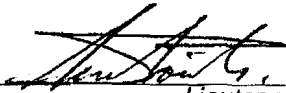


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 499 , Approved and Ordered JUN 26 2008


Lieutenant Governor

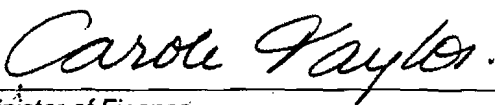
Executive Council Chambers, Victoria


On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective July 1, 2008,

- (a) sections 67 (a) and 68 of the *Miscellaneous Statutes Amendment Act, 2008, S.B.C. 2008*, are brought into force, and
- (b) the *Pension Benefits Standards Regulation, B.C. Reg. 433/93*, is amended by adding the following section:

Fees

- 44.1 (1) Subject to section (2), the following fees are payable for the filing of a return or an application for registration of a pension plan:
- (a) for the filing of a return under section 9 (3) (a) of the Act,
 - (i) \$6.15 for each person who was a member of the plan at the end of the fiscal year of the plan, and
 - (ii) \$4.50 for each former member of the plan at the end of the fiscal year of the plan;
 - (b) for an application for registration of a pension plan under section 14 of the Act,
 - (i) \$6.15 for each person who was a member of the plan at the time of application, and
 - (ii) \$4.50 for each former member of the plan at the time of application.
- (2) Notwithstanding the number of members and former members in a plan, the fee payable under each of subsection (1) (a) or (b) must be at least \$200 and not more than \$75 000.


Minister of Finance


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*, R.S.B.C. 1996, c. 352, s. 74; oic 1716/93


Other (specify):- *Miscellaneous Statutes Amendment Act, 2008, S.B.C. 2008 [Bill 33] s. 77*

April 22, 2008

R/363/2008/88

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. **500**, Approved and Ordered **JUN 26 2008**



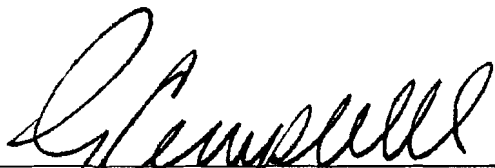
Lieutenant Governor

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 the Pension Benefits Standards Regulation, B.C. Reg. 433/93, is amended in accordance with the attached Appendix.



Minister of Finance



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, R.S.B.C. 1996, c. 352, s. 74

Other (specify): OIC 1716/93

May 8, 2008

APPENDIX

- 1 **Section 1 (1) of the Pension Benefits Standards Regulation, B.C. Reg. 433/93, is amended by adding the following definition:**

“actuarial valuation report” means an actuarial valuation report referred to in section 9 (3) (b) of the Act; .

- 2 **Section 3 is amended by adding the following subsection:**

(10.1) A multi-employer plan to which Schedule 1.1 applies is exempt from the special payment requirements of section 35 (3) (c), to the extent and on the conditions, if applicable, specified in that Schedule.

- 3 **The following section is added:**

Attachment of conditions to consents and approvals

- 3.1 If a provision of this regulation empowers the superintendent to give a consent or approval, the superintendent may, if the consent or approval is given in writing, attach any conditions in and to that consent or approval that the superintendent considers appropriate in the circumstances.

- 4 **The following Schedule is added:**

SCHEDULE 1.1

(section 3 (10.1))

MULTI-EMPLOYER PLAN EXEMPTIONS

Definition and application

- 1 (1) In this Schedule, “MENC plan” means a defined benefit multi-employer negotiated cost plan.
- (2) This Schedule applies only to MENC plans.

MENC plans and section 35 (3) (c)

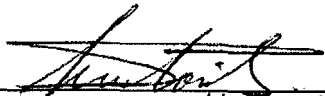
- 2 (1) In accordance with this section, the superintendent may, on application by the administrator of a MENC plan, consent in writing to the suspension of payments that an employer is or was required by section 35 (3) (c) of this regulation to pay into the MENC plan after 2006 for a period, not exceeding 3 years from the date before 2011 that is specified in the consent, on condition that,
- (a) as soon as the suspension period ends, the administrator will have an actuarial valuation report prepared, and
- (b) if the actuarial valuation report indicates a solvency deficiency exists, every employer will immediately make special payments in accordance with section 35 (3) (c) of this regulation.

- (2) An application under subsection (1)
 - (a) must be made on or before December 31, 2010, and
 - (b) must be made in the form and manner required by the superintendent.
- (3) If the superintendent consents to an application for suspension of payments under subsection (1) in relation to any particular MENC plan, then
 - (a) the administrator of the plan may not make another application for a further suspension or an extension of suspension under this Schedule, and
 - (b) the superintendent may not consent to any further suspension or extension of suspension in respect of that plan.
- (4) The administrator must submit, together with the application under subsection (1),
 - (a) an actuarial valuation report as at the review date, not being before December 31, 2006, to which the application relates, and
 - (b) any other documents required by the superintendent.
- (5) The administrator must, within 270 days after the end of the suspension period, file the actuarial valuation report prepared under subsection (1).
- (6) An administrator who wishes to have the suspension under subsection (1) cancelled may do so within the suspension period by notifying the superintendent in writing of that intention and by filing an actuarial valuation report referred to in subsection (1) (a).
- (7) In addition to the conditions specified in subsection (1), the superintendent's consent under that subsection applies or continues to apply only if
 - (a) section 41, including the testing required by section 41 (2), of the Act and, subject to subsection (11), section 35 of this regulation and the other provisions of this Schedule continue to be complied with,
 - (b) the results of that testing are reported in each actuarial valuation report that may be requested by the superintendent,
 - (c) no benefits are improved
 - (i) while the application for suspension under subsection (1) is pending, or
 - (ii) during the period of suspension,
 - (d) the plan either has no unfunded liability or, if there is an unfunded liability, the employers adopt a schedule of special payments to
 - (i) amortize each unfunded liability established on or after the review date to which the application relates over a period not exceeding 10 years from its establishment, and
 - (ii) amortize each unfunded liability that was established before that review date over the lesser of
 - (A) 10 years from the review date to which the application relates, and
 - (B) the remainder of the 15-year amortization period under which it was initially established, and
 - (e) any other relevant conditions imposed by the superintendent under section 3.1 of this regulation are complied with.
- (8) During a period of suspension under subsection (1), the administrator of the MENC plan must disclose to members, in the annual statement required under section 11 of this regulation, the fact of obtaining that suspension in accordance with that subsection and, at the same time, disclose that fact to former members.

- (9) Disclosure under subsection (8) must also contain the following information:
 - (a) the solvency ratio in relation to the plan as of the latest review date;
 - (b) a description of how the security of pension benefits for members and former members may be affected as a result of the suspension of special payments under section 35 (3) (c) of this regulation;
 - (c) the conditions described in section 2 (1) and (7) of this Schedule relating to that suspension.
- (10) At the end of the period of suspension under subsection (1),
 - (a) the administrator of the MENC plan must have an actuarial valuation report prepared,
 - (b) if the actuarial valuation report indicates a solvency deficiency exists, every employer must immediately make special payments in accordance with section 35 (3) (c) of this regulation, and
 - (c) if at any time during the suspension period the plan had an unfunded liability and the employers were required to adopt a schedule of special payments under subsection (7) (d) of this Schedule, the employers must make the special payments referred to in that provision and in accordance with it.
- (11) This section applies despite anything in section 35 of this regulation.

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. **501**, Approved and Ordered **JUN 26 2008**



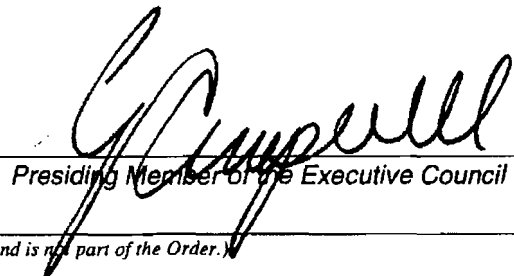
Lieutenant Governor

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 the Pension Benefits Standards Regulation, B.C. Reg. 433/93, is amended in accordance with the attached Appendix.



Minister of Finance



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, R.S.B.C. 1996, c. 352, s. 74

Other (specify): OIC 1716/93

May 8, 2008

APPENDIX

1 Section 1 of the Pension Benefits Standards Regulation, B.C. Reg. 433/93, is amended

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

“conforming letter of credit” means a letter of credit

- (a) in respect of which all requirements of section 35.1 (3) (a) to (g) are met, and
- (b) which, and the issuing of which, with reference to the circumstances set out in section 35.1, meets all of the requirements of the *Income Tax Act* (Canada);

“letter of credit” means a letter of credit that is in accordance with the rules of International Standby Practices ISP98 (publication No. 590) of the International Chamber of Commerce, as those rules are amended from time to time, and, if applicable, includes any renewal, amendment, replacement or confirmation of such a letter of credit or the documents evidencing such a renewal, amendment, replacement or confirmation; ,

(b) in the definition of “solvency asset adjustment” by adding the following paragraph:

- (b.1) money committed under a conforming letter of credit; , **and**

(c) by adding the following subsection:

- (5) References in this regulation to confirmation, in the context of a letter of credit, mean the assumption, whether by force of law or of contract, of liability by a Canadian banking subsidiary of a foreign bank for any payments under the letter of credit for which that foreign parent bank is liable but does not pay.

2 Section 35 is amended

(a) in subsection (1) by striking out “applies” and substituting “and section 35.1 apply”;

(b) in subsection (2) by striking out “set out in this section” and substituting “set out in this section and, to the extent if any applicable, with section 35.1”, and

(c) in subsection (3) by striking out “subsection (4),” and substituting “subsection (4) and section 35.1.”

3 The following section is added:

Use of letters of credit for meeting solvency deficiencies

35.1 (1) In this section:

“acceptable rating” means a current rating, given by a credit rating agency to a bank or credit union, which rating is at least equal to at least one of the following ratings:

- (a) A, from Dominion Bond Rating Service Limited;
- (b) A, from Fitch Ratings;
- (c) A2, from Moody's Investors Service;
- (d) A, from Standard & Poor's Ratings Services;

"credit rating agency" means an agency referred to in any of paragraphs (a) to (d) of the definition of "acceptable rating" or any other similar agency approved by the superintendent for the purposes of this section;

"expiry" means the time when a letter of credit expires;

"holder" means the fund holder to whose benefit the letter of credit in question is made out pursuant to subsection (3) (c), or that fund holder's successor;

"issuer" means a bank or credit union that has an acceptable rating and is a member of the Canadian Payments Association;

"obligated issuer" means an issuer that is contractually liable for payment of money under a conforming letter of credit if that payment is demanded under the letter of credit;

"solvency deficiency payments" means the special payments under section 35 (3) (c);

"termination report" means the report under section 54 (3) of the Act;

"transfer deficiency" has the same meaning as in section 25 (1).

- (2) An employer, other than an employer under a defined benefit multi-employer negotiated cost plan, may, instead of making some or all of the required solvency deficiency payments, use or continue to use a letter of credit to secure those solvency deficiency payments for a particular year if and only if the letter of credit and the bank or credit union obligated under the letter of credit satisfy the requirements of this section.
- (3) A letter of credit may not be used for the purposes of section 35 or this section, and therefore lacks the potential to qualify as a conforming letter of credit, unless the letter of credit
 - (a) is an irrevocable and unconditional standby letter of credit,
 - (b) was issued by a bank or credit union that is an issuer and the issuer is not the employer or affiliated with the employer within the meaning of section 2 of the *Business Corporations Act*,
 - (c) is made out to the benefit of a fund holder in trust for the depositing of it, and of any money paid under it, into the pension fund,
 - (d) specifies the time from when it becomes effective and, subject to subsection (5), its expiry,
 - (e) makes the issuer that issued it contractually liable, if payment is demanded under it, for paying out money under its terms,
 - (f) is issued in Canadian currency, and
 - (g) provides that

- (i) on the demand of payment under it, the obligated issuer will, immediately after that demand, pay to the holder the amount, not exceeding its face amount, that is demanded, without further inquiry,
 - (ii) the insolvency or bankruptcy of the employer is to have no effect on the rights or the obligations of the obligated issuer or the holder under it,
 - (iii) immediately following each expiry time, it will, in accordance with subsequent provisions of this section, be renewed, replaced or allowed to expire without renewal or replacement,
 - (iv) if the obligated issuer decides not to renew the letter of credit on its expiry, the obligated issuer will notify the administrator, the holder and the superintendent of that decision at least 90 days before that expiry,
 - (v) it may not be assigned, and
 - (vi) it may not be amended, except
 - (A) on renewal, or
 - (B) if there is a change of holder, to reflect that change.
- (4) When a letter of credit intended as a conforming letter of credit is to be initially issued, the administrator must, at least 90 days before the day when the next in the series of solvency deficiency payments following its issue date falls due, forward both of the following to the superintendent:
- (a) the executed letter of credit or a certified copy of it;
 - (b) a written statement from the administrator that
 - (i) the letter of credit meets all of the requirements of subsection (3) (a) to (g),
 - (ii) the letter of credit is in accordance with the rules of International Standby Practices ISP98 (publication No. 590) of the International Chamber of Commerce, as those rules are amended from time to time, and
 - (iii) the letter of credit, and the issuing of it, with reference to the circumstances set out in this section, meets all of the requirements of the *Income Tax Act* (Canada).
- (5) A conforming letter of credit must expire no later than one year from the time it takes effect.
- (6) At least 90 days before an existing conforming letter of credit is due to expire, an administrator must do the following:
- (a) if, at expiry, the letter of credit will be renewed,
 - (i) forward the executed renewing letter of credit, or a certified copy of it, together with the written statement referred to in subsection (4) (b), to the superintendent,
 - (ii) notify the holder of the transmission under subparagraph (i), and
 - (iii) follow the process set out in subsection (7), if applicable;
 - (b) if, at expiry, the letter of credit will be replaced,

- (i) forward the executed replacing letter of credit, or a certified copy of it, together with the written statement referred to in subsection (4) (b), to the superintendent,
 - (ii) notify the holder of the transmission under subparagraph (i), and
 - (iii) follow the process set out in subsection (7), if applicable;
 - (c) if, at expiry, the letter of credit will be allowed to expire without renewal or replacement,
 - (i) notify the superintendent and the holder of that fact, and
 - (ii) follow the process set out in subsection (8), if applicable.
- (7) Subject to subsection (14) (b), if the amount for which a conforming letter of credit is to be renewed or replaced will be less than the amount covered by the letter of credit to be renewed or replaced, the administrator must
- (a) provide to the superintendent, together with the documents sent to the superintendent under subsection (6) (a) (i) or (b) (i), a current actuarial valuation report showing that after the reduction the funding requirements of section 35 and this section will continue to be met,
 - (b) provide to the superintendent, together with the documents sent to the superintendent under subsection (6) (a) (i) or (b) (i), proof that the employer has remitted to the pension plan all or a portion of the amount covered by the letter of credit to be renewed or replaced, or
 - (c) implement a combination of paragraphs (a) and (b),
- in which case the amount of the renewing or replacing letter of credit may be reduced to the extent indicated in the actuarial valuation report referred to in paragraph (a), reduced by the amount of the employer's remittance referred to in paragraph (b) or reduced by the combination of both of those, as the case may be.
- (8) If a conforming letter of credit is to be allowed to expire without being renewed or replaced, the administrator must provide to the superintendent, together with the notification referred to in subsection (6) (c), a current actuarial valuation report showing that after expiry the funding requirements of section 35 will continue to be met.
- (9) As soon as practicable after receiving an executed letter of credit under subsection (4) or (6) (a) or (b), or a certified copy of it, as the case may be, the superintendent must notify the administrator acknowledging that receipt.
- (10) If, within 30 days after being notified by the superintendent that an executed letter of credit is not a conforming letter of credit, the administrator does not forward to the superintendent an executed new or replacing letter of credit that is a conforming letter of credit, or a certified copy of one that is a conforming letter of credit, the employer must immediately make the solvency deficiency payments in accordance with section 35 (3) (c).
- (11) The administrator must forward the original of the executed conforming letter of credit to the holder, together with a copy of the superintendent's acknowledgement of receipt, within the following time periods:

- (a) if the letter of credit is being initially issued, on or before the day when the first in the series of solvency deficiency payments to which the letter of credit relates following its issue date falls due;
 - (b) if the letter of credit is renewing or replacing another, at least 15 days before its expiry.
- (12) Despite anything in this section, if the bank or credit union obligated under a conforming letter of credit ceases to be an issuer, the letter of credit may continue to be used for all the purposes of this section as a conforming letter of credit, and that bank or credit union is deemed to remain an obligated issuer, until expiry, but the letter of credit may not be renewed.
- (13) If, 14 days before expiry, the holder
 - (a) has not received any document that the administrator is required to send to the holder under subsection (6) and, so far as applicable, subsection (7), (8) or (11), and
 - (b) has not received notice that the pension plan is or is about to be terminated, then the holder must, on the next business day, demand payment for the full amount of the letter of credit.
- (14) If the pension plan is or is about to be terminated, the administrator must
 - (a) maintain the letter of credit in force, and
 - (b) if necessary, renew or replace it without any decrease in the amount covered, and thereafter maintain it,until the superintendent has approved the termination report and the administrator has received permission to cancel under subsection (15) (a), the employer has made the remittance under subsection (16) or the demand for payment under subsection (17) has been made.
- (15) At the time of notifying the administrator that the termination report is approved, the superintendent must also notify the administrator, with a copy to the holder, that, based on that report,
 - (a) the plan is fully solvent and the letter of credit may be cancelled, or
 - (b) there is still a solvency deficiency.
- (16) If subsection (15) (b) applies, the superintendent must state in both the notification to the administrator and the copy to the holder the amount of the solvency deficiency that must be remitted by the employer to the holder.
- (17) If applicable, the administrator must, within 14 days after receiving notification from the superintendent of a solvency deficiency under subsection (15) (b), ensure that the holder has received the amount so notified and the holder, if the remittance is not so received, must, on the next business day after that 14-day period ends, demand payment for the lesser of the full amount of the letter of credit and the amount specified in that notification.
- (18) A demand for payment under a conforming letter of credit is to be made by the holder in writing or in such other form as the letter of credit allows.

- (19) Nothing in this section is to be taken to reduce any employer's liabilities under section 51 of the Act.
- (20) Subject to subsection (18), a notification that is to be given to or by the superintendent or any other person under this section must be given in writing.
- (21) The employer must either
 - (a) make interest payments related to the solvency deficiency payments secured by the conforming letter of credit monthly within 30 days after the end of the month to which the interest payments relate and at the interest rate used to establish each solvency deficiency, or
 - (b) ensure that the interest payments referred to in paragraph (a) are included in the amount covered by the letter of credit.
- (22) The employer must pay any fees related to the establishment and maintenance of the conforming letter of credit separately, and those fees may not be included in the letter of credit or charged as a cost to the pension plan.
- (23) When a person becomes entitled to receive a benefit payment, other than an ongoing pension payment, from the pension plan and while some or all of the solvency deficiency payments remain covered by a conforming letter of credit, the employer must
 - (a) make one lump sum payment to the plan in an amount that is equal to any transfer deficiency that exists and to the extent that it relates to the person, before making the payment to or on behalf of the person, or
 - (b) include a payment in the same amount in the next remittance of contributions.
- (24) A conforming letter of credit is not an asset of the plan for the purposes of determining its solvency ratio or the going concern assets.

4 Section 37 is renumbered as section 37 (1) and the following subsection added:

- (2) For the purposes of subsection (1) (c) and (d) and section 43 of the Act, provision of a conforming letter of credit to the fund holder meets the requirement for the remitting of such amount of contributions as is covered by the letter of credit.