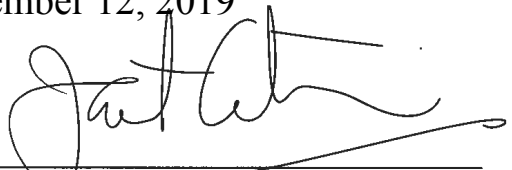


PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 649

, Approved and Ordered December 12, 2019



Lieutenant Governor

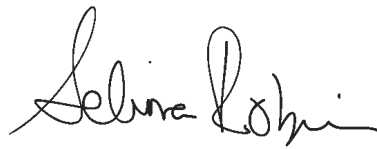
Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective December 31, 2019, the Pension Benefits Standards Regulation, B.C. Reg. 71/2015, is amended as set out in the attached Appendix.

DEPOSITED December 12, 2019 B.C. REG. 264/2019
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Minister of Finance and Deputy Premier



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Pension Benefits Standards Act, S.B.C. 2012, c. 30, s. 133

Other: O.C. 219/2015

R20352743

APPENDIX

1 Section 1 (1) of the Pension Benefits Standards Regulation, B.C. Reg. 71/2015, is amended

(a) in the definition of “actuarial gain” by striking out “, referred to in section 57 (6) or (8) or 58 (6),”,

(b) by repealing paragraph (a) of the definition of “participating employer’s accessible going concern excess” and substituting the following:

- (a) in relation to each participating employer in a divisional multi-employer plan and to defined benefit components of that plan being funded by the participating employer, the amount by which the participating employer's share of the going concern assets values of those components exceeds 105% of the participating employer's share of the amount determined by the following formula:

$$\left(\frac{\text{the going concern liabilities values}}{\text{of the defined benefit components}} \right) + \left(\frac{\text{the going concern liabilities values}}{\text{of the defined benefit components}} \times \text{PfAD} \right)$$

as the going concern assets values, the going concern liabilities values and the PfAD are determined in the current actuarial valuation report, or ,

(c) by repealing the definition of “PfAD” and substituting the following:

“PfAD” means,

- (a) in relation to a defined benefit component, the percentage determined under section 1.1 to be the provision for adverse deviation in relation to the component, or
- (b) in relation to a target benefit component, the percentage determined under section 2 to be the provision for adverse deviation in relation to the component; ,

(d) by repealing paragraph (a) of the definition of “plan’s accessible going concern excess” and substituting the following:

- (a) in relation to the defined benefit components of a pension plan other than a divisional multi-employer plan, means the amount by which the going concern assets values of the defined benefit components exceed 105% of the amount determined by the following formula:

$$\left(\frac{\text{the going concern liabilities values}}{\text{of the defined benefit components}} \right) + \left(\frac{\text{the going concern liabilities values}}{\text{of the defined benefit components}} \times \text{PfAD} \right)$$

as the going concern assets values, the going concern liabilities values and the PfAD are determined in the current actuarial valuation report, or ,

(e) in paragraph (a) of the definition of “solvency asset adjustment” by striking out “actuarial present value” and substituting “sum”, by striking out “to be paid” and by striking out “or (c) or (3)”, and

(f) in paragraph (c) of the definition of “solvency deficiency” by striking out “solvency asset value” and substituting “solvency assets value”.

2 *The following section is added:*

Calculation of provision for adverse deviation – defined benefit component

- 1.1 (1) For the purposes of paragraph (a) of the definition of “PfAD” in section 1 (1), “PfAD” or “provision for adverse deviation”, in relation to a defined benefit component, means,
- (a) if the defined benefit component’s non-fixed income allocation is 30% or more, the greater of
 - (i) 5%, and
 - (ii) the long-term bond rate multiplied by 5, or
 - (b) if the defined benefit component’s non-fixed income allocation is less than 30%, the greater of
 - (i) 5%, and
 - (ii) the percentage determined by the following formula:

$$(\text{long-term bond rate} \times 5) \times \left(\frac{\text{non-fixed income allocation}}{30\%} \right)$$

- (2) In this section:

“**long-term bond rate**” means the monthly yield on long-term government of Canada bonds applicable to the month as at which the review is performed, as determined by reference to the Canadian Socio-Economic Information Management System (CANSIM) Series V122544 compiled by Statistics Canada and available on the website maintained by the Bank of Canada;

“**non-fixed income allocation**” means the percentage of the target asset allocation of the defined benefit component, as at the review date and as set out in the plan’s statement of investment policies and procedures referred to in section 43 (1) of the Act, that is allocated to assets other than the following:

- (a) cash on hand issued in Canadian dollars;
- (b) money market securities issued in Canadian dollars that are, as at the review date, given
 - (i) a rating by DBRS Limited of R-2 (middle) or better,
 - (ii) a rating by Fitch Ratings, Inc. of F-3 or better,
 - (iii) a rating by Moody’s Investors Service of P-3 or better,
 - (iv) a rating by Standard & Poor’s Ratings Services of A-3 or better, or
 - (v) an equivalent rating by
 - (A) a credit rating organization designated under the *Securities Act* by the commission, or
 - (B) another rating agency recognized by another competent authority in British Columbia or elsewhere;
- (c) bond market securities issued in Canadian dollars that are, as at the review date, given
 - (i) a rating by DBRS Limited of BBB or better,
 - (ii) a rating by Fitch Ratings, Inc. of BBB- or better,

- (iii) a rating by Moody's Investors Service of Baa3 or better,
- (iv) a rating by Standard & Poor's Ratings Services of BBB- or better, or
- (v) an equivalent rating by
 - (A) a credit rating organization designated under the *Securities Act* by the commission, or
 - (B) another rating agency recognized by another competent authority in British Columbia or elsewhere;
- (d) the proportion of mutual, pooled or segregated funds that is allocated to assets referred to in paragraph (b) or (c).

3 Section 2 is amended

- (a) *in subsection (1) by striking out "For the purposes of the definition" and substituting "For the purposes of paragraph (b) of the definition", and*
- (b) *in subsection (2) in the definition of "benchmark discount rate" by repealing the description of "equity allocation" and substituting the following:*

equity allocation = the percentage of the target asset allocation of the target benefit component of the plan that is allocated to equities, as at the review date and as set out in the plan's statement of investment policies and procedures referred to in section 43 (1) of the Act;

4 Section 10 (12) to (14) is repealed.

5 Section 11 (2) (c) is amended by striking out "(f),".

6 Section 22 (a) (iii) (A) is amended by striking out "0.9" and substituting "0.85".

7 Section 42 (1) is repealed and the following substituted:

- (1) For the purposes of section 37 (2) of the Act, if a statement or a notice under this Division is required to set out the amount of a benefit payable under a plan, the administrator of the plan must, within 30 days after receiving a request to do so, provide any person who is entitled to receive the statement or the notice with the data, and a description of the method, used to calculate the amount of that benefit.

8 Section 46 is amended

- (a) *by repealing subsection (4) (c) to (f) and substituting the following:*

- (c) subject to subsection (8), if the plan text document contains a defined benefit provision,
 - (i) the amount of the unfunded liability, if any,
 - (ii) the sum of the special payments that are required under section 57 (2) (b), if any,

- (iii) the special payments, if any, to be made under section 57 (2) (b) or (3) by the participating employer or, in the case of a jointly sponsored plan, by the participating employer and the active members, and
 - (iv) in the case of a jointly sponsored plan, the rules by which the amount of the special payments referred to in subparagraph (iii) was determined;
- (d) if the plan text document contains a defined benefit provision and the defined benefit component has a solvency deficiency,
- (i) the amount of the solvency deficiency,
 - (ii) the special payments to be made under section 57 (2) (c) or (3) by the participating employer or, in the case of a jointly sponsored plan, by the participating employer and the active members, and
 - (iii) in the case of a jointly sponsored plan, the rules by which the amount of the special payments referred to in subparagraph (ii) was determined;
- (e) if the plan text document contains a target benefit provision and the target benefit component has an unfunded liability,
- (i) the date of establishment of the unfunded liability,
 - (ii) its unamortized balance,
 - (iii) the special payments to be made under section 58 (2) (c) or (4) by the participating employer or, in the case of a jointly sponsored plan, by the participating employer and the active members, to amortize it,
 - (iv) in the case of a jointly sponsored plan, the rules by which the amount of the special payments referred to in subparagraph (iii) was determined, and
 - (v) the date at which it will be amortized;
- (f) if the plan text document contains a target benefit provision and the target benefit component has a solvency deficiency, the amount of the solvency deficiency; ,

(b) by repealing subsection (4) (o) (iii) and (iv) and substituting the following:

- (ii.1) the amount referred to in subparagraph (ii) in relation to that defined benefit component multiplied by the PfAD applicable to that defined benefit component;
- (iii) the average amount, per hour of employment, needed to make the payments, if any, under section 57 (3) for that defined benefit component;
- (iv) the average amount, per hour of employment, needed to make the payments referred to in subparagraph (iii) that would otherwise be required under section 57 (2) (b);
- (iv.1) the average amount, per hour of employment, needed to make the payments referred to in subparagraph (iii) that would otherwise be required under section 57 (2) (c); ,

(c) in subsection (4) (q) by adding “and the PfAD” after “the solvency ratio”, and

(d) by repealing subsection (6) and substituting the following:

- (6) If the actuarial method used in a review may not allow the reviewer to determine whether there is a funding requirement under section 57 (2) (b) or (c) or 58 (2) (c), the reviewer must
- (a) perform whatever calculations are necessary to allow the reviewer to determine whether the funding requirements under section 57 or 58, as applicable, are being met, and
 - (b) certify that the pension plan is being funded in accordance with the Act and this regulation.

9 *Section 47 (2) is amended by adding “, except that those statements need not include information respecting benefit obligations” after “as amended from time to time”.*

10 *Section 56 is repealed and the following substituted:*

Definition of “plan contributor”

56 In this Part, “**plan contributor**”, in relation to a pension plan, means

- (a) the participating employers in the plan, if the plan is neither a jointly sponsored plan nor a divisional multi-employer plan,
- (b) the participating employers and the active members in the plan, if the plan is a jointly sponsored plan that is not a divisional multi-employer plan, or
- (c) each participating employer in the plan, if the plan is a divisional multi-employer plan.

11 *Section 57 is amended*

(a) by repealing subsection (2) (a) (i) and (ii),

(b) by repealing subsection (2) (b) and (c) and substituting the following:

- (a.1) unless the current actuarial valuation report establishes that the defined benefit component has accessible going concern excess, at least monthly, an amount equal to the product of the PfAD and the amount referred to in paragraph (a);
- (b) at least monthly, an amount equal to 1/120 of the amount, if any, established by the current actuarial valuation report, by which the going concern assets value of the defined benefit component is less than the amount determined by the following formula:

$$\left(\begin{array}{l} \text{the going concern} \\ \text{liabilities value} \\ \text{of the defined} \\ \text{benefit component} \end{array} \right) + \left(\begin{array}{l} \text{the going concern} \\ \text{liabilities value} \\ \text{of the defined} \\ \text{benefit component} \end{array} \right) \times \text{PfAD} - \left(\begin{array}{l} \text{the value of any} \\ \text{annuities held by} \\ \text{the plan's pension} \\ \text{fund for the defined} \\ \text{benefit component} \end{array} \right) \times \text{PfAD}$$

- (c) at least monthly, an amount equal to 1/60 of the amount, if any, established by the current actuarial valuation report, by which 85% of the solvency liabilities value of the defined benefit component exceeds the sum of the solvency assets value of the defined benefit component and the solvency asset adjustment. ,

(c) by repealing subsections (3) to (9) and substituting the following:

- (2.1) Any payments referred to in subsection (2) must
 - (a) start in the first month of the fiscal year of the plan following the review date, in the case of a plan other than a jointly sponsored plan, or
 - (b) start in the first month of the second fiscal year of the plan following the review date, in the case of a jointly sponsored plan.
- (3) Instead of making the payments referred to in subsection (2) (b) or (c) during the period referred to in paragraph (a) of this subsection, the plan contributor may elect to make payments into the plan under this subsection if
 - (a) the payments are made at least monthly over the 3-year period
 - (i) that starts in the first month of the fiscal year of the plan following the review date, in the case of a plan other than a jointly sponsored plan, or
 - (ii) that starts in the first month of the second fiscal year of the plan following the review date, in the case of a jointly sponsored plan,
 - (b) the payment amounts are calculated as a percentage of the payroll or as an average amount per hour of employment that was projected for the members as at the review date of the actuarial valuation report by which the requirement to make payments under subsection (2) (b) or (c) was established, and
 - (c) the sum of the payments over the period referred to in paragraph (a), or any shorter period selected by the administrator for the purposes of this subsection, is equal to the sum of the payments that would otherwise be required under subsection (2) (b) or (c) during the period referred to in paragraph (a) of this subsection. , **and**

(d) by repealing subsection (12) and substituting the following:

- (12) If a plan contributor is required to make payments referred to in subsection (2) or (3), the plan contributor may make larger payments, more frequent payments or earlier payments than what is required, and, in that event, the plan contributor may, despite subsections (2) and (3), reduce or eliminate subsequent payments provided that the sum of the payments made under this subsection is never less than the sum of the payments that would otherwise have been required under subsection (2) or (3).

12 Section 58 is amended

(a) by adding the following subsection:

- (0.1) In this section:

“establishment date”, in the case of an unfunded liability of a target benefit component of a pension plan, means

- (a) the review date as at which the existence of the unfunded liability was established, or
- (b) if the unfunded liability resulted from an amendment to the plan text document of the plan, the effective date of the amendment;

“expected average remaining service life”, in relation to a target benefit component of a pension plan, means the expected average number of years or portions of years that the reviewer who prepared the current actuarial valuation report estimated to be worked by active members accruing benefits under the component, from the review date of the current actuarial valuation report until the anticipated date that each active member terminates active membership, based on the demographic assumptions used in the most recent actuarial valuation;

“unfunded liability payment period”, in relation to an unfunded liability of a target benefit component of a pension plan, means

- (a) in the case of a plan other than a jointly sponsored plan, the shorter of
 - (i) the 15-year period that begins on the establishment date of the unfunded liability, and
 - (ii) the expected average remaining service life that begins on the establishment date of the unfunded liability, or
- (b) in the case of a jointly sponsored plan, the shorter of
 - (i) the 15-year period that begins on the first anniversary of the establishment date of the unfunded liability, and
 - (ii) the expected average remaining service life that begins on the first anniversary of the establishment date of the unfunded liability. , *and*

(b) in subsection (1) by striking out “multi-employer plan” and substituting “pension plan”.

13 Section 61 (2) (f) (i) and (ii) is repealed and the following substituted:

- (i) in the case of a plan that is not a divisional multi-employer plan,
 - (A) no defined benefit component has an unfunded liability,
 - (B) the withdrawal will not result in any defined benefit component having an unfunded liability,
 - (C) the plan contributor has no requirement under section 57 (2) (b) to make special payments for any defined component, and
 - (D) the withdrawal will not result in the plan contributor having a requirement referred to in clause (C);
- (ii) in the case of a plan that is a divisional multi-employer plan,
 - (A) the participating employer’s share of any unfunded liability of a defined benefit component of the plan being funded by the participating employer is zero,

- (B) the withdrawal will not result in the participating employer's share of any unfunded liability becoming greater than zero,
- (C) the participating employer has no requirement under section 57(2) (b) to make special payments for any defined component, and
- (D) the withdrawal will not result in the participating employer having a requirement referred to in clause (C).

14 Section 63 (11) (a) is amended by striking out “subsection (5) (b) or (10)” and substituting “subsection (5) (b), (7) (a) or (10)”.

15 Section 67 (2) is repealed and the following substituted:

- (2) The lump-sum payment to which a member referred to in section 57 (7) of the Act is entitled under section 57 (4) of the Act must be reduced by multiplying the amount calculated under section 57 (2) of the Act by the target benefit funded ratio that is set out in the current actuarial valuation report for the plan.

16 Sections 70 (2) (f) (ii) and 71 (3) (c) (ii) are amended

(a) by striking out “solvency deficiencies” wherever it appears and substituting “solvency deficiency”, and

(b) by striking out “being funded by the participating employer”.

17 Section 70 (9) (d) (ii) is amended by striking out “solvency deficiencies” and substituting “solvency deficiency” and by striking out “being funded by the participating employer”.

18 Section 79 is repealed and the following substituted:

Target benefit funded ratio

79 For the purposes of section 86 (b) of the Act, “**target benefit funded ratio**”, in relation to a target benefit component of a pension plan, means the lesser of 1 and the going concern funded ratio of the target benefit component.

19 Section 135 is amended

(a) in subsection (9) (d) by striking out “one or more unfunded liabilities” and substituting “an unfunded liability”,

(b) in subsection (9) (e) by striking out “one of those paragraphs” and substituting “paragraph (a) or (b)”, and

(c) by repealing subsection (10) and substituting the following:

- (10) For the purposes of subsection (9) (d), if all or part of the unfunded liability is the result of a benefit improvement, the benefits that led to the establishment of the unfunded liability must be reduced in proportion to the extent to which those benefits remain unfunded on a going concern basis on the effective date of the termination of the plan.

20 *Section 142 (4) (b) is amended by striking out “or”.*

21 *The following section is added:*

Transition – phased application on or after December 31, 2019

- 143 (1) The following provisions, as they read on December 30, 2019, apply in respect of a pension plan until the end of the day before the first review date of the plan on or after December 31, 2019:
- (a) in section 1 (1), the definitions of “actuarial gain”, “participating employer’s accessible going concern excess”, “PfAD”, “plan’s accessible going concern excess” and “solvency asset adjustment”;
 - (b) section 2 (1);
 - (c) section 11 (2) (c);
 - (d) section 46 (4) and (6);
 - (e) section 56;
 - (f) section 57 (2) to (9) and (12);
 - (g) section 61 (2) (f);
 - (h) section 70 (2) and (9);
 - (i) section 71 (3);
 - (j) section 135 (9) (d) and (10).
- (2) Sections 1.1 and 58 (0.1) do not apply in respect of a pension plan until the first review date of the plan on or after December 31, 2019.

22 *Schedules 5 to 7 are repealed.*

23 *Schedule 8 is amended*

(a) in section 1 (1) by adding the following definitions:

“establishment date”, in the case of a solvency deficiency of a defined benefit component of a pension plan, means

- (a) the review date as at which the existence of the solvency deficiency was established, or
- (b) if the solvency deficiency resulted from an amendment to the plan text document of the plan, the effective date of the amendment;

“solvency asset adjustment”, in relation to a defined benefit component, means the sum of the following:

- (a) the actuarial present value of the special payments that are required to be paid under section 57 (2) (b) or (c) or (3) in relation to the component over the 5-year period that begins on the latest review date;
- (b) the face amount of any prescribed letter of credit, as defined in section 63 (1), issued in relation to the component;

“solvency deficiency payment period”, in relation to a solvency deficiency, means

- (a) subject to paragraph (b), the 5-year period that begins on the establishment date of the solvency deficiency, or

- (b) in the case of a solvency deficiency of a jointly sponsored plan, the 5-year period that begins on the first anniversary of the establishment date of the solvency deficiency; ,
- (b) in section 1 (1) in the definition of “exemption period” by striking out “the end date of the 10-year period referred to in section 4 (a)” wherever it appears and substituting “the first review date on or after December 31, 2019”,**
- (c) in section 1 (1) in the definition of “plan contributor” and in section 5 (2) (a) by striking out “the regulation” and substituting “this regulation”,**
- (d) in section 1 by adding the following subsection:**
- (3) Any reference in this Schedule to a provision of this regulation is a reference to the provision as it read on December 30, 2019. , **and**
- (e) by adding the following section:**

No election on or after December 31, 2019

2.2 No election may be made under this Schedule on or after December 31, 2019.