

## Policy Bulletin #17 Specified Multi-Employer Pension Plans

Issued January 2005

This bulletin is designed to assist plan administrators, their consultants and legal counsel in understanding the special provisions of the *Employment Pension Plans Act* (the Act) apply to a pension plan that has been designated by the Superintendent of Pensions (the Superintendent) as a Specified Multi-Employer Pension Plan (SMEPP).

**This bulletin highlights only those sections of the Act and the Regulation that are unique to SMEPPs. This bulletin does not identify any of the other requirements of the Act and Regulation that apply to SMEPPs as well as all other pension plans. The administrator of a SMEPP should ensure that these other requirements are understood and followed as well.** This Bulletin has no legal authority. The Act and the *Employment Pension Plans Regulation* (the Regulation) should be used to determine specific legislative requirements.

### Administrator of a SMEPP

A SMEPP is a pension plan that is administered for employees of 2 or more participating employers and designated by the Superintendent as a specified multi-employer plan. A SMEPP, as designated by the Superintendent, is a pension plan that has all of the following characteristics:

- union/management sponsored;
- collectively bargained;
- negotiated contribution; and
- defined benefit provision.

The Superintendent may also designate plans having similar characteristics as a SMEPP<sup>1</sup>. **Act 1(1)(qq)**

The administrator of a SMEPP is a board of trustees (the Board) or other similar body constituted under a trust deed or agreement or other similar document acceptable to the Superintendent. Where a SMEPP is enacted and maintained pursuant to a collective bargaining agreement, the number of Union trustees on the Board must be at least equal to the number of Employer trustees. **Act 10**

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<sup>1</sup> For example, a plan meeting all of the characteristics but instead provides a defined contribution provision may qualify as a SMEPP.

**Eligibility for Enrolment** A SMEPP provides pension coverage for employees of a trade union within the meaning of the *Labour Relations Code*. **Act 1(1)(zz)**

Union members must be permitted to enroll in the pension plan no later than the first day of the month that follows the end of any two consecutive fiscal years of the SMEPP in which the union member has completed at least 350 hours of employment over those two years. **Act 29(2)(a)(i); Reg 30(1)(c)**

**Contributions to a SMEPP and the Effect of the Trust on Participating Employers**

*Participating Employer Contributions*

Where a SMEPP is established under a trust agreement, the participating employers of the plan are bound by the trust and any supplemental agreements to that trust, even if they are parties to any agreement prior to the trust being established or amended. **Act 17**

A participating employer's liability for funding benefits in a SMEPP is limited to the amounts that are negotiated in the collective bargaining agreement. None of the provisions of the Act, or of any instrument establishing a trust in a SMEPP with respect to the funding of benefits under the plan, are to be treated as increasing a participating employer's liability. This means that the terms of the collective bargaining agreement setting contributions are not nullified if a subsequent actuarial valuation reveals that the plan requires a larger hourly contribution. **Act 48**

It is important to note that this liability to fund benefits means that employers' negotiated contributions are expected to cover the cost of providing benefits related to current service as well as the cost of amortizing any shortfall that may arise during the life of the plan with respect to the benefits previously earned, in accordance with the funding rules set out in the Act and Regulation. This liability does not, however, extend beyond the termination of the pension plan. **Act 73(2)**

Contributions are required by a participating employer only for the service rendered by a union member for a participating employer. Contributions must be remitted to the Board who must then remit those funds immediately to the custodian of the plan fund. This rule is intended to prevent the holding of funds for any significant period outside of the pension fund.

It is recognized that holding accounts may be needed to receive payments from employers, temporarily, in order to reconcile them and distribute the payments among several accounts. **Act 50(1); Act 50(2)**

Participating employers must remit the required contributions to the Board within 30 days from the end of the month for which those contributions are payable. However, SMEPPs are exempted from the requirement of notifying the Superintendent in writing regarding an employer's failure to remit contributions. It is, nonetheless, the responsibility of the Board of Trustees to ensure that contributions are properly remitted. **Reg 49(1)(c); Reg 68(3)**

Excess assets in a SMEPP may be allocated with respect to a participating employer in proportion to that employer's corresponding financial obligation to the pension plan. **Reg 48(12)**

#### *Member Contributions*

Where a member is required to make contributions to the SMEPP, not more than half of the commuted value of the pension, so far as it relates to his/her membership on and after January 1, 1987, can be provided by those contributions, with interest. **Act 37(1)**

However, contributions that are made by a member in order to purchase the maximum benefit under the pension plan for any particular year (often known as self-payments) are not to be included when making this determination. Similarly, additional voluntary contributions made by the plan member are also not included. **Act 37(5)**

Any contributions made by a member of a SMEPP must be remitted to the plan fund within 30 days after the end of the month in which the contributions were made. **Reg 49(1)(a)**

## **Vesting**

A member of a SMEPP is vested in that plan after completing two years of continuous employment. A member in a SMEPP accrues a year of continuous employment if he/she has worked a minimum of 350 hours of employment. **Act 31(3)**

However, if the Superintendent considers that it would cause an undue hardship on the participating employers or the plan members to apply this definition, then continuous employment is measured as a period of employment in years, (or portions of years), including any temporary periods of lay-off not exceeding 26 consecutive weeks. **Act 31(4)**

The circumstances in which the Superintendent might allow this alternate rule to apply are unique to a pension plan and must be reviewed on a case-by-case basis.

## **Locking-in**

Benefits earned by a member in a SMEPP are locked-in after two years of continuous employment. If a member has not accrued two years of continuous employment, the contributions made by the member, plus interest, are not locked-in. Additional voluntary contributions, if any, are also not subject to locking-in at any time. Self-payments made by a plan member are subject to locking-in. **Act 35(1); Act 35(3); Act 35(4)**

## **Disclosure of Information on Request**

An explanation of the provisions of the SMEPP, as well as a summary of any amendment made to that plan, is to be supplied to a member at the earlier of:

- 30 days after a request for such information has been made by a member, or
- as part of the member's annual statement. **Reg 12(1)(b); Reg 12(2)(b)**

A member of a SMEPP can request that he/she, or his/her agent, be given access to plan documents. Access must be given at the establishment of the trade union representing plan members that is closest to the residence of the person requesting the examination. Documents that are specific to a SMEPP that a member may request to review include the three most recent audited financial statements of the Plan, as well as any participation agreement that is relevant to that member. **Act 15(6)(b). Reg 25(1)(b)**

**Information from a non-administrator employer**

On written request from the Board and within the timeline specified in the request, a participating employer shall provide the Board with the information or records that are required by the Board in order to comply with the SMEPP and to discharge the Board's responsibility under section 13 of the Act. **Act 18(1)**

If the participating employer does not provide the information requested within the period specified, the Board may apply to the Court by notice of motion supported by an affidavit for an order to compel the provision of the information or records. **Act 18(3)**

If the participating employer requests that any record supplied to the Board be returned to them, the Board shall return them within a reasonable period and may make copies of the record or information. **Act 18(5)**

**Partial Plan Termination**

A SMEPP must specify the consequences of the withdrawal of a participating employer with respect to the funding and vesting of benefits for those individuals affected by the withdrawal. **Act 56**

The suspension of contributions by a participating employer does not constitute a termination of part of the SMEPP, unless the plan text identifies this situation as being a partial plan termination. **Act 70(8)**

Notwithstanding the above, if all members of a trade union that is party to the collective bargaining agreement cease to become members of the SMEPP and if all (or a specific and identifiable group of) persons do not become members of another plan, that constitutes a partial plan termination (or full plan termination, as the case may be). For further information on partial plan terminations, please consult [Policy Bulletin #6: Termination of a Pension Plan](#). **Act 70(9)**

**Individual Termination / Pension Commencement**

A member in a SMEPP is considered to have terminated membership in the plan when he/she has not completed at least 350 hours of employment during a period of 2 consecutive fiscal years of the plan. Where the Superintendent has permitted a SMEPP to apply an alternate definition of a year of continuous service, additional provisions of the Act may apply. **Act 1(1)(xx)(i); Act 1(1)(xx)(iii)**

The member is deemed to have terminated membership in the province or territory where he/she last was employed and was enrolled in the plan. Upon being considered a terminated member, the normal portability options would be granted to the individual, to the extent permitted under the Act and the provisions of the SMEPP. Further, a SMEPP may provide that a member who is no longer working for a participating employer, or who no longer belongs to a class of members covered by the pension plan, may elect a transfer of his/her benefit entitlement. **Act 2(1); Act 38(3); Act 38(6)**

**Member required to Commence Pension**

A SMEPP may require that a member commence his/her pension at pensionable age. **Act 44(4)**

**Transfer Statements for Terminating Members**

If a member of a SMEPP has less than 350 hours of employment in the period of 2 completed fiscal years of the plan, and has not been notified otherwise, a statement informing the member that he/she is eligible to apply for a transfer of the termination benefit must be included with the annual statement. **Reg 14(1)(j)**

The Board of Trustees shall provide a terminating member with a statement containing the following information, within 90 days after the Board has received the member's completed application in the form required by the administrator:

- (a) The name of the pension plan and its Canada Revenue Agency registration number;
- (b) The member's name;
- (c) The date of the commencement of his/her employment;
- (d) The value of contributions that have been transferred from another plan that are:
  - a. used to purchase an additional years of service under the SMEPP and the value of that additional pension;
  - b. locked-in but not used to purchase an additional pension under the SMEPP; and
  - c. not locked-in, including additional voluntary contributions and optional ancillary contributions to the extent they are applicable.unless these contributions do not represent a significant portion of the commuted value of the benefit.

- (e) The period of employment credited for purposes of determining the member's benefit;
  - (f) The estimated annual pension accrued to the end of the fiscal year covered and payable at pensionable age (assuming full vesting);
  - (g) The commuted values of the respective pensions and excess contributions (if any);
  - (h) An explanation of the options available for excess contributions and voluntary contributions, if any;
  - (i) An explanation of the options available for the accrued pension; and
  - (j) The date when pension payments may commence.
- Reg 17; Reg 18(2)**

**Participation Agreements** Participation agreements, as they relate to a SMEPP, are agreements between participating employers and the Board of Trustees of a SMEPP that:

- (a) Set the terms of the employer participation in the plan;
- (b) Bind all the participating employers to the terms of the trust establishing the SMEPP; and
- (c) Make each participating employer responsible for remitting the contributions and special payments to the SMEPP as required by the collective agreement. **Reg 5(1)**

**Effect of Reciprocal Transfer Agreements**

Where a member who is receiving a pension resumes employment with a participating employer who participates in another SMEPP which has a reciprocal agreement with the first SMEPP, either the pension continues to be paid to the member, in which case no further benefit is earned by the member in the second plan, or the pension can be suspended and additional benefits can accrue with either plan. **Reg 31(2)**

Where a SMEPP has entered into a transfer agreement with another SMEPP in a province other than Alberta, that agreement may require the Alberta plan to collect contributions on behalf of out-of-province members and send them to the non-Alberta plan. Where a member from the non-Alberta plan participates under the Alberta plan, the contributions remitted to the Alberta plan are not subject to the locking-in provisions of the Act, (although they may be subject to similar rules of the other province), and he/she is not considered as a member of the Alberta plan. **Reg 68(6)**

## **Filing of Documents**

The Board is the fund holder of the SMEPP for the purposes of the Act and is required to file with the Superintendent the custodial agreement enacted between Board and the custodian of the funds. **Act 19(1)(a)(iv); Reg 26(b); Act 49(1)(b)(ii)**

A copy of the collective bargaining agreement, and any amendment to that document, must be filed within 30 days after the Superintendent has requested those documents, in writing, from the Board. **Act 14(3)(c); Reg 11(1)**

The audited financial statement of the SMEPP must be filed with the Superintendent within 60 days of the Board receiving that document from the auditor. **Act 14(3)(d); Reg 11(2)**

## **Valuation Report / Cost Certificate**

An actuarial valuation must be completed at least once every three years and be performed as at the review date of the SMEPP. The valuation and cost certificate must contain information regarding:

- (i) The weighted average rate per hour per member that will be contributed by a participating employer;
- (ii) A breakdown of this rate to identify the rate per hour attributed to the normal actuarial cost, the applicable special payments, and the contingency reserve; and
- (iii) The average number of hours of employment per member per fiscal year that has been assumed for the completion of the review. **Reg 10(3)(i)**

The valuation report must be filed with the Superintendent within 270 days from the date as of which the review was performed. **Reg 10(2(a))**

## **Insufficient Contributions**

Where the negotiated contribution rate is insufficient to fund the benefits under the plan, the actuary must bring this to the attention of the Board and outline what remedial steps are available to bring the plan into compliance with the funding requirements of the Act. **Reg 48(17); Reg 48(18)**

If the proposed remedial action still is insufficient to address the funding shortfall, the SMEPP may be permitted by the Superintendent to implement a retroactive reduction of accrued benefits upon approval of the Superintendent following a written application by the Board. **Reg 68(8)**

**Right to Refuse  
Amendment**

The Superintendent may refuse to register an amendment to a SMEPP if, before taking into account the effect of the amendment, the pension plan has a solvency deficiency. The refusal is at the discretion of the Superintendent and will be determined on a case-by-case basis. **Act 81(5)**

For further information please contact:

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