

Update on the Ontario Retirement Pension Plan

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The Ontario Retirement Pension Plan (ORPP)

Overview of discussion:

1. Background
2. Status of the ORPP
3. Possible CPP Enhancements
4. How the proposed ORPP will work
5. What you can do to prepare
6. What's next

Background on the ORPP

- New mandatory defined benefit type pension plan for Ontario workers (with certain exceptions)
- Ontario government's response to the former federal Conservative government's refusal to expand the Canada Pension Plan (CPP)
- *Bill 56: An Act to require the establishment of the Ontario Retirement Pension Plan* passed in May 2015 – requires ORPP to be established by January 1, 2017
- By 2020, all Ontario employees (age 18 and older) will be required to participate in either the ORPP or a comparable workplace pension plan

Status of the ORPP

Pre-election:

- Premier Kathleen Wynne: *“If we can come up with an enhancement to the Canada Pension Plan [...] then I am absolutely thrilled to be able to work on that with the prime minister [...] But in the meantime [...] we can’t stop.”* (National Post, October 20, 2015)
- Prime Minister Trudeau stated that he would begin talks with the provinces to improve the CPP within three months of taking office (Liberal Party Media Release, September 14, 2015)

Status of the ORPP

Post-election:

- Prime Minister Trudeau and Premier Wynne met on Tuesday, October 27, 2015
- Trudeau promised federal support for the ORPP: “[...] *we made progress on our mutual commitment to build greater retirement security for Ontarians and Canadians. The incoming federal government and the Government of Ontario will be active partners in the national discussion on pension enhancement, including the CPP and ORPP.*”
(Liberal Party Media Release, October 27, 2015)

Status of the ORPP

Now that the federal election is over...

- As reported in the Globe and Mail, October 27, 2015:

“According to a statement issued after the meeting, the new Liberal government, once it takes office, will “direct the Canada Revenue Agency and the Departments of Finance and National Revenue to work with Ontario officials on the registration and administration of the [ORPP].”

The statement notes this is the same support that is given by the federal government to Quebec and Saskatchewan.”

Possible CPP Enhancements

- CPP enhancement has always been Premier Wynne's first choice
- ORPP could be put on hold if CPP enhanced
- CPP enhancements could mean
 - a) increased benefit levels for retirees
 - b) increased contributions from employers and employees
(maximum pensionable earnings 2015: \$53,600; 2016: \$54,900)
- Expect meeting of federal and provincial finance ministers to be scheduled in coming months
- However... don't expect CPP to be expanded any time soon

Possible CPP Enhancements

Amending the CPP:

- Need consent among at least 2/3rds of the provinces, having in aggregate at least 2/3rds of the population of the provinces
- Requires Ontario to consent based on population size
- Any CPP amendment that alters (a) the general level of benefits or (b) contribution rates for employees, employers or self-employed persons, is deemed to have a term that says that,
“the provision shall come into force only on a day to be fixed by order of the Governor in Council, which day shall not in any case be earlier than the first day of the third year following the year in which any notice of intention to introduce a measure containing a provision to that effect was laid before Parliament.” (CPP Act, s. 114)

Possible CPP Enhancements

Likelihood?

- For now, the Ontario government plans to move forward with the ORPP

- Hon. Mitzie Hunter

“Our Premier has been very, very clear that we are moving forward with the implementation of the ORPP. We know that Ontarians deserve a secure retirement future when they retire. We’ve communicated to business and advised them of the implementation schedule and the rollout schedule, which will happen gradually. In January, 2017, we will enroll the largest corporations, moving to medium-sized and then finally, in 2019, with small businesses. We will phase in contribution rates gradually over time as well.”

(Legislative Assembly of Ontario, Hansard Transcripts for November 2, 2015)

How will the ORPP work

Summary:

- Non-exempt employers and employees enrolled in stages starting 2017
- Employer and employee contributions of up to 1.9% (total 3.8%) on an employee's annual earnings up to \$90,000
- Minimum earnings threshold of \$3,500
- Phased-in contributions
- Benefit amount depends on years of contributions to the ORPP and salary throughout those years
- ORPP Administration Corporation responsible for administration and investment
- Benefit payments begin in 2022
- Federally-regulated employees exempt

How will the ORPP work

Who will be required to participate?

- Employers and employees who participate in a “comparable” pension plan exempt from participation
- Comparable plans = registered pension plans that meet certain minimum thresholds:
 - Defined benefit pension plans with a minimum benefit accrual rate of 0.50% each year
 - Defined contribution pension plans that have a minimum contribution rate of 8%, with employer contributions of at least 50% of the minimum rate (i.e. 4%)
- Group registered retirement savings plans (RRSPs) and deferred profit sharing plans (DPSPs) are not comparable

How will the ORPP work

Enrollment stages:

- **Wave 1**: 500 or more employees: January 1, 2017
 - **Wave 2**: 50 to 499 employees: January 1, 2018
 - **Wave 3**: 50 or fewer employees: January 1, 2019
 - **Wave 4**: Employers with a registered pension plan that is not comparable to the ORPP, or that have employees who are not members of their “comparable” pension plan: January 1, 2020
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- Waves 1, 2 and 3 apply to employers without a registered pension plan
 - Employers that establish a “comparable” pension plan prior to their enrolment date will be exempt

How will the ORPP work

Contribution rates:

Type of employer	2017	2018	2019	2020	2021
Wave 1: large employers (≥ 500 employees)	0.8%	1.6%	1.9%	1.9%	1.9%
Wave 2: medium employers (50-499 employees)	0%	0.8%	1.6%	1.9%	1.9%
Wave 3: Small employers (≤ 50 employees)	0%	0%	0.8%	1.6%	1.9%
Wave 4: employers with registered plans that do not meet test	0%	0%	0%	1.9%	1.9%

Example of potential costs:

Assume the following:

- Employer does not offer a “comparable” pension plan to employees
- 500 Ontario employees
- Average salary = \$50,000

Potential costs of the ORPP (at 1.9% contribution rate):

- Employee = $(50,000 - 3,500) \times 1.9\% = \883.50
- Employer = $[(50,000 - 3,500) \times 1.9\%] \times 500 = \underline{\underline{\$441,750}}$

Interesting issues to consider

- Eligibility waiting periods in “comparable” pension plans
- Voluntary vs. mandatory workplace pension plans
- Optional employee contribution levels
- Union vs. non-union considerations
- Notice to employees
- Multi-jurisdictional issues

How will the ORPP work

Unanswered questions:

- Will all employees, or only Ontario employees, be included when determining the number of employees of an employer?
- What is the ORPP benefit formula?
- Can contributions of 3.8% actually provide a replacement income of 15% of an individual's earnings?
- How much money can an individual expect to be paid out if he retires in 2022? (first year that ORPP benefits are paid)
- Will the ORPP continue if CPP is enhanced, but not at the level of the ORPP?

What you can do to prepare

- Anticipate ORPP to be in place in 2017
- Monitor possible proposed changes to the CPP
- Continue to review and assess company retirement savings arrangements and determine whether changes should be made
- For unionized workplaces, do not agree to terms in a collective agreement that will reduce your ability to make changes in the future

What you can do to prepare Employers with Ontario employees:

- Determine if your organization has a “comparable” workplace pension plan. If it doesn’t:
 - Should changes be made?
 - Is participation in the ORPP preferable?
 - Will the ORPP replace existing plans or be in addition to those plans?
 - Do you want to off-set ORPP contributions?
- Engage in discussions with internal personnel and service providers:
 - Payroll support and administration
 - Benefits consultants
 - Legal advisors

What's next

- Ontario government to fully establish ORPP Administration Corporation
- Cost-benefit analysis to be completed by December 31, 2015
- ORPP Administration Corporation will contact employers in early 2016 to verify existing plans
- Discussions between the federal and Ontario governments on administration of the ORPP, with the assistance of the federal government

QUESTIONS?

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Thank you

The logo for Dentons, featuring the word "DENTONS" in white, uppercase letters inside a purple arrow-shaped box pointing to the right.

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