



Budget Bill Proposes Changes to Pension Benefits Standards Act

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On April 8, 2019, [Bill C-97](#), *An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2019 and other measures*, was tabled in the House of Commons. As the title implies, it provides for the legislative underpinning for many of the proposals announced in the budget tabled in March, including changes to the [Pension Benefits Standards Act, 1985](#) “PBSA” .

Bill C-97 proposes two changes to the PBSA: (i) it resurrects the so-called “discharge” for annuity purchases that was previously provided for in Bill C-27, and (ii) it includes a new section 17.1 of the PBSA that prohibits a pension plan from providing that benefits, and members’ entitlement to benefits, be affected by the termination of the plan.

The annuity purchase discharge will be both welcome and familiar for many plan sponsors. The amendments are similar to those contained in Bill C-27, which was tabled by the Federal government in 2016 and stalled after first reading. We assume the rest of Bill C-27, which provided for target benefits, is dead – for now at least.

Section 17.1 is new. We understand that the purpose of it is to capture the specific situation of a plan explicitly providing for CPI-linked indexation while the plan is on-going and flat-rate indexation on termination, however the language in s.17.1 is very broad and at first blush, as currently drafted it may cast a wider net. In particular, it is possible that could be interpreted to capture benefits that are, by their nature, affected on plan termination - such as benefits that are conditional on plan performance (gains or investment performance) or funding levels (surplus).

Finance consulted on this issue as part of the Retirement Income Security consultation last December and received feedback that conditional benefits, such as indexation that is only paid where the plan can afford it, ought not be outlawed. Conditional benefits, such as conditional indexation, are quite common among public and quasi-public sector plans across the country and are generally viewed as a responsible plan design feature.

Bill C-97 is an “omnibus bill” that implements much of what was in the budget. As such, we expect it to move quickly.

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