

INDEX

- Act to empower the employees of incorporated companies to establish Pension Fund Societies, 1**
- Air Canada Pension Plan Solvency Deficiency Funding Regulations, 168**
- Bankruptcy and Insolvency Act, 147**
- British North America Act, 1867, 4**
- Canada Revenue Agency, 25**
- Companies' Creditors Arrangement Act, 147**
- Employment Insurance Act, 161**
- Establishing a pension plan, 13**
 - Adequacy, 18
 - Cost and funding flexibility, 15
 - Deciding whether to establish, 14
 - Designing goals, 14
 - Employee contributions, 16
 - Employee eligibility, 17
 - Legislative considerations, 19
 - Primary courses of retirement income, 13
 - Registering, 24
 - Risk, 16
 - Supplemental employee retirement plans, 19
 - Tax effectiveness, 18
 - Types of employer-sponsored pension plans, 20
 - Defined benefit plans, 20
 - Defined contribution plans, 22
 - Hybrid and combination plans, 22
 - Multi-employer pension plans, 23
 - Target benefit plans, 23
 - Weighting of contributions, 18
- Family Law Act, 1986, 7**
- Financial Services Commission of Ontario, 9 and 24**
- Government Annuities Act, 2**
- History, 1**
 - 1800s, 1
 - 1900s, 2
 - 1940s and 1950s, 3

INDEX

History — *continued*

- 1960s, 3
- 1980s, 5
 - Collins* Decision, 6
 - Haley and Grossman Reports, 6
 - Major reforms, 7
 - Reform of the early 1980s, 5
- 1990s, 9
 - 1999 Amendments, 10
 - Accounting standards, 10
 - Financial Services Commission of Ontario, 9
 - Regulatory guidelines, 10

Hudson's Bay Company, 1

Income Tax Act, 3, 8, 27, 73 and 79

Income Tax Regulations, 79

Income War Tax Act, 1917, 2

Information Circular No. 72-13R7, 6

Insolvency, 147

- Bankruptcy, 156
 - Bankruptcy order, 158
 - Deemed trusts, 160
 - Employment contracts and collective agreements, 159
 - Personal liability of the trustee or subsequent employers, 159
 - Protection for wages, 161
 - Security for unpaid pension amounts, 158
 - Initiating a bankruptcy, 156
 - Automatic bankruptcy, 157
 - Involuntary bankruptcy, 157
 - Voluntary bankruptcy, 156
 - Plan wind up, 162
- Directors' and officers' duties in a bankruptcy or insolvency, 165
- Pension benefits guarantee fund, 164
- Receivership, 162
 - Court appointed receivers, 163
 - Impact of receivership on employment contracts and pension plans, 163
 - Employment contracts and collective agreements, 164
 - Personal liability of receiver or subsequent employers, 164
 - Security for unpaid amounts in prescribed pension plans, 163
 - Pension benefits guarantee fund, 164
 - Privately appointed receivers, 163

INDEX

- Insolvency — *continued***
 - Qualifications and duties of receivers, 163
 - Restructuring under the BIA, 154
 - Approved proposal, 156
 - Court approval of a proposal, 155
 - Creditor approval of a proposal, 155
 - Developing a proposal, 155
 - Notice of intention and stay of proceedings, 154
 - Notice of intention, 154
 - Stay of proceedings and creditor protection, 155
 - Who can use the BIA, 154
 - Restructuring under the CCAA, 148
 - Approved plan, 153
 - Continuing pension plan, 153
 - No continuing pension plan, 153
 - Court approval of a plan, 152
 - Creditor approval of a plan, 152
 - Following the initial order, 151
 - Asset sale, 151
 - Developing a plan of arrangement, 151
 - Renegotiating the collective agreement, 151
 - Initial order and stay of proceedings, 149
 - Company obligations, 149
 - Court discretion to make the initial order, 150
 - Stay of proceedings and creditor protection, 150
 - The monitor, 149
 - Who can use the CCAA, 148
 - Solvency funding relief, 166
 - Federal distressed pension plan workout scheme, 166
 - Proposals for permanent funding reform, 167
 - Specific regulations for certain corporations, 167
 - Air Canada, 168
 - Algoma Steel Inc., 167
 - General Motors, 168
 - Stelco Inc., 167
- Jobs and Economic Growth Act, 187**
- Legislated minimum standards, 27**
 - Accrual and vesting, 31
 - Accrual rules, 31
 - Impact of dismissal, 32
 - Vesting, 32
 - Administration, 30
 - Contributions, 30

INDEX

Legislated minimum standards — *continued*

- Locking-in, 33
- Membership, 27
 - Disclosure, 29
 - Eligibility, 28
 - Mandatory and voluntary membership, 27
- Portability, 33
 - Exceptions, 34
 - General rules, 34
- Retirement, 35
 - Pension amount, 36
 - Timing, 35
- Spouses, beneficiaries and estates, 37
 - “Marriage-like” relationships and same sex marriage, 38
 - Pension-splitting on marriage breakdown, 38
 - Post-retirement death benefits, 37
 - Pre-retirement death benefits, 37

Mergers & Acquisitions, 121

- Cross border transactions, 140
- Managing pension risks in corporate transactions, 124
 - Asset purchase transactions, 133
 - Due diligence, 124
 - Mergers, 131
 - Negotiation of representations and warranties, 128
 - Other provisions, 130
 - Share-purchase transactions, 131
- Multi-employer pension plans in corporate transactions, 143
 - Asset purchase transactions, 144
 - Share-purchase transactions, 143
- Pension plans in corporate transactions, 121
 - Funding, 121
 - Plan valuation, 122
 - Surpluses and deficits, 122
 - Types of corporate transactions, 123
- Strategies for successful conversion, 141

Minister of National Revenue, 3

Office of the Superintendent of Financial Institutions, 24

Old Age Pension Act, 2

Old Age Security Act, 2

Pension Administrator, 41

- Advisory committees, 42

INDEX

Pension Administrator — *continued*

- Agents, 51
 - Delegation, 51
 - Scope of an agent's duty, 52
 - Typical agents, 53
- Discharging the duty, 50
 - Advice and direction, 51
 - Loss recovery, 51
 - Risk of liability, 50
- Duty and standard of care, 44
 - Statutory and common law duties of care, 44
- Employee and pensioner representation, 42
- Job description, 43
 - Duty to inform and disclose, 48
 - Governance best practices, 49
 - Impartiality and even-handedness, 47
 - Loyalty and good faith, 46
 - No conflict of interest, 46
 - Pension plan and fund, 43
 - Relevant knowledge and skill, 46
 - Standard of care, 45
 - Statutory duties of the administrator, 44
- Legislative requirements, 41
- Plan expenses, 53
 - Current framework, 53
 - Reform, 54

Pension Benefit Guarantee Funds, 171

- Administration, 172
- Assessment, 172
- Benefits coverage, 176
- Excluded and qualifying plans, 173
 - Excluded plans, 173
 - Qualifying plans, 173
- History, 172
- Lien and charge, 176
- Making claims under the PBGF, 174
 - Application for allocation from the PBGF, 175
 - Application of the PBGF to a pension plan, 174
 - Wind up of a pension plan, 174
- Policy debate, 171

Pension Benefits Act, 1962-63, 3

Pension Benefits Act, 1965, 4

INDEX

Pension Benefits Act, 1968, 5

Pension Benefits Act, 1987, 7, 9, 27 and 73

Pension Benefits Standards Regulations, 1985, 73

Pension Plan Funding, 57

Contributions, 61

Administrator responsibilities, 66

Basic requirements, 61

Contribution holidays, 69

Defined benefit plans, 65

Defined contribution plans, 65

Employee contributions, 62

Employer contributions, 63

Multi-employer pension plan and jointly sponsored pension plan rules,
65

Pre-funding, 61

Statutory deemed trust, 68

Valuation, 57

Actuarial assumptions, 60

Actuarial valuation reports, 59

Normal costs and special payments, 58

Roles of the Superintendents, 60

Solvency valuations versus going-concern valuations, 57

Pension Plan Investment, 73

Administrator duties, 74

Overview of the statutory and regulatory scheme, 73

Prohibited investments under the Federal Investment Regulations and
Schedule III, 76

Auditing and reporting requirements, 79

Exceptions, 76

General requirements, 76

Investment issues specific to defined contribution plans, 80

Key cases, 82

Prohibited investments under the *Income Tax Act*, 79

Quantitative restrictions and diversification, 77

Related party restrictions, 78

Statement of investment policies and procedures, 74

Pension Plan Reform, 179

Ontario, 180

A Fine Balance: Safe Pensions, Affordable Plans, Fair Rules: The Report
of the Arthurs Commission, 180

Alberta and British Columbia, 190

INDEX

Pension Plan Reform — *continued*

- Alberta and British Columbia's Joint Expert Panel on Pension Standards (Joint Panel), 190
- Alberta Pension Reform, 193
- British Columbia Pension Reform, 192
- Federal, 185
 - Discussion paper, 185
 - Federal Pension Reform: Bill C-9 and Bill C-47, 187
 - Pooled registered pension plans, 189
- Manitoba, 193
- Ontario Pension Reform: Bill 236 and Bill 120, 182
 - Defined benefit plan funding, 182
 - Division of pension benefits on marital breakdown, 184
 - Member benefits, 184
 - Plan administration, 183
- Pension Reform in the Atlantic Provinces, 194
 - New Brunswick, 194
 - Nova Scotia, 195
 - Prince Edward Island, 198
- Saskatchewan, 193
- Quebec, 199

Pension Plan Regulation, 97

- Duties, 100
 - Communication obligations, 104
 - Duties on amendment or wind up, 106
 - Duties regarding administrative expenses, 105
 - Registration duties, 100
 - Reporting duties, 102
- Regulatory jurisdiction, 97
 - Canada Revenue Agency, 99
 - Federal regulator, 98
 - Multijurisdictional plans, 98
 - Pension regulators, 97

Pension surplus, 109

- Deficits, 119
- Disclosure, 110
 - Going-concern or solvency surplus, 110
 - Wind up surplus, 111
- Introduction, 109
 - Actuarial versus actual surplus, 109
 - Historical overview of surplus, 110
 - Surplus circumstances, 109
 - Terminology, 109

INDEX

Pension surplus — *continued*

- Surplus politics and ownership, 111
 - General legal principles, 112
 - The politics, 111
- Withdrawal and distribution, 113
 - Ongoing plan surplus, 117
 - Overarching duties, 113
 - Surplus on wind up, 114

Pooled Registered Pension Plans, 201

- Administration, 203
- Coordination, 204
- Funding and portability, 204
- Membership, 202
- Structure, 202
- Tax implications, 205

Pooled Registered Pension Plans Act, 202

Regulation 909, 7

Superannuation Act, The, 1

Sustaining Canada's Economic Recovery Act, 187

Terminating a pension plan, 85

- Full versus partial wind up, 86
- Power to wind up the pension plan, 86
 - Employees, 87
 - Plan administrator, 87
 - Sponsoring employer, 86
 - Superintendent of Financial Services, 86
- Rights and duties on wind up, 88
 - Administrator, 88
 - Employees' rights and benefits on wind up, 92
 - Employers, 91

Trustee Act, 51 and 54

Winding-up and Restructuring Act, 148 and 149