

# CLPENS Members' Rights Group Newsletter

## Highlights of The Year

- ✓ The first Annual General Meeting was held on October 5, 2004 attended by over 125 members. The constitution was overwhelmingly approved (see our website for a copy of the constitution)
- ✓ Seven directors with diverse areas of expertise were elected and the first Executive Committee was selected from the directors.
- ✓ Membership increased from just over 100 at the beginning of the year to close to 650 by year end
- ✓ There has been some growth in voting membership enabling CLPENS to start building a “war chest” to address future legal fees and to pay for other items involved in running the day-to-day activities of the group.
- ✓ In June a letter was sent to the Financial Services Commission of Ontario (FSCO) requesting that they seek clarification from Canada Life on the issue of taking plan expenses from the pension plan since 1994. To date the company has asked for 2 extensions of the FSCO-imposed deadline and, at this point, has indicated that they will reply by Jan. 10, 2005.

*President: Wib Antler Vice President: Ed Barrett  
Secretary: Gary Nummelin Treasurer: Don McIntyre  
Committee Members: Phil Davy, Alex Harvey, Jim Martin*

## Newsletter 19 December 28, 2004

This is the last newsletter for 2004 and we'd like to wish everyone all the best for the coming year.

It's been a very productive year for the CLPENS Group, a year in which we have seen a marked increase in membership and a growing interest in how Power Corp/ GWL might address many of the current issues on plan expenses, surplus ownership, etc.

Successful protection of members' rights in the future however will continue to depend on proactively addressing a number of issues in 2005.

Previous Newsletters are available on our web site at

[www.trigger.net/~clpens/](http://www.trigger.net/~clpens/)

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Issue #19

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Dec, 2004

# CLPENS Newsletter

## What Are Some of the 2005 Action Plans

- ◆ Although our numbers have grown we are still below **1000 members**. (To be a credible voice in dealing with the company, a legal opinion has suggested CLPENS requires at least 1000 members). To reach this level, we still require at least 350 **new members**.
- ◆ We need to add **voting members**. We must **continue** to build up a significant “war chest” or be sadly disadvantaged in fighting for our rights and **this initiative will die and we stand to lose claim on the surplus that we believe belongs to the members**. If you have not done so we urge you to consider joining and encouraging others to also become members. ◆ The application form is available by going to <http://www.trigger.net/~clpens/Appform1.htm>
- ◆ We will now be mailing printed newsletters to **voting members** who do not have access to e-mail.
- ◆ We have received **numerous offers** from the membership **for assistance** and for this we are tremendously grateful. We will consider your offers when determining our future needs and will contact members as needed.
- ◆ One area that will be addressed is **translating the newsletter and parts of the web site into French**. We have a member who has volunteered to take this on and we will be proceeding with this initiative in 2005
- ◆ Feedback from some of the members was that the AGM was difficult to attend because it was held during the day. To address this issue, we a plan to hold a **General Meeting during non-work hours at a different time during the first quarter of 2005**. Those who were unable to attend the afternoon meeting (as well as anyone else who is interested) are encouraged to attend. Suggestions for a more suitable time are welcome. Watch the website for details.
- ◆ A subcommittee has been established to identify and **enter into an agreement with a legal firm** to represent CLPENS in dealing with the company. A checklist of key items is being developed and this will serve as a template in finding the most appropriate representation. We will continue to keep the membership apprised of these developments in future newsletters.
- ◆ We are re-evaluating the website and plan to remove much of the historical information, in order to give us more space. If you are interested in reviewing any old letters in the Correspondence section, you are advised to do it soon.

## *Who Is Eligible To Join CLPENS?*

**T**here seems to be some misunderstanding of who is eligible to join the group. Basically **anyone** who is **entitled to receive current or future benefits under the Canada Life Canadian Staff Trusteed Pension Plan** is considered eligible to be a member. This includes:

- ◆ Any pensioner or beneficiary currently receiving benefits under the plan or any previous plan
- ◆ Any active employee registered as a member of the plan
- ◆ Anyone entitled to deferred benefits under the plan

Originally there were 3 separate pension plans for staff, agents and managers. In the mid-1990's all three plans were consolidated into one.

As background, up until 1968 Canada Life agents participated in their own pension plan.

In 1968 with the introduction of the CPP, it was decided that agents were self-employed and this necessitated giving up their employee benefits including the pension plan. Accordingly in 1968 their pensions were frozen and no further contributions were permitted. As a result only those agents before 1968 who left their money in the plan are eligible to join CLPENS. This is a small group.

**T**he managers' pension plan was set up to provide benefits for anyone who was in a supervisory sales position. Many agents became unit heads and branch managers and based on their time in a sales supervisory capacity continue to have an interest in the pension plan and are therefore eligible for membership in CLPENS. Although we do not have a list of the members of the Canada Life pension plan we suspect that this group is under-represented in CLPENS.

### Fees

The fee structure is \$100 initiation plus an annual fee of \$25. The \$25 will pay for meeting rooms and research while the \$100 will go toward creating a "war chest" to support outside legal resources.

As we go forward and key strategic issues emerge, paid members will have an opportunity to vote on the direction that CLPENS takes in the fight with Great West Life. If you are a non-paying member, you don't get to vote.

A reader who left Canada Life involuntarily after July 10, 2003 recently contacted us regarding a reference in her termination letter to “an enhanced benefit from the plan” as a result of the partial plan wind-up. The possibility for an enhanced benefit arises from “grow-in rights” legislation in Ontario and Nova Scotia. The following article provides an explanation of this legislation. If other members have questions regarding these types of situations please e-mail us at [clpens@trigger.net](mailto:clpens@trigger.net) and we will attempt to answer them.

*“Pension Grow-in Rights”*

“Pension grow-in rights” legislation ensures that, within limits (see “Limits” below), employees who leave a company as the result of a plan wind-up or partial plan wind-up do not lose the value of their pension plan’s early retirement entitlement.

The entitlement to retire early with an unreduced pension is a costly (to plan sponsors) and a valuable (to plan members) benefit. Accordingly, “grow-in rights” are also costly (to plan sponsors) and valuable (to plan members).

Take the Canada Life (CLACO) plan as an example. Under the CLACO plan, employees who have 30 years of plan membership at age 60 or later may retire and start to receive the full amount of their accrued pension without the early retirement reduction that applies to employees who do not have 30 years of plan membership before reaching the normal retirement age of 65.

Assume that Joe retires at age 60, after 30 years of plan membership, with an accrued pension of \$2,000 per month.

- ∴ If there were no early retirement entitlement, after the plan’s reduction for early retirement (24% which is calculated as 0.4% for each of the 60 months by which Joe’s early retirement fell short of the plan’s normal retirement age of 65), Joe’s pension would be \$1,520 per month.

- ∴ Because of the CLACO plan’s early retirement entitlement, Joe receives his full-accrued pension of \$2,000 per month.

In this example, the CLACO plan’s early retirement entitlement increases the value of Joe’s pension benefit by 31.6% (calculated as \$2,000 minus \$1,520 divided by \$1,520.) The dollar value of this early retirement entitlement depends on the assumptions that one uses but, quite reasonably, it could be in excess of \$100,000. The grow-in process did not add to Joe’s monthly pension amount – **you don’t accrue any further pension benefit during the grow-in period** – but the preservation of his early retirement entitlement was still very valuable to him.

Not everyone can enjoy this early retirement entitlement. Based on simple mathematics, you will not be eligible if you join the plan on or after your 35<sup>th</sup> birthday. And you have to hang in there – if you leave the company before putting in 30 years in the plan, you fall short of this early retirement entitlement.

But what if you are “on track” to earn this early retirement entitlement and the plan is wound-up (or partially wound-up)? Does this event, over which you had no control, cause you to lose this early retirement entitlement?

That’s where “grow-in rights” come into play.

**Section 74 of the Pension Benefits Act of Ontario** states that:

*A member in Ontario of a pension plan whose combination of age plus years of continuous employment or membership in the pension plan equals at least fifty-five, at the effective date of the wind up of the pension plan in whole or in part, has the right to receive...a pension in accordance with the terms of the pension plan, beginning at the earlier of... (i) the normal retirement date under the pension plan, or (ii) **the date on which the member would be entitled to an unreduced pension under the pension plan if the pension plan were not wound up and if the member’s membership continued to that date;** (Editor’s note: The above*

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passage is a fragmented excerpt of the section. The complete Section is available from the website [www.e-law.gov.on.ca](http://www.e-law.gov.on.ca).)

In simple language, if you are “on track” to receive the early retirement entitlement of the CLACO plan, the partial plan wind-up of the plan will not rob you of this entitlement.

And you don’t have to be close to age 60 to be “on track”! So long as the sum of your age and service is 55 (see below) when you leave CLACO and your years of plan membership would have totaled 30 any time from your 60<sup>th</sup> and 65<sup>th</sup> birthdays, the grow-in benefits provided by Section 74 are of benefit to you. E.g.

Your situation	Are you eligible for grow-in rights?
Age 40; 15 years of plan membership	Yes.
Age 55; 25 years of plan membership	Yes.
Age 60; 29 years of plan membership “Joan” below.)	Yes. (See
Age 35; 15 years of plan membership <i>(Age and service less than 55 at time of plan wind-up.)</i>	No.
Age 55; 15 years of plan membership <i>(Will not have 30 years of service before age 65.)</i>	No.

Note that the CLACO plan’s early retirement entitlement is not an “all or nothing” benefit – plan members can still receive a (partial) early retirement entitlement even if they do not qualify for a full unreduced pension when they retire early. For example, take the third individual listed above (we’ll call her “Joan”).

In the normal course of events (that is, there was no partial plan wind-up), if Joan retired at age 60, she would be entitled to a partial early retirement entitlement. Specifically, her monthly pension would be reduced by 0.4% per month but the number of months would not be based on the period to Joan’s normal retirement date (age 65) but on the period to the date on which she could have retired with an unreduced pension. If Joan had exactly 29 years of service at retirement and an accrued monthly pension of \$2,000, then the reduction would be 4.8%, which is calculated as 0.4% for each of the 12 months between her actual

retirement and the date on which she would have attained 30 years of service (thereby qualifying for a full, unreduced pension). Joan’s monthly pension would be \$1,904, which is calculated as 95.2% (100% minus 4.8%) of \$2,000.

If Joan’s retirement were part of the partial plan wind-up, then legislated grow-in rights would apply. Joan would be entitled to her full pension of \$2,000 per month commencing at age 61 (that is, when she would have been entitled to a full unreduced pension under the CLACO plan).

If Joan chose to take her pension at age 60, the month benefit would be actuarially reduced (that is, a calculation would be made to determine “how much pension starting at age 60 is equal in value to a pension of \$2,000 per month starting at age 61?”). Since the application of provincial legislation would not be allowed to cause the reduction in an individual’s benefit, Joan’s pension would be the \$1,904 per month (as calculated under the terms of the CLACO plan) or a somewhat higher amount.

## Limits

**Minimum age/service** Legislation requires that the sum of age plus service be 55 or greater. This may seem unfair. However, regulators had to “draw the line” somewhere.

In the absence of such a restriction, a 25 year-old employee with one week of service would be eligible for grow-in rights (because he/she would be “on track” to have 30 years of plan membership prior to age 65) while the 55 year-old employee with 15 years of service would not be eligible.

**Geography:** Grow-in rights only apply to plan members in Ontario and Nova Scotia as these are the only provinces with grow-in rights legislation. It should be noted that:

- Non-Ontario members of an Ontario-based plan have challenged their ineligibility for grow-in rights (Bourdon et al v. Stelco Inc.) and have been unsuccessful at the Quebec Superior Court and Quebec Court of Appeal but have been granted leave to appeal to the Supreme Court of Canada.
- On October 7, 2004, the Nova Scotia government introduced legislation (Bill 129) to eliminate “grow-in benefits” under the Pension Benefits Act (Nova Scotia), effective January 1, 2005.

In closing, once again all of us wish you and your family all the best for the holiday season. The next time you hear from us will be in January 2005. All the best for an exciting new year!