



**ACPM/ACARR**

**The Association of Canadian Pension Management**

**L'Association canadienne des administrateurs de régimes de retraite**

**BRIEF TO THE  
ONTARIO EXPERT  
COMMISSION ON PENSIONS**

**Wednesday, October 17, 2007**

**Prepared by the  
ACPM Advocacy & Government Relations Committee  
Expert Commission Task Force**

## EXECUTIVE SUMMARY

In many ways, the current system of pension regulation in Ontario is strong and, perhaps, one of the best in the world. At the same time; however, it also is unbalanced and unfair, and discourages plan sponsors from establishing new plans and from funding existing plans by any means save the minimum regulatory financing requirements.

Changes are long overdue in the pension system in Ontario (and Canada). We believe coverage in defined benefit pension plans should be encouraged, funding issues should be resolved and regulatory clarity should be addressed. In order to effect appropriate changes to the system, the ACPM advocates that the following principles govern any modifications:

1. **Increased Coverage Levels** – Incentives are needed to encourage the creation of more plans in order to increase coverage levels. Disincentives for employers setting up or retaining pension plans should be removed or reduced.
2. **Flexibility** – An environment must be created where flexibility is a key characteristic that impacts the method of funding, the type of benefit offered and the investment strategy employed. This would be set against a regulatory backdrop that could accommodate different types of plans and evolving plan designs.
3. **Balanced Environment** – The environment for employer-sponsored pension plans must be designed to be fair to all parties and ensure that the primary purpose of providing income to beneficiaries is the key focus and that sponsors are not encouraged to fund only at minimum levels.
4. **Remove Impediments for All Types of Plans** – Plan sponsors and members (or their representatives) should be able to choose from a wide range of plan designs that are roughly equivalent from a tax treatment or regulatory perspective and determine which best fits their needs. Legislation and regulations must not provide disincentives to the establishment and maintenance of DB pension plans.
5. **Recognition by the Regulatory System of the need for Different Types of Plans** – Legislation and regulations governing pension plans should be clear and reflect the risk/reward arrangements between sponsors and members. Pension regulators must not limit the types of pension arrangements available to employers and employees because they don't fit the current structures and rules.
6. **Clarifying the Role of Regulators and Standard Developing Bodies** – The pension deal should be struck between sponsors/employers and their members/employees or unions. The role of standards, regulations

and legislation must be to secure the pension deal (versus trying to change the deal or imposing conditions outside that original deal).

7. **Leadership and Harmonization** – As Canada’s largest pension jurisdiction, Ontario should take the lead in pension policy, but should be sensitive to the need to harmonize pension laws where possible.
8. **Periodic Adjustment to Legislation and Regulations** – Pension legislation and regulations must be reviewed on a regular basis to ensure they remain appropriate to any external changes. Such reviews need to include representation from all key stakeholder groups and be governed by a pre-determined schedule.

The ACPM has observed, with dismay, the tendency of legislators to permit the courts to establish pension policy in the absence of clarity in the legislation. In particular, the tendency of the courts to apply trust law principles to pension plans, rather than view them as contractual arrangements between employer and employees, has distorted the original “pension deal”.

A thorough review of the Pension Benefits Act is long overdue. The industry has changed fundamentally since the late 1980’s and the Pension Benefits Act is in need of revision. We welcome the debate and look forward to sharing our ideas with the Commission on how we can enhance Ontario’s retirement system.

We believe that with broad debate, and balanced and fair trade-offs, Ontario can create a legal context that encourages, not discourages, the creation and maintenance of occupational pension plans, to the benefit of all Ontarians and the competitiveness of Ontario industry.