.

Restriction re new members

(5) No individual may become a member of the plan unless the individual would be connected with the employer within the meaning of subsection 8500 (3) of the *Income Tax Regulations* (Canada) on the date they become a member.

Exemption not cancelled

(6) An exemption under this section continues to apply with respect to a pension plan even if a member, former member or retired member who was connected with the employer within the meaning of subsection 8500 (3) of the *Income Tax Regulations* (Canada) ceases to be connected with the employer.

Special exemption, revocation of registration under *Income Tax Act* (Canada)

102.6 (1) If a pension plan's registration under the *Income Tax Act* (Canada) was revoked on or before [*the day this section comes into force*] and the plan was, before the revocation, an individual pension plan or a designated plan for the purposes of the *Income Tax Act* (Canada), the plan is exempt from the application of this Act, the regulations and the Authority rules as of [*the day this section comes into force*].

Same

(2) If a pension plan's registration under the *Income Tax Act* (Canada) is revoked after [*the day this section comes into force*] and the plan was, before the revocation, an individual pension plan or a designated plan for the purposes of the *Income Tax Act* (Canada), the plan is exempt from the application of this Act, the regulations and the Authority rules as of the day on which the notice of revocation referred to in subsection 147.1 (13) of the *Income Tax Act* (Canada) is dated.

Effect of exemption

(3) If a pension plan is exempt from the application of this Act, the regulations and the Authority rules under subsection (1) or (2),

- (a) the exemption applies in respect of any matter relating to the pension plan as of the date on which the exemption became effective, including in respect of any benefits or entitlements accrued under the plan, whether the matter arose or the benefits or entitlements accrued before or after that date; and
- (b) the powers and duties conferred on or assigned to the Chief Executive Officer, the Authority, the Tribunal or any other person, body or court on or to whom powers and duties related to the enforcement of this Act, the regulations or the Authority rules are conferred or assigned, do not apply in respect of any matter relating to the pension plan as of the date on which the exemption became effective, including in respect of any benefits or entitlements accrued under the plan, whether the matter arose or the benefits or entitlements accrued before or after that date.

Commencement

2. [Commencement]

Short title

3. [Short Title]