



Pre-holiday pension barrage

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Stikeman Elliott

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As the Christmas holiday season approaches, there has been a barrage of recent developments on the Canadian pension law front.

First, on December 8, Ontario's [Bill 120](#) received royal assent. Bill 120 is the second phase of Ontario's [Pension Benefits Act](#) reform, dealing with such issues as plan expenses, contribution holidays, surplus withdrawals, and target benefits. The bill as finally adopted contains several changes from the version originally introduced in October, most notably with regard to the surplus withdrawal rules. However, the government refused to budge on some other much-criticized provisions of the original Bill 120, such as certain requirements for the payment of administrative expenses out of plan assets.

Second, on December 10, Quebec's [Bill 129](#) was adopted. Bill 129 tweaks a number of provisions in Quebec's [Supplemental Pension Plans Act](#). One Bill 129 highlight is an extension of the 2009 introduction of retirees' right to transfer their pension assets out of their pension plan to the Quebec pension regulator, the Régie des rentes du Québec. The initial, 2009 version of that right applied only to pension plans of *bankrupt* employers. Bill 129 now extends the right to pension plans of employers under CCAA protection, e.g. Nortel.

Third, on December 14, the federal government introduced [draft regulations](#) which flesh out the details of some of its own pension reform measures enacted earlier this year. These regulations address such points as the use of letters of credit to secure solvency liabilities, the full funding of deficits on plan termination, and the innovative "distressed plan workout scheme" for underfunded pension plans of financially-troubled plan sponsors.

The courts have been busy in the pension arena recently, too. Most notably, on December 10, the Quebec Superior Court released its [decision](#) in the latest chapter of the long-running *Multi-Markes* saga concerning employer liability in multi-employer pension plans. Those who have been following this saga may recall that in 2008, the Quebec Court of Appeal found in favour of the participating employer, holding that it could withdraw from a multi-employer plan without having to fund up past service benefits that the plan trustees had granted without employer consent. The Quebec government subsequently adopted legislation prohibiting employers from so doing, and the Régie des rentes then purported to apply this new legislation to the Multi-Markes situation itself notwithstanding the Court of Appeal decision. On December 10, the Superior Court quite sensibly quashed that aggressive regulatory initiative.

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