

# Torys on Pension and Employment

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## Ontario Introduces Long-Awaited Pension Reforms

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On December 9, 2009, the Ontario government introduced legislation designed to enact a number of long-awaited pension reforms. While these reforms are largely of a technical nature, they effect a number of important changes, including changes to pension plan restructurings resulting from corporate reorganizations; elimination of partial windups of pension plans; enhancement of regulatory oversight of pension plans; and facilitation of surplus withdrawal.

Restructuring pension plans resulting from corporate reorganizations will be simpler. In particular, the reforms clarify and simplify the requirements for transferring assets between defined benefit plans. Further, if a restructuring involves transferring membership from one employer's plan to another employer's plan, individual plan members can be permitted to choose whether to transfer their pension benefit to the successor plan.

The reforms prohibit partial windups after December 31, 2011, with a transition period permitting partial windups until that date. Accordingly, partial windups with an effective date prior to December 31, 2011 are exempted. Because partial windups are eliminated, distribution of plan surplus would only be required on full windup of a plan. This change resolves the complex windup issues triggered by corporate transactions (including a sale of part of the business) and downsizing.

To enhance regulatory oversight, Ontario's pension regulator, the Superintendent of Financial Services, would have the power to approve arrangements under both the *Companies' Creditors Arrangement Act* and the *Bankruptcy and Insolvency Act*.

Finally, the reforms would make it easier to implement surplus-sharing on the full windup of a pension plan. If employers, members and pensioners can reach a written surplus-sharing agreement that complies with the existing rules for such agreements, no review of historical plan documents would be required. This would save a significant amount of time and money.

The government has indicated that it intends to release a second package of reforms to deal with more contentious issues, such as funding and investment, during the spring of 2010. Although the current reform package does not cover every issue that most pension plan sponsors were hoping to have resolved, it should be considered a good first step on the road to meaningful pension reform. **T**

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