

## **Royal Assent to Ontario's Bill 236 - But Not Much Has Changed - Yet**

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Bill 236, amending the *Pension Benefits Act (Ontario)* (the "PBA") was given Royal Assent on May 18, 2010. Most of the substantive provisions, however, have not been proclaimed in force.

A significant substantive provision that is now in force, although new regulations are not in place, is the abolition of the requirement that an employer establish legal entitlement to the surplus in order to obtain payment of surplus on a full or partial wind up, a measure that the pension industry has been urging for years. The appropriate level of member consent is now sufficient. The application of this change to partial wind ups as well as to full wind ups is a welcome amendment to the Bill as it was originally introduced. It is not entirely clear whether the existing regulations apply to the new provisions so to make them immediately operative.

When/if the other provisions of the Bill are proclaimed, there will be some significant amendments to the PBA:

- Immediate vesting with plan membership (but 2 year service for eligibility remains);
- Extension of grow-in to all members terminated by the employer (except for cause), with an exemption available for MEPPs and jointly sponsored plans;
- A phased retirement option for members of defined benefit plans (where provided for in the plan);
- Abolition of partial wind ups;
- Simplification of asset transfers (but statutory requirement to transfer a portion of surplus on plan merger or plan split);
- Requirement for advance notice of all plan amendments, not only adverse amendments, and to all categories of members; and
- Permitting communication to members electronically.

Many of the details of the foregoing provisions are to be prescribed by regulations; the regulations are not yet available.

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