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Carswell's Pension Manual Release No. 1, July 2024
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Publisher's Special Release Note 2024

The pages in this work were reissued in February 2024 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the February 2024 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

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LEGISLATIVE & REGULATORY DEVELOPMENTS

Archiving Instructions:

Upon receipt of each new release of *Carswell's Pension Manual*, the prior release's **Legislative & Regulatory Developments** should be placed behind the tab L&RD; and therefore archived as an ongoing reference resource.

Legislative Developments

Alberta

Alberta Pension Protection Act Received Royal Assent December 7, 2023

British Columbia

Bill 33: Pension Benefits Standards Amendment Act, 2023 Received Royal Assent November 8, 2023

New Brunswick

Pension Plan Sustainability and Transfer Act Received Royal Assent December 13, 2023

Newfoundland and Labrador

Bill 61, *An Act to Amend the Pension Benefits Act, 1997* Received Royal Assent November 16, 2023

Nova Scotia

Bill 339, Financial Measures (Fall 2023) Act Received Royal Assent on November 9, 2023

Quebec

Draft Regulation to Amend Regulation Respecting Supplemental Pension Plans Was Published on December 27, 2023

Regulatory Developments

Canada

Revision of Instruction Guide for Preparation of Actuarial Reports for Defined Benefit Pension Plans

Update to Model Risk Management Guidance and Launch of Public Consultation

Pension Plan Assessment Rate Schedules – Pension Benefits Standards Act, 1985 and Pooled Registered Pension Plans Act

Publication of Commentary Guide for 2020 Agreement Respecting Multi-Jurisdictional Pension Plans

Issuance of Final Version of Instruction Guide for Asset Transfers related to Defined Contribution Provisions of Pension Plans

Update on Canadian Dollar Offered Rate Transition

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Release of Fall 2023 Public Service Superannuation Plan Newsletter

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FSRA Pension Update

Release of Consultation Paper Regarding Potential FSRA Rule on Family Law Matters

Release of Revised Pension Plan Amendments Guidance for Second Public Consultation

Release of Information Technology (IT) Risk Management Guidance

Report On Administrative Monetary Penalties and Defined Contribution Pension Plan Engagement

Issuance of Q3 2023 Solvency Report

Release of 2022-2023 Annual Report

Second Consultation on Target Benefits

Quebec

New Calculation of Disability Pension for Persons Aged 60 to 65

Publication of RREGOP Actuarial Valuation Update as at December 31, 2022

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Saskatchewan

Consultation Responses: Regulation of Individual Pension Plans and Designated Pension Plans for Connected Individuals

RECENT DEVELOPMENTS

Legislative Developments

Alberta

Alberta Pension Protection Act Received Royal Assent December 7, 2023

On December 7, 2023, the *Alberta Pension Protection Act (APPA)* received royal assent and came into force. *APPA* guarantees that the Alberta government will not launch a provincial Alberta Pension Plan and exist the federal Canada Pension Plan (CPP), unless Albertans vote in favour of this action in a referendum. The act also guarantees that Albertans would pay the same or lower contribution rates and receive the same or better benefits as the CPP; assets transferred to Alberta from the CPP would only be used to set up the provincial pension plan and operate it in the best interests of Albertans. The *APPA* can be accessed at https://kings-printer.alberta.ca/1266.cfm?page=A29p5.cfm&leg_type;=Acts&isbncln;=9780779844906.

British Columbia

Bill 33: Pension Benefits Standards Amendment Act, 2023 Received Royal Assent November 8, 2023

On November 8, 2023, *Bill 33: Pension Benefits Standards Amendment Act, 2023 (Bill 33)*, received Royal Assent. Many of the amendments will come into effect at a later date. The amendments enable defined contribution plans to of-

fer a new type of pension called variable life benefits. In addition, other proposed amendments reduce administrative burden, address policy issues, and make a number of technical corrections and clarifications. *Bill 33* can be accessed at <https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/42nd-parliament/4th-session/bills/first-reading/gov33-1>.

New Brunswick

Pension Plan Sustainability and Transfer Act Received Royal Assent December 13, 2023

On December 13, 2023, the *Pension Plan Sustainability and Transfer Act* (PPSTA) received royal assent. The act establishes a process to facilitate the transfer of designated pension plans to existing shared-risk pension plans currently registered under Part II of the New Brunswick *Pension Benefits Act*. The transfer process is expected to commence on February 1, 2024. The PPSTA can be accessed at <https://laws.gnb.ca/en/document/cs/2023,%20c.42>.

Newfoundland and Labrador

Bill 61, An Act to Amend the Pension Benefits Act, 1997 Received Royal Assent November 16, 2023

On November 16, 2023, Bill 61, *An Act to Amend the Pension Benefits Act, 1997* received royal assent. The Bill amends the *Pension Benefits Act, 1997* to authorize the Lieutenant-Governor in Council to prescribe multi-employer pension plans that are not subject to subsection 20(1) of the Act (exemption from provision concerning void amendments to pension plans); replace references to “Trial Division” with the correct reference “Supreme Court”; and incorporate gender-neutral language. Bill 61 can be accessed at <https://www.assembly.nl.ca/HouseBusiness/Bills/ga50session2/bill2361.htm>.

Nova Scotia

Bill 339, Financial Measures (Fall 2023) Act Received Royal Assent on November 9, 2023

On November 9, 2023, *Bill 339, Financial Measures (Fall 2023) Act* received royal assent. This act enacts the *Private Sector Pension Plan Transfer Act* (PSPPTA). The PSPPTA will enable private sector employers to join or transfer into the Public Service Superannuation Plan. The PSPPTA had not yet been proclaimed into force. Bill 339 can be viewed at https://nslegislature.ca/legc/bills/64th_1st/3rd_read/b339.htm#schedule.

Quebec

Draft Regulation to Amend Regulation Respecting Supplemental Pension Plans Was Published on December 27, 2023

The draft Regulation to amend the Regulation respecting supplemental pension plans was published on December 27, 2023 in the *Gazette officielle du Québec*. With respect to the pension plans that allow for payment of variable benefits, the draft Regulation provides for: the removal of the maximum related to payment of variable benefits for persons aged 55 or over, as of 1 July 2024; and

new calculation rules of temporary and life income related to payment of variable benefits for persons under age 55, as of 1 January 2025. With respect to the life income funds (LIFs), the draft Regulation mainly provides for the removal of the upper limit related to withdrawals of life income funds (LIFs) for persons aged 55 or over, as of 1 July 2024; and new calculation rules of temporary and life income related to LIFs for persons under age 55, as of 1 January 2025. Comments on the draft Regulation were requested before 10 February 2024.

The draft Regulation to amend the Regulation respecting supplemental pension plans can be accessed at <https://www.retraitequebec.gouv.qc.ca/SiteCollectionDocuments/RetraiteQuebec/loi-acces-information/autres-documents/p-r-rcr-27-12-2023.pdf>.

Regulatory Developments

Canada

Revision of Instruction Guide for Preparation of Actuarial Reports for Defined Benefit Pension Plans

On November 24, 2023, the Office of the Superintendent of Financial Institutions (OSFI) published a revised instruction guide for the preparation of actuarial reports for defined benefit pension plans. The Guide updates the previous one published in November 2022 to reflect updated requirements regarding the maximum going concern discount rate; and updated references to the 2020 Agreement Respecting Multi-Jurisdictional Pension Plans, OSFI instruction guides and Canadian Institute of Actuaries educational notes regarding pension plans. The revised instruction guide can be accessed at <https://www.osfi-bsif.gc.ca/Eng/pp-rr/ppa-rra/af-ac/Pages/actgde.aspx>.

Update to Model Risk Management Guidance and Launch of Public Consultation

OSFI has proposed revising the E-23: Model Risk Management Guideline so that it applies to all analytical models used by Federally Regulated Financial Institutions (FRFIs) and federally regulated private pension plans (FRPPs). The revised guideline incorporates models used for non-financial risks and includes forecasting economic conditions, estimating financial risks, pricing products and services, and optimizing business strategies. The final guideline is set to take effect on July 1, 2025. The Draft Guideline E-23 can be viewed at <https://www.osfi-bsif.gc.ca/Eng/fi-if/rg-ro/gdn-ort/gl-ld/Pages/e23-dft.aspx>.

Pension Plan Assessment Rate Schedules – Pension Benefits Standards Act, 1985 and Pooled Registered Pension Plans Act

On October 30, 2023, the OSFI published the pension plan assessment rate schedules applying to plans registered or filed for registration under the *Pension Benefits Standards Act, 1985* and the *Pooled Registered Pension Plans Act*.

The assessment rate schedule for plans under the *Pension Benefits Standards Act, 1985* can be viewed at https://www.osfi-bsif.gc.ca/Eng/pp-rr/ppa-rra/pa-crr/Pages/fee_schedule_pensions.aspx.

The assessment rate schedule for plans under the *Pooled Registered Pension Plans Act* can be viewed at https://www.osfi-bsif.gc.ca/eng/pp-rr/ppa-rra/prpp-rpac/Pages/prpp_s.aspx.

Publication of Commentary Guide for 2020 Agreement Respecting Multi-Jurisdictional Pension Plans

On October 24, 2023, the Canadian Association of Pension Supervisory Authorities has published the Commentary Guide for the 2020 Agreement Respecting Multi-Jurisdictional Pension Plans (as Amended by the 2023 Agreement Amending the 2020 Agreement Respecting Multi-Jurisdictional Pension Plans).

The Commentary Guide contains the text of each provision of the Agreement, as well as explanatory notes and examples. The Commentary Guide can be accessed at <https://www.capsa-acor.org/Documents/View/2067>.

Issuance of Final Version of Instruction Guide for Asset Transfers related to Defined Contribution Provisions of Pension Plans

In October, 2023, (OSFI has issued the final draft of the Instruction Guide to inform the pension industry of OSFI's expectations with respect to asset transfers related to defined contribution provisions from federally regulated pension plans and the filing requirements related to transfers involving individuals whose pension benefits are subject to provincial pension legislation.

The Instruction Guide can be accessed at <https://www.osfi-bsif.gc.ca/Eng/pp-rr/ppa-rra/at-tea/Pages/dcppp23.aspx>.

The accompanying Asset Transfer Request Form can be accessed at https://www.osfi-bsif.gc.ca/Eng/Docs/dcppp23_form.pdf.

Update on Canadian Dollar Offered Rate Transition

After June 28, 2024, the administrator of the Canadian Dollar Offered Rate (CDOR), will cease the publication of all three of CDOR's remaining tenors. The OSFI expects federally regulated private pension plans (FRPPs) to transition all loan agreements referencing CDOR by June 28, 2024 and make every effort to ensure a seamless transition to new reference rates, prior to the cessation dates. Additional information can be found at <https://www.osfi-bsif.gc.ca/eng/fi-if/in-ai/Pages/cdor23.aspx>.

OSFI New Supervisory Framework

The OSFI's supervisory framework for federally regulated financial institutions and pension plans will become effective in April 2024. The modernization of the framework, which will be the first comprehensive update in almost 25 years, is required to address the changes in the risk environment. The current framework will be updated to better capture the impact of macro-centric risks on the risk profile of regulated financial institutions and pension plans; build flexibility to accommodate new business models and new risks, including non-financial risks; and further leverage data and advanced analytics to promote more risk-based supervision. Additional information can be found at <https://www.osfi-bsif.gc.ca/Eng/osfi-bsif/rep-rap/blueprint-plan-directeur/Pages/>

[supervision-surveillance-let.aspx](#).

British Columbia

Changes to Information for Plan Membership Data on the Annual Pension Report (“APR”) E- Filing System

On November 28, 2023, the BC Financial Services Authority issued an advisory notifying pension plan administrators and service providers about the modifications to the Annual Pension Report (APR) e-filing system effective December 31, 2023, resulting in changes to the membership data reported to BCFSA on the APR filings. Pursuant to the changes, APR e-filing users will be required to update a new table to report the type of benefits accruing for active pension plan members. The system change will impact APR filings with fiscal year end date of December 31, 2023, and beyond. The advisory can be viewed at <https://www.bcfsa.ca/media/3518/download>.

Nova Scotia

Release of Fall 2023 Public Service Superannuation Plan Newsletter

The Public Service Superannuation Plan Trustee Inc. released its Fall 2023 newsletter. The newsletter addresses upcoming Plan changes which affect single Plan members and retiring Plan members with a spouse. The newsletter can be accessed at <https://www.novascotiapension.ca/news/your-fall-2023-pssp-newsletter-now-available>.

Ontario

FSRA Pension Update

On November 22, 2023, the Financial Services Regulatory Authority of Ontario (FSRA) published a general pension update addressing the past quarter. The update can be viewed at <https://www.fsrao.ca/newsroom/pension-update-november-22-2023>.

Release of Consultation Paper Regarding Potential FSRA Rule on Family Law Matters

On November 14, 2023, the FSRA released a consultation paper which considers development of a new FSTRA rule addressing family law matters. The FSTRA invited feedback from stakeholders and the public to be submitted by January 19, 2024, in order to understand whether there are benefits in FSRA developing a rule to: consolidate family law requirements in one location using a “lift and shift” approach; increase the maximum fees that can be charged for a statement of imputed value; address uncertainties that exist within the process of the division and revaluation of a retired member’s plan; codify requirements around the treatment of interest on lump sum transfers derived from the *Heringer v. Heringer* decision; set out requirements relating to forms; and align the family law framework for variable benefits with that for non-variable benefits.

The consultation paper can be viewed at <https://www.fsrao.ca/engagement-and-consultations/consultation-proposed-family-law-rule>.

Release of Revised Pension Plan Amendments Guidance for Second Public Consultation

On November 14, 2023, the FSRA sought public feedback regarding the revised Pension Plan Amendments Guidance in a second public consultation. In order to help ensure pension plan administrators are following the provisions of the *Pension Benefits Act*, FSRA released a proposed Pension Plan Amendment Guidance and received substantive feedback from pension stakeholders regarding this proposed Guidance in 2022. After receiving feedback, the FSRA made revisions to the proposed Guidance and released the revised proposed Guidance for second public consultation. Stakeholders and the public were invited to submit feedback by January 19, 2024.

The Revised Pension Plan Amendments Guidance can be accessed at <https://www.fsrao.ca/industry/pensions/regulatory-framework/guidance-pensions/proposed-guidance-pension-plan-amendments-2>.

The Active Pension Plan Amendments Guidance can be accessed at <https://www.fsrao.ca/industry/pensions/regulatory-framework/guidance-pensions/proposed-guidance-pension-plan-amendments>.

Release of Information Technology (IT) Risk Management Guidance

FSRA has released its final Information Technology (IT) Risk Management Guidance. The guidance applies to all FSRA-regulated sectors and includes specific requirements for pension plan administrators. The Guidance addresses effective management of threats to the IT systems, infrastructure and data to protect pension plan members. It will become effective on April 1, 2024. The Guidance can be accessed at <https://www.fsrao.ca/regulation/guidance/information-technology-it-risk-management>.

Report On Administrative Monetary Penalties and Defined Contribution Pension Plan Engagement

In October, 2023, FSRA published a Report on Administrative Monetary Penalties and Defined Contribution pension plan engagement. Initial observations noted a concentration of delinquent filings in the Defined Contribution (DC) sector. Specifically, FSRA found that some smaller DC plans struggled to submit Financial Statements and Annual Information Returns (AIRs) on time. The Report summarizes some actions that were taken following an extensive engagement with DC plans that were late in their filings. It can be accessed at <https://www.fsrao.ca/industry/pensions/publications/report-administrative-monetary-penalties-and-defined-contribution-pension-plan-engagement>.

Issuance of Q3 2023 Solvency Report

On September 30, 2023, the FSRA issued the Q3 2023 solvency report. The report projects 85% of plans to be fully funded on a solvency basis. The median solvency ratio for the quarter reached 117%, which is a historic peak. However, investment returns were negative and averaged out to -4.5% for the quarter. The report can be accessed at <https://www.fsrao.ca/media/24011/download>.

Release of 2022-2023 Annual Report

On September 29, 2023, the FSRA released its 2022-2023 Annual report. The report provides an overview of the FSRA's accomplishments and activities in its third year of operations. The report can be accessed at <https://www.fsrao.ca/media/23866/download>.

Second Consultation on Target Benefits

On September 1, 2023, the Ministry of Finance released a second consultation document on proposed regulations necessary for implementing a permanent target benefit framework for pensions in Ontario. The revised set of proposals was set out in this second consultation document in response to the stakeholder feedback from the first consultation document. The Ministry invited the stakeholders to provide their feedback by October 17, 2023. The second consultation document can be accessed at <https://www.ontariocanada.com/registry/view.do?postingId=45527&language=en>.

Quebec

New Calculation of Disability Pension for Persons Aged 60 to 65

In January, 2024, for persons aged between 60 and 65, retirement pension replaced the portion of their disability pension that varied based on the employment earnings entered in their file. Since January, they have been receiving their retirement pension and a disability pension, the amount of which is identical for all beneficiaries. Both pensions are adjusted to the cost of living each year. Further information regarding the calculation of the disability pension can be accessed at <https://www.retraitequebec.gouv.qc.ca/en/invalidite/prestations-invalidite-rrq/Pages/rente-invalidite-rrq.aspx#montant-versements>.

Publication of RREGOP Actuarial Valuation Update as at December 31, 2022

Every three years, the RREGOP (Government and Public Employees Retirement Plan) and PPMP (Pension Plan of Management Personnel) pension committees require that Retraite Québec have an actuarial valuation of their respective plans prepared. On October 20, 2023, Retraite Québec published a RREGOP actuarial valuation update as at December 31, 2022 (French only). The update can be accessed at <https://www.retraitequebec.gouv.qc.ca/SiteCollectionDocuments/RetraiteQuebec/fr/publications/rrsp/evaluations-actuarielles/4406f-ea-rregop2020-maj2022.pdf>.

Application of Privacy Policy and Policy Regarding Information Security, Access to Information and Protection of Personal Information

Since September 22, 2023, pursuant to the *Act to modernize legislative provisions as regards the protection of personal information*, Retraite Québec has been applying its *Politique de confidentialité* (Privacy policy) and its *Politique sur la gestion de la sécurité de l'information, de l'accès à l'information et de la protection des renseignements personnels* (Policy regarding information security, access to information and protection of personal information).

The *Privacy Policy* may be accessed in French only at <https://www.retraitequebec.gouv.qc.ca/fr/acces-information/publications/Pages/politique-de-confidentialite.aspx>.

The *Policy regarding information security, access to information and protection of personal information* may be accessed in French only at <https://www.retraitequebec.gouv.qc.ca/fr/acces-information/publications/Pages/politique-gestion-securite-information.aspx>.

Saskatchewan

Consultation Responses: Regulation of Individual Pension Plans and Designated Pension Plans for Connected Individuals

The Financial and Consumer Affairs Authority (FCAA) conducted a consultation with regards to exempting certain types of individual pension plans (IPPs) and designated pension plans (DPPs) from registration and regulation under *The Pension Benefits Act, 1992* (the *Act*). The FCAA received 8 submissions from organizations and 1 submission from an individual. The FCAA is currently reviewing the submissions. Based on the feedback received, the FCAA will consider making recommendations to the Government regarding amending *The Pension Benefits Regulations, 1993* to exempt certain types of IPPs and DPPS from registration and regulation under the *Act*.

While submissions from individuals are not available to view, submissions from organizations can be accessed at https://fcaa.gov.sk.ca/public/CKeditorUpload/Consultation_Responses_for_Posting_to_Website.pdf.

Quick Reference – Forms

Forms of interest and utility to pension administrators and advisors can be obtained online at the following sites in each jurisdiction:

Canada

<https://www.osfi-bsif.gc.ca/eng/pp-rr/ppa-rra/gde-frm/Pages/default.aspx>

Alberta

<https://www.alberta.ca/pensions-forms>

British Columbia

<https://www.bcfsa.ca/industry-resources/pension-resources/pension-forms>

Manitoba

https://www.gov.mb.ca/finance/pension/industry/pi_forms.html

Newfoundland

<https://www.gov.nl.ca/dgsnl/forms/#pen>

New Brunswick

<https://www.fcnb.ca/en/personal-finances/pension-administrators/pension-forms>

Northwest Territories

<https://www.osfi-bsif.gc.ca/eng/pp-rr/ppa-rra/gde-frm/Pages/default.aspx>

Nova Scotia

<https://novascotia.ca/finance/en/home/pensions/forms/default.aspx.html>

Nunavut

<https://www.osfi-bsif.gc.ca/eng/pp-rr/ppa-rra/gde-frm/Pages/default.aspx>

Ontario

<https://www.fsrao.ca/industry/pensions/pensions-all-forms>

Prince Edward Island

<https://www.peipspp.ca/forms>

Quebec

<https://www.retraitequebec.gouv.qc.ca/en/formulaires/Pages/formulaires.aspx>

Prince Edward Island

<https://www.peipspp.ca/forms>

Quebec

<https://www.retraitequebec.gouv.qc.ca/en/formulaires/Pages/formulaires.aspx>

Saskatchewan

<https://www.alberta.ca/pensions-forms>

Yukon

<https://www.osfi-bsif.gc.ca/eng/pp-rr/ppa-rra/gde-frm/Pages/default.aspx>

These references are accurate as of the date of publication of each release but are subject to change by the site administrators and will, where they change, be updated in subsequent releases.

ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases, Table of Statutes and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView-generated PDFs of entire sections and pages