Pension Benefits Act Review Template for Union Submissions

MFL

BACKGROUND

The labour movement has always fought for workers to be able to retire with dignity and security after a lifetime of hard work. Strong pension plans are the backbone of retirement security for Manitobans and all Canadians. That's why we're urging all unions to participate in the Pallister government's current review of The Pensions Benefit Act (The PBA). Submissions from unions can be sent to pensions@gov.mb.ca any time up to Feb. 21/18.

The Pallister Government is considering a number of major changes to The PBA, including changes that would significantly weaken pension benefits and retirement security for Manitoba workers. That's why it's critically important that all unions weigh-in and make our voices heard in opposition to these proposals and in defense of a fair and stable pension framework for working families.

USING THIS TEMPLATE

This template is intended to assist unions in making their own submissions on The PBA, and includes key points that we're recommending unions make about the government's specific proposals to reduce pension benefits and weaken retirement security.

The template covers topics like the conversion of Defined Benefit (DB) pension plans into Target Benefit plans, solvency deficiency funding rules, locking and unlocking provisions, pension plan membership, and division of pension benefits in cases of relationship breakdown. It also addresses the need to continue with improvements and fixes to the Canada Pension Pan (CPP).

There is no need to use this content verbatim – making these points in your own words will ensure it comes across sincerely. The specific circumstances of your members and their pension plans (or lack of pension plans) should be reflected in your submission. Please help us ensure a fair system to support all workers and their pensions by providing a written submission to pensions@gov.mb.ca.

TEMPLATE

Start by providing a brief background on your union (e.g. number of workers represented, the industries/sectors they work in, etc) and what sort of pension plans (if any) are available to your members. Then, you can get right into the issues and recommendations we want to see implemented. Below are some key points we're encouraging unions to make. Be sure to include any other topics/recommendations that are important to your members – our suggestions are intended as a guide, and not meant to be prescriptive or exhaustive.

The Goal: Pension Plan Stability and Retirement Security

Ensuring the stability of existing pension plans and expanding access to pension benefits so all working families can retire with dignity and security should be the focus of any review or changes to The PBA. Unfortunately, it appears that the Pallister government is focused on reducing pension risks for employers, at the expense of workers and their retirement.

In particular, this government seems to be pushing for changes that would allow employers to dismantle existing DB plans, primarily in the public sector, and replace them with Target Benefit plans, with no guarantee that the pension provided at retirement will equal the target amount. This shows a fundamental misunderstanding by the Pallister government of the significant performance advantages of existing DB plans, not only in terms of benefits for plan members, but also in terms of efficiency, reduced risks and predictability.

A recent study by CCPA Manitoba, authored by pension specialist Hugh Mackenzie, demonstrates that DB plans have lower fees, better returns, and lower overall risk than Defined Contribution (DC) plans, and consistently outperform DC plans on a comparable basis. In pooling longevity and asset risk, DB plans do a better job of protecting pension plans and benefits for plan members. In examining the fallout from Saskatchewan's decision to convert the pension plan for its employees from a DB to DC plan, Mackenzie demonstrates that conversion did not deliver savings for government, severely weakened benefits for employees, and may actually end up increasing costs for the employer. The CCPA study also reflects on the unfortunate reality that private sector workers are especially under-represented in terms of workplace pension plans, and especially under-represented in terms of DB plans.

You can learn more about the advantages of DB plans, the risks of conversion, and the state of pension coverage in Manitoba by reading the CCPA's report - you may wish to draw on this report for your submission.

New Plan Designs: Proposal to rob workers of promised pension benefits through Target Benefit pensions:

As noted above, the Pallister Government is specifically asking for feedback on the idea of introducing a framework to enable Target Benefit pension plans, which may include single-employer and multi-employer plans, as well as private sector and public sector plans. We are extremely concerned that this government appears to have set its sights on forced conversion of existing public sector DB plans into weaker Target Benefit plans, and is even considering applying this dramatic change retroactively, putting the existing pension benefits of retirees at extreme risk.

Compared to existing DB plans, Target Benefit plans expose plan members – and this potentially includes both working and retired members – to significantly more risk in their retirement income. Under Target Benefit plans, employer liability is limited to a fixed contribution amount (similar to a DC plan), with the actual benefit determined based on affordability. Converting high-performing DB plans into Target Benefit plans effectively allows employers to break their pension promise to workers, walking away from their existing legal obligations to deliver already promised pension benefits, and shifting all of the market risk from employers onto plan members. In the context of converting from DB, this is fundamentally unfair, and especially so when Target Benefit plans are imposed retroactively, on retired plan members who already earned, paid for and were promised defined benefit pensions.

The CCPA's report demonstrates clearly that DB plans are not only superior in terms of the benefit levels and security they provide to plan members, but also in their efficiency, reduced risk and predictability.

There is a growing and deeply concerning trend of employers seeking to convert DB plans into Target Benefit plans, which has the potential to fuel labour disputes, as employers are incented to pressure workers to surrender the pension benefits they've already earned. They also have the potential to cause major splits within bargaining units, as employers may opt to try to pit active members against retirees with conversion incentives. Target Benefit plans are particularly risky and unstable in a single-employer, shared risk environment.

It is notable that when New Brunswick moved to impose Target Benefit plans, they were met with immediate legal challenges, after workers were misled, misinformed and bullied into conversion. It is also interesting that after inititally introducing legislation to allow target benefit plans in the federal sector last year, the Trudeau government now seems to have responded to the national backlash to this assault on DB plans by putting their scheme on ice – we urge the Pallister government to follow suit.

Target Benefit plans may have some applicability in instances where unionized workers are seeking to negotiate the establishment of a pension plan where one does not currently exist. Consideration of a Target Benefit model should be limited to instances where plans are collectively bargained, worker-controlled and multi-employer.

Changing Solvency Rules

The Pallister government is also promoting the idea of changing Manitoba's solvency rules to require solvency funding only if a plan's solvency ratio is below a threshold of 85 per cent, and at the same time require enhanced going concern funding. This would represent a significant change from Manitoba's current requirement of solvency funding at a 100 per cent ratio level, intended to protect workers' future pension benefits. It should be noted that a number of public DB plans are currently exempt from solvency requirements, as there is no reasonable prospect of plan wind-up – this exemption should be continued.

With respect to plans with solvency requirements, government is positioning the current 100% requirement as placing an undue burden on plan sponsors, leading to the wind-up or conversion of DB plans into DC plans, with inferior benefits for plan members. There is no doubt that market fluctuations have presented challenging circumstance for some pension plans with respect to solvency. However, eliminating solvency requirements altogether could open the flood gates to plans running chronic deficits, thereby putting current and future pension incomes at great risk. We would urge that government work cooperatively with any pension plan that may find itself in temporary distress due to market fluctuations to provide appropriate solvency relief options, subject to approval from plan members.

We have also seen with companies like Sears and Nortel that the interests of workers and pensioners are put at the back of the line when companies go under. We encourage the Pallister Government to work proactively with other provinces and the federal government to create a Canada-wide mandatory pension insurance system so that people who have paid into a workplace pension plan are not robbed of their retirement security when companies go bankrupt.

Additionally, we call on Manitoba to champion the long overdue need for the federal government to raise the cap on DB plan funding, as provided in The Income Tax Act, so as to allow greater flexibility to prepare for and withstand market downturns.

Locking-in provisions

As a rule, workers are almost always financially better off if they leave their retirement income locked-in until retirement. This is especially true with respect to pension benefits. Unlocking retirement funds can be very dangerous, leaving workers exposed to inadequate, or even poverty-level retirement income in their later years.

The Pallister government is floating the idea of loosening unlocking provisions for Locked-In Retirement Accounts and Life Income Funds in the case of financial hardship, which might include rental arrears, foreclosure, and medical/dental expenses. Making it easier for workers to unlock these funds raises the likelihood that retirement income may not extend as planned through retirement. We have concerns that the government's motivation for the expansion of unlocking is rooted in freeing up a larger portion of secure pension funds for access by the private investment industry and shifting financial liabilities away from government and employers.

While we acknowledge that there may be cases of severe financial hardship which may warrant some unlocking, the risks associated with depleting ones retirement income prematurely and the required investment and financial planning knowledge required to mitigate such losses, would not be available to the average person should they choose to unlock their pension. We urge the government to educate working people about the financial advantages of leaving retirement funds in place for retirement, and only permitting unlocking of retirement funds in cases of extreme financial hardship.

We are unequivocal that any changes to unlocking provisions would have to meet a high threshold for determining the existence of financial hardship, and that labour would have to be a part of the determination of what constitutes financial hardship.

Moreover, in exceptional circumstances when unlocking is to be permitted, we urge government to provide a clear path for workers to be able to "buy-back" any lost time and re-qualify for future benefits. Government should consider a low cap on unlocked funds so as to help ensure that workers are not sabotaged for the future.

Compulsory Plan Membership

While the government does not appear to be making an active recommendation to back away from compulsory plan membership at this time, we are concerned that they have even raised the topic for discussion. Any consideration of ripping up the long-standing principle of compulsory membership (more appropriately called automatic benefit) in workplace pension plans is absurd and grossly unfair.

After all, pensions are deferred earnings. They are part of a worker's overall wage bundle: part of that bundle comes in the form of your bi-weekly pay cheque to spend on the things you and your family need now, and the other part of the bundle – your pension contributions – comes in the form of savings put aside for a guaranteed pension benefit in retirement. Pensions are crucially important to the well-being of workers and their families in retirement, and to the economic health and vitality of our communities as well.

RRSPs and other private voluntary schemes have proven to be severely inadequate to properly support the vast majority of families in retirement. For example, while representing 13% of all tax filers, Canadians making $80,000 or more account for more than 60% of all RRSP contributions. Mandatory pension plans are the most important vehicle to ensure that working families can retire with dignity and security after a lifetime of hard work.

That's why Canada's unions have pushed for so long to expand the Canada Pension Plan. The CPP is not just the main way most workers save for retirement out of their employment earnings, it is the only way that millions of Canadian workers put aside a portion of their wages for retirement. And while the labour movement is glad that the provinces and federal government were finally able to reach an agreement to enhance the CPP, very real inequities exist in the enhanced CPP agreement that will disadvantage parents who take time off to raise children – primarily women – and workers who become severely and chronically disabled.

Prior to its expansion, these two categories of workers could exclude, or "drop out" periods of low and zero earnings from the calculation of their retirement benefit. Inexplicably, these provisions were not rolled over into the recent CPP expansion. Manitoba's labour movement urges the Pallister and Trudeau governments to take leadership roles within the country to resolve these inequities that will primarily hurt women and the disabled.

We also continue to call on both levels of government to push for cross-country support to further strengthen the retirement security of all Canadians by increasing the CPP income replacement rate further, raising the ceiling on pensionable earnings and further enhancing the portion of employee contributions that are tax-deductible.

Division of pensions on relationship breakdown

Currently under The PBA, where there is a court order under the Family Property Act or a written agreement regarding the division of family property, administrators must divide the pension or pension benefit accumulated during a marriage or common law relationship on a 50/50 basis. This provision was put in place to try protect both spouses, and especially women who tend to have less pensionable earnings, in their retirement. This is an extremely important objective, and we are concerned that in proposing to change this rule, the government is not proposing safeguards to ensure that:

- Both spouses clearly understand the full value of the pension(s) in question;
- Pension plans are required to provide pension value calculations free-of-charge to plan members; and
- Spouses are not pressured, bullied or manipulated into trading pension benefits for lesser value assets, exposing them to inadequate retirement income in the future.