Ontario Government Announces Details of the Ontario Retirement Pension Plan

By: Jeremy Schwartz and Jessica Young

Recently, the Ontario Government provided new details regarding the Ontario Retirement Pension Plan (the "ORPP"). The basic requirements are outlined in Bill 56, **Ontario Retirement Pension Plan Act, 2015**, which requires mandatory employer and employee contributions, with a maximum combined contribution of 3.8 percent, and a maximum earnings threshold set at $90,000 for 2017.

It is anticipated that the ORPP will come into effect for some larger employers as early as January 1, 2017. The details of the ORPP, which are subject to legislative approval, are outlined below.

Perhaps unsurprisingly, though disappointingly, the proposed legislation gives no credit whatsoever to employers who provide employees with unregistered, RRSP matching programs or deferred profit sharing plans – regardless of the scale of annual contributions.

Enrollment and Contribution Phase-In

There are four "waves" of enrollment that span from 2017 to 2020. The first three waves cover employers that do not have a registered workplace pension plan. The fourth wave pertains to employers that have a pre-existing plan that does not meet the comparability test (as outlined below).

The four waves are as follows:

- **Wave One:** Large Employers (those with 500 or more employees) that do not have a registered workplace pension plan. Contributions are to start January 1, 2017, and will be phased in over three years starting at 1.6% combined contributions, and increasing to 3.2% and 3.8%.
- **Wave Two:** Medium Employers (those with between 50-499 employees) that do not have a registered workplace pension plan. Contributions are to start in 2018, and will be phased in over three years starting at 1.6% combined contributions, and increasing to 3.2% and 3.8%.
- **Wave Three:** Small Employers (those with 50 or fewer employees) that do not have a registered workplace pension plan. Contributions are to start in 2019, and will be phased in over three years starting at 1.6% combined contributions, and increasing to 3.2% and 3.8%.
- **Wave Four:** All employers, regardless of size, that have a pre-existing workplace pension plan that is or could be comparable to the ORPP with modifications (including

by increasing contribution levels), or that excludes some categories of employees (including part-time). There is no phase in of contribution percentages for this wave of enrollment. These employers will need to ensure that the 3.8% combined contributions are in effect by 2020.

Exemptions for Comparable Plans

Employers that offer a comparable workplace pension plan will not be required to participate in the ORPP.

- For defined benefit (DB) pension plans, in order to be considered comparable there must be a minimum annual benefit accrual rate of 0.50 percent. For flat-benefit defined benefit (DB) plans, this will be calculated as follows:

$$\frac{\textbf{Monthly dollar benefit accrual x 12}}{\textbf{Maximum hourly wage rate x 2080 hours/year}} \geq \textbf{0.5\% accrual rate}$$

- For defined contribution (DC) pension plans, in order to be considered comparable there must be a minimum annual contribution rate of 8 percent, and at least 50 percent of that must be employer paid. For flat-dollar defined contribution (DC) plans, this will be calculated as follows:

$$\frac{\textbf{Monthly dollar contributions x 12}}{\textbf{Maximum hourly wage rate x 2080 hours/year}} \geq \textbf{8\% contribution rate}$$

Next Steps and Forecast

Employers should review current benefits programs in light of this announcement. Employers that had a registered workplace pension plan in place on or before August 11, 2015, and those that were in the process of registering a plan at that time will be placed in Wave Four. These employers will need to ensure that their registered pension plans meet the criteria for a comparable plan by January 2020.

All other employers will need to either set up a comparable plan prior to the deadlines indicated above or enroll in the ORPP. Employers that do not have a comparable pension plan should consider whether to implement one prior to the enrollment deadlines.

We will be providing more information on the ORPP, among other current hot topics in labour and employment law, at our 29th Annual Employers' Conference. Attendees receive 5.25 CPD Credit Hours toward HRPA Recertification and this may apply toward 5.25 substantive CPD hours with LSUC. To review our complete agenda, or to register, click here.

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Employers that provide employees with other types of unregistered benefits, for instance, RRSP matching programs and deferred profit sharing plans, will need to participate in the ORPP or institute comparable plans.

It seems likely employers will consider cost cutting measures, and will weigh the value of continuing such secondary programs and of implementing annual wage increases against the cost of implementing a comparable pension plan or the ORPP. The legality of such machinations won't be known until the legislation is fully drafted and ultimately proclaimed in force. But it is definitely unfortunate that employers who provided often lucrative, non-registered benefit programs receive no credit for those laudable programs and initiatives.

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