Technical Bulletin
The Ontario Retirement Pension Plan

January 26, 2016

This technical bulletin is intended to provide an overview of recent government decisions on the proposed plan design of the Ontario Retirement Pension Plan (ORPP). Plan design details have been modelled on the strengths and principles of the Canada Pension Plan (CPP). Details will be established in forthcoming legislation.

ORPP Plan Design

1. Participation and Eligibility

Employer Participation

Comparable Plans

On August 11, 2015, the government announced the comparability thresholds that a workplace pension plan would need to provide to be comparable under the ORPP. Those details are available here.

Testing Comparability Threshold at Subset Level

A single pension plan often covers more than one group of employees and provides different benefit formulas, contribution rates and accrual rates for different groups of employees.

When assessing workplace pension plans for comparability, the threshold test would be applied for each group or "subset" of employees. Testing a subset of plan members recognizes the differences in workplace pension plan designs in Ontario.

A subset of plan members could exist where a pension plan provides for differences in contribution rates or benefit structures based on:

- The nature of the member's employment;
- The terms of employment, years of service;
- Whether or not the member belonged to a union; and/or other objective distinctions.

Members who belong to a subset would be subject to the same contribution or benefit structure.

A subset must be clearly identifiable in the terms of the employer's registered pension plan or collective bargaining agreement (CBA) in order to be recognized as a subset for ORPP comparability.

Multi-Employer Pension Plans (MEPPs)

A MEPP is a pension plan where two or more unrelated employers participate and contribute to the same pension fund. This can be a defined benefit or defined contribution, or a combination of both types of plans. MEPPs are usually found in industries where the workforce is mobile across employers. Retirement benefits are provided to members under multiple CBAs or employee agreements within a single MEPP.

The pension benefit formula provided to members in a MEPP, and the accompanying contribution formula vary by CBA for each participating employer.

MEPPs would have the ORPP comparability test applied to an employer's collective bargaining agreements and/or employee agreements at the sub-set level, as defined by plan governing documents. The previously established comparability threshold parameters would be applied when assessing comparability.

Due to the unique nature of MEPPs, employers would have the option to assess the pension benefit comparability for the CBA, or subset of members in the CBA, using either the DB accrual or DC contribution rate threshold.

Defined Contribution Plans with Voluntary Contributions

Some DC plans provide for voluntary employee contributions. These voluntary contributions may, or may not, include a matching contribution from the employer. Employees, in many cases, can increase, decrease or cease voluntary contributions on an ongoing basis.

The Government's goal is to create a cost-effective administrative structure for employers. The flexible nature of voluntary contributions would make it administratively difficult for the ORPP Administration Corporation (ORPP AC) and employers to track changes in individual member contributions. Accordingly, voluntary workplace pension plan contributions will not be applicable in calculating the DC contribution for the purpose of the ORPP comparability test.

Employers who have such plans will have until Wave 4 of the enrollment schedule to make changes to their plans to meet the minimum total mandatory contribution rate for DC plans under the comparability test.

Waiting Periods

If a workplace pension plan has a waiting period provision before an employee can join the plan, both the employer and employee would be required to participate in the ORPP for the duration of the waiting period.

Employer Opt-in

Employers with existing comparable pension plans would be able to join the ORPP if they wish to offer additional pension coverage to their employees.

Employers would be able to opt-in based on the following criteria:

- During Wave 4 of the ORPP enrollment schedule (i.e. January 1, 2020) or thereafter;
- Contributions would be at the full ORPP contribution rate of 3.8 per cent; and
- All members of the employer's comparable plans, not just select subsets.

First Nations Participation

First Nations employers on reserve would be provided an option to opt-in to the ORPP, along with any of their employees who also wish to opt-in. The government is committed to engaging with First Nations communities to discuss participation in the ORPP and to strengthen retirement security for First Nations in Ontario.

Employee Eligibility

Definition of Employment

For the purposes of membership in the ORPP, a person would be considered employed in Ontario if he or she:

- Is required to report to work at an establishment of the employer in Ontario; or
- Is not required to report to work at an establishment of the employer in Ontario but is paid by the employing establishment in Ontario, (e.g. an employee whose employment contract states that he or she works from a home office and the location of the payroll department or records is in Ontario).

This definition of employment in Ontario is consistent with the *Pension Benefits Act* (PBA), and aligns with the definition of "province in which person deemed employed" under the Canada Pension Plan (CPP).

Voluntary Post-Retirement Re-Entry

A member collecting an ORPP retirement benefit who returns to paid employment would be eligible, but not required, to opt-in to the ORPP and resume making pension contributions. However, if the member opts-in, the member's ORPP retirement benefit payments would be suspended until they leave the workforce.

Non-resident workers

Canada currently has tax treaties in place with 18 countries that allow non-resident workers (for tax purposes) to have tax exemptions up to a specified amount within a 12-month period. Such threshold amounts vary per treaty.

The ORPP would be subject to the regulations under the federal Income Tax Act (ITA). Accordingly, the ORPP would include non-resident workers who earn above the minimum earnings threshold of $3,500 and have income that is taxable for the purposes of Canadian and Ontario income tax. In the case of a non-resident employee working in Ontario who is exempt from tax under a tax treaty, they would also be exempt from contributing to the ORPP.

Religious Exemptions

For the purposes of the ORPP, religious exemptions will follow an approach similar to CPP. Individuals will be eligible to apply for an exemption if:

- They are a member of a religious order who have taken a vow of perpetual poverty, and their remuneration is paid to the order; or
- They have self-employed earnings, and are members of a religious sect that opposes the acceptance of any public/private benefits, and that makes provision for the support of dependent members.

2. CONTRIBUTIONS & BENEFITS

Minimum and Maximum Age

The minimum age of participation is 18 years old. The maximum age of participation is 70 (ending the month following which an individual turns 70 years of age).

Contribution Period

The maximum period during which a plan member could contribute to the ORPP would be 52 years.

Early / Late Retirement

Actuarially adjusted benefits would be available to members as early as 60 and as late as 71. (December 31st of the year an individual turns 71 years of age).

Indexation

<u>Pre-retirement indexation:</u> Benefits accrued each year that a plan member contributed to the ORPP would be indexed according to the average growth of wages and salaries as outlined by Statistics Canada to account for the effects of wage growth. This means that the benefits that a plan member has earned in the past would be assigned present-day value upon retirement.
<u>Post-retirement indexation:</u> Benefits paid over the course of a plan member's retirement would be indexed according to the Consumer Price Index (CPI) to account for the effects of inflation. This means that the retiree maintains the purchasing power of their benefits throughout their retirement.

Benefit Formula

The benefit accrual rate for the ORPP would be 0.375% per year. The ORPP is designed to provide plan members a 15% income replacement rate after contribution to the plan over 40 years.

When a plan member retires, the member's pension benefit would be calculated using the member's average earnings over their career.

Pensionable Earnings

Pensionable earnings for the purposes of the ORPP will include both cash and non-cash earnings, including amounts beyond base salary such as bonuses and commissions.

Minimum Earnings Threshold

The government previously announced its intention to mirror the CPP minimum earnings threshold of $3,500. ORPP members and employers would make contributions to the ORPP based on individual annual earnings above $3,500.

The minimum earnings threshold is the minimum amount of earnings a member has to earn before they would be required to start making pension contributions and before they can accrue a benefit.

Plan members who meet the $3,500 threshold would start to accrue pension benefits under the ORPP from their first dollar earned, consistent with the starting amount of accrual of benefits under the CPP.

Maximum Earnings Threshold

The maximum earnings threshold is the earnings ceiling at which an ORPP member and employer stop contributing to the plan. The maximum earnings threshold for the ORPP would be $90,000 (in 2017 dollars), indexed to the average growth of wages and salaries as outlined by Statistics Canada. The maximum earnings threshold would determine the maximum contributions for any given year, similar to CPP.

Leaves of Absence and Workplace Injury or Illness

The *Employment Standards Act, 2000* (ESA) and the *Workplace Safety and Insurance Act, 1997*(WSIA) identify a number of different types of leaves of absence during which employees are protected from job loss and other protections.

Under the ESA, an employer may be required to continue making pension contributions on behalf of an employee during certain leaves of absence. These leaves include pregnancy, parental, family medical, organ donor, family caregiver, critically ill child care, crime-related child death or disappearance, declared emergency and personal emergency leave. The WSIA may require employers to continue making pension contributions on behalf of an employee during the first year of an employee's leave due to workplace injury or illness.

ORPP members on ESA or WSIA leaves would be able to elect to continue making contributions into the ORPP contributions during their leave as follows:

- If a member opts-in to the ORPP, the employer would be required to continue to pay the employer's portion of the contribution during the leave.
- A member's contributions would be based on their earnings prior to the leave.

Members would only be permitted to opt-in to the ORPP during leaves that are protected under the ESA and WSIA.

Survivor Benefit

<u>Definition of a Spouse</u>

Consistent with the PBA, a spouse under the ORPP is a person who is either:

- Married to the plan member;
- Is not married but is living with the plan member in a conjugal relationship continuously for not less than three years; or
- In a relationship of some permanence, if the plan member and the spouse are the natural or adoptive parents of a child.

Spouses who no longer live together due to a breakdown of the conjugal relationship would no longer be considered spouses under the ORPP.

Survivor Benefit

Pre-Retirement Death

If a plan member dies before retirement, a lump sum based on the actuarial equivalent value of the member's pension would be paid to an eligible spouse, or if there is no eligible spouse, to a designated beneficiary or to the estate.

Post-Retirement Death
(Without a spouse)

In the case of post-retirement death with no spouse, the plan member receives their full retirement pension with a 10-year guarantee period.

The 10-year guarantee period means that if a plan member dies within the first 10 years after retirement, the remaining value of their full retirement pension is paid to the spouse, beneficiary or estate as an actuarially equivalent lump-sum payment.

Post-Retirement Death
(With a spouse)

When a member with a spouse begins collecting their ORPP pension, they will receive a joint and survivor pension payable for the joint lives of the plan member and their spouse. This means that the plan member's retirement pension is actuarially adjusted and upon the plan member's death, the spouse receives a survivor benefit equal to 60 per cent of the plan member's actuarially adjusted pension.

Alternatively, prior to retirement a plan member spouse could waive their entitlement to the joint and survivor pension. With this option, the plan member would receive their full retirement pension with a 10-year guarantee period, and the spouse would receive no survivor benefit upon the plan member's death.

Marriage Breakdown

In the event of a marriage breakdown, the ORPP would be excluded from the valuation of family assets. The rules relating to equalization of pensions would be similar to those in place under the CPP.

If the former spouses are both ORPP members, adjustments would be made to both entitlements within ORPP. If only one spouse had contributed to the ORPP and the former spouse had not, an ORPP pension entitlement would be created for the recipient spouse, payable upon the recipient's retirement.

Small Pensions

The ORPP would provide for small pension amounts to be paid to members in a lump sum. If a member retires and their pension entitlement is less than $480 per year (in 2017 dollars, indexed to CPI), the ORPP would pay the member the value of the pension entitlement in the form of an actuarial equivalent lump sum rather than a pension benefit for life.

Benefits would start in 2022; however, some plan members may retire before benefits would be paid. During the transition period (2017-2022) only those members who turn 70 would receive a benefit, and it would be in the form of a lump-sum payment equal to what they put into the plan. Benefit payments for all other plan members would be deferred to 2022.

Shortened Life Expectancy

Similar to the requirements under the PBA, when a plan member has a life expectancy of two years or less due to terminal illness, at the member's request, the ORPP may pay the member the actuarial value of their pension immediately as a lump sum.

3. ADMINISTRATION AND FUNDING

Plan Sustainability

The ORPP will provide members with a predictable, reliable and inflation-indexed stream of income in retirement. The government has designed the plan, after extensive actuarial modelling, to be sustainable over the long term. To ensure continued plan sustainability, a funding policy has been established that provides for appropriate adjustments to be made to plan benefits and/or contributions. The ORPP AC would be required to file an actuarial valuation of the ORPP with the Canada Revenue Agency every three years, and make the valuation public and subject to peer review.

The government intends to establish an Office of the Chief Actuary to conduct actuarial valuations of the ORPP and to provide advice and analysis. As part of its accountability measures, the ORPP AC would be required to file an actuarial valuation of the ORPP with the Canada Revenue Agency every three years, and to publish the valuation.

The ORPP's funded status would be measured by the difference between the Contribution Rate and the Sustainability Rate, where the Sustainability Rate is the lowest contribution rate required to keep funding sustainable in the long-term. If this number is zero, plan assets are sufficient to cover expenditures into the future. If the number is greater than zero, plan funding is in excess. If the number is less than zero, plan funding is in shortfall.

In the event of a funding shortfall, the ORPP AC board of directors will operate within a prescribed set of actions including: reversing any previous actions taken during a funding excess, reducing benefit indexing up to a certain limit, and if none of the above has solved the shortfall, the AC may increase contribution rates up to 0.2 per cent. The actions will be certified by the chief actuary before they are implemented. In the event of a more significant funding shortfall, the AC will work with the chief actuary to make recommendations to the government on which actions are needed to return funding to sustainability.

Pension Payouts from the ORPP

Ontarians who retire after making contributions to the ORPP would be eligible to begin receiving a pension at age 65, with options to receive adjusted benefits as early as age 60 or as late as age 70. ORPP benefits would be earned as contributions are made. ORPP benefits will begin to be paid out in 2022 (except where the ITA requires payments earlier).

Compliance and Enforcement

Similar to CPP, the ORPP AC would utilize a variety of tools to encourage compliance with the legislation and policies governing the ORPP. These may include education and outreach, online portals, and audits.

Appeals

The ORPP AC would develop a transparent and rigorous appeals process for plan members and employers who wish to dispute a decision made by the AC.

If the dispute cannot be resolved by the AC, an employer or plan member would have the right to launch a formal appeal with an independent adjudicative tribunal. The tribunal would operate at arm's length from the ORPP AC to ensure a fair assessment.

Information Disclosure

The ORPP AC would publish an Annual Report within 120 days of the end of the Corporation's fiscal year. The Annual Report would update members, employers and the general public on ORPP operations to ensure accountability and transparency. The report would be submitted to government and made available to members and employers.

Plan Review

The ORPP would be reviewed five years after its full implementation to help ensure the plan is meeting its intended objectives. Subsequent reviews of the ORPP would occur every 10 years.

In the event that a fundamental change is proposed to the nature of the ORPP that would impact plan members' benefits substantially and that is not a direct result of funding policy adjustments, the consent of at least 60 per cent of ORPP members would be required in order to implement such a change. This would ensure that ORPP members have the opportunity to review and approve future changes to the plan that would have a significant impact on their ORPP benefits.