

TAB 22


[Français](#)

Pension Benefits Act

R.S.O. 1990, CHAPTER P.8

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Interpretation

Definitions

1 (1) In this Act,

“additional voluntary contribution” means a contribution to the pension fund by a member of the pension plan beyond any amount that the member is required to contribute, but does not include a contribution in relation to which the employer is required to make a concurrent additional contribution to the pension fund; (“cotisation facultative supplémentaire”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “additional voluntary contribution” is repealed and the following substituted:

“additional voluntary contribution” means a contribution to the pension fund by a member of the pension plan beyond any amount that the member is required to contribute, but does not include,

(a) an optional contribution, or

(b) a contribution in relation to which the employer is required to make a concurrent additional contribution to the pension fund; (“cotisation facultative supplémentaire”)

See: 2010, c. 24, ss. 1 (1), 49 (4).

“administrator” means the person or persons that administer the pension plan; (“administrateur”)

“assets”, in relation to an employer, means assets that in the ordinary course of business would be entered in books of account, whether or not a particular asset is entered in the books of account of the employer; (“actif”)

“bridging benefit” means a periodic payment provided under a pension plan to a retired member of the pension plan for a

pension plan. 2012, c. 8, Sched. 44, s. 3.

Conflict

(13) This section prevails over subsection 55 (2). 2010, c. 24, s. 18.

Section Amendments with date in force (d/m/y) [+]

Duty re payment of contributions

56 (1) The administrator of a pension plan and the agent, if any, of the administrator who is responsible for receiving contributions under the pension plan shall ensure that all contributions are paid when due.

Notice

(2) If a contribution is not paid when due, the administrator and the agent, if any, shall notify the Superintendent in the prescribed manner and within the prescribed period. 1999, c. 15, s. 10.

Section Amendments with date in force (d/m/y) [+]

Duty to pension fund trustees

56.1 (1) The administrator shall give the persons who are prescribed for the purposes of subsection 22 (6) (trustee of pension fund) a summary of the contributions required to be made in respect of the pension plan, and shall do so in the prescribed manner and within the prescribed period. 1999, c. 15, s. 10.

Exception

(1.1) Subsection (1) does not apply if the administrator is also the trustee of the pension fund. 2005, c. 31, Sched. 18, s. 7.

Notice re summary

(2) A person who is entitled to receive a summary shall notify the Superintendent in the prescribed manner and within the prescribed period if the person is not given the summary in accordance with subsection (1). 1999, c. 15, s. 10.

Notice re contributions

(3) A person who is entitled to receive a summary shall notify the Superintendent in the prescribed manner and within the prescribed period if a contribution is not paid when due. 1999, c. 15, s. 10.

Section Amendments with date in force (d/m/y) [+]

Trust property

57 (1) Where an employer receives money from an employee under an arrangement that the employer will pay the money into a pension fund as the employee's contribution under the pension plan, the employer shall be deemed to hold the money in trust for the employee until the employer pays the money into the pension fund. R.S.O. 1990, c. P.8, s. 57 (1).

Money withheld

(2) For the purposes of subsection (1), money withheld by an employer, whether by payroll deduction or otherwise, from money payable to an employee shall be deemed to be money received by the employer from the employee. R.S.O. 1990, c. P.8, s. 57 (2).

Accrued contributions

(3) An employer who is required to pay contributions to a pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to the employer contributions due and not paid into the pension fund. R.S.O. 1990, c. P.8, s. 57 (3).

Wind up

(4) Where a pension plan is wound up in whole or in part, an employer who is required to pay contributions to the pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to employer contributions accrued to the date of the wind up but not yet due under the plan or regulations. R.S.O. 1990, c. P.8, s. 57 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (4) is amended by striking out “in whole or in part”. See: 2010, c. 9, ss. 40, 80 (2).

Jointly sponsored pension plans

(4.1) An employer who transfers assets under section 80.4 from a single employer pension plan to a jointly sponsored pension plan and who is required to make a payment under subsection 80.4 (18) for the benefit of transferred members and other transferees shall be deemed to hold in trust for the transferred members and other transferees an amount of money equal to any payment due under subsection 80.4 (18) that has not been paid into the pension fund of the jointly sponsored pension plan. 2014, c. 7, Sched. 26, s. 6 (1).

Lien and charge

(5) The administrator of the pension plan has a lien and charge on the assets of the employer in an amount equal to the amounts deemed to be held in trust under this section. R.S.O. 1990, c. P.8, s. 57 (5); 2014, c. 7, Sched. 26, s. 6 (2).

Application of subss. (1, 3, 4, 4.1)

(6) Subsections (1), (3), (4) and (4.1) apply whether or not the money has been kept separate and apart from other money or property of the employer. R.S.O. 1990, c. P.8, s. 57 (6); 2014, c. 7, Sched. 26, s. 6 (3).

Money to be paid to insurance company

(7) Subsections (1) to (6) apply with necessary modifications in respect of money to be paid to an insurance company that guarantees pension benefits under a pension plan. R.S.O. 1990, c. P.8, s. 57 (7).

Section Amendments with date in force (d/m/y) [+]**Accrual**

58 (1) Money that an employer is required to pay into a pension fund accrues on a daily basis.

Interest

(2) Interest on contributions shall be calculated and credited at a rate not less than the prescribed rates and in accordance with prescribed requirements. R.S.O. 1990, c. P.8, s. 58.

Collection of contributions

59 The administrator may commence proceedings in a court of competent jurisdiction to obtain payment of contributions due under the pension plan, this Act and the regulations. R.S.O. 1990, c. P.8, s. 59.

Bond

60 The administrator of a multi-employer pension plan may require a person who receives contributions to the pension fund or who administers or invests the pension fund to be bonded in an amount required by the administrator or in the prescribed amount. R.S.O. 1990, c. P.8, s. 60.

Statement of employer's obligation

61 An employer who is required to make contributions to a multi-employer pension plan shall transmit to the administrator of the

(4) Only one election may be made in respect of a pension plan. 2010, c. 9, s. 57.

Notice of election

(5) An election to exclude a pension plan and its members from the operation of section 74 takes effect when notice of the election is filed with the Superintendent or on a later date specified in the notice. 2010, c. 9, s. 57.

Rescission

(6) An election may be rescinded by the persons and entities described in subsection (1) or (2), as the case may be, and the rescission takes effect when notice of the rescission is filed with the Superintendent or on a later date specified in the notice. 2010, c. 9, s. 57.

Section Amendments with date in force (d/m/y) [+]

Liability of employer on wind up

75 (1) Where a pension plan is wound up, the employer shall pay into the pension fund,

- (a) an amount equal to the total of all payments that, under this Act, the regulations and the pension plan, are due or that have accrued and that have not been paid into the pension fund; and
- (b) an amount equal to the amount by which,
 - (i) the value of the pension benefits under the pension plan that would be guaranteed by the Guarantee Fund under this Act and the regulations if the Superintendent declares that the Guarantee Fund applies to the pension plan,
 - (ii) the value of the pension benefits accrued with respect to employment in Ontario vested under the pension plan, and
 - (iii) the value of benefits accrued with respect to employment in Ontario resulting from the application of subsection 39 (3) (50 per cent rule) and section 74,

exceed the value of the assets of the pension fund allocated as prescribed for payment of pension benefits accrued with respect to employment in Ontario. R.S.O. 1990, c. P.8, s. 75 (1); 1997, c. 28, s. 200; 2010, c. 9, s. 58.

Payment

(2) The employer shall pay the money due under subsection (1) in the prescribed manner and at the prescribed times. R.S.O. 1990, c. P.8, s. 75 (2).

Exception, jointly sponsored pension plans

(3) This section does not apply with respect to jointly sponsored pension plans. 2005, c. 31, Sched. 18, s. 10.

Same

(4) This section does not apply with respect to a single employer pension plan that has transferred assets under section 80.4 to a jointly sponsored pension plan. 2014, c. 7, Sched. 26, s. 7.

Prescribed exemptions

(5) The Lieutenant Governor in Council may make regulations exempting an employer or a successor employer from this section in whole or in part in respect of a pension plan, in accordance with such restrictions as may be prescribed, if the following conditions are met:

1. As a result of an application under the *Companies' Creditors Arrangement Act* (Canada), a court made an order on or before December 31, 2015 staying all proceedings taken against the employer.
2. The employer, the successor employer, if any, and the parties specified by regulation have entered into an agreement related to the employer's liability under this section and the liability of the successor employer, if any, and the Superintendent has approved the agreement in accordance with subsection (6). 2016, c. 37, Sched. 19, s. 4.

Superintendent's approval of agreement

(6) The Superintendent may approve the agreement if,

- (a) after consulting with members, former members, retired members and other persons entitled to benefits under the pension plan, the Superintendent has taken into account their interests; and
- (b) the agreement satisfies such conditions or restrictions as may be prescribed. 2016, c. 37, Sched. 19, s. 4.

Decision to approve, etc.

(7) A decision by the Superintendent under this section to approve or not to approve an agreement is final and is not subject to a hearing or an appeal. 2016, c. 37, Sched. 19, s. 4.

Interpretation, "successor employer"

(8) For the purposes of subsection (5),

"successor employer" means the person who acquires the business of an employer who is required to make contributions under a pension plan, if the person assumes some or all of the employer's obligations and rights under the pension plan in connection with the acquired business. 2016, c. 37, Sched. 19, s. 4.

Section Amendments with date in force (d/m/y) [+]

**Liability on wind-up, jointly sponsored pension plans
Employers, etc.**

75.1 (1) Where a jointly sponsored pension plan is wound up, the employer or the person or entity required to make contributions under the plan on behalf of the employer shall pay into the pension fund,

- (a) an amount equal to the total of all payments that, under this Act, the regulations and the plan, are payable by the employer or by the person or entity on behalf of the employer, that are due or have accrued and that have not been paid into the pension fund; and
- (b) any additional amounts that, under the documents that create and support the plan, are payable in the circumstances by the employer or the person or entity on behalf of the employer. 2005, c. 31, Sched. 18, s. 11; 2010, c. 9, s. 59 (1).

Same re: transfer of assets

(1.1) If an employer has transferred assets under section 80.4 from a single employer pension plan to a jointly sponsored pension plan that is subsequently wound up, the employer shall, in prescribed circumstances, pay the prescribed amount into the pension fund of the jointly sponsored pension plan for the benefit of the transferred members and other transferees under section 80.4. 2014, c. 7, Sched. 26, s. 8 (1).

Same re: conversion of single employer pension plan

(1.2) If an employer has converted a single employer pension plan under section 81.0.1 into a jointly sponsored pension plan that is subsequently wound up, the employer shall, in prescribed circumstances, pay the prescribed amount into the pension fund of the jointly sponsored pension plan for the benefit of the members, former members, retired members and other persons entitled to benefits under the plan. 2014, c. 7, Sched. 26, s. 8 (2).

Members

(2) Where a jointly sponsored pension plan is wound up, the members shall pay into the pension fund,

(a) an amount equal to the total of all payments that, under this Act, the regulations and the plan, are payable by the members, that are due or have accrued and that have not been paid into the pension fund; and

(b) any additional amounts that, under the documents that create and support the plan, are payable in the circumstances by the members. 2005, c. 31, Sched. 18, s. 11; 2010, c. 9, s. 59 (2).

Payments

(3) The payments required by this section shall be made in the prescribed manner and at the prescribed times. 2005, c. 31, Sched. 18, s. 11; 2014, c. 7, Sched. 26, s. 8 (3).

Same

(4) Any payments that may be required by subsections (1.1) and (1.2) are in addition to the payments required by subsection (1). 2014, c. 7, Sched. 26, s. 8 (4).

Insufficient pension fund

(5) If the amount paid under subsection (1.1) and the money in the pension fund of the jointly sponsored pension plan, allocated in accordance with the regulations, is not sufficient to pay all the pension benefits and other benefits of the transferred members and other transferees under section 80.4, the pension benefits and other benefits shall be reduced in the prescribed manner on the wind up of the jointly sponsored pension plan. 2014, c. 7, Sched. 26, s. 8 (5).

Same

(6) If the amount paid under subsection (1.2) and the money in the pension fund of the jointly sponsored pension plan, allocated in accordance with the regulations, is not sufficient to pay all the pension benefits and other benefits of the members, former members, retired members and other persons entitled to benefits under the plan, the pension benefits and other benefits shall be reduced in the prescribed manner on the wind up of the plan. 2014, c. 7, Sched. 26, s. 8 (6).

Section Amendments with date in force (d/m/y) [+]

Pension fund continues subject to Act and regulations

76 The pension fund of a pension plan that is wound up continues to be subject to this Act and the regulations until all the assets of the pension fund have been disbursed. R.S.O. 1990, c. P.8, s. 76.

Insufficient pension fund

77 Subject to the application of the Guarantee Fund, where the money in a pension fund is not sufficient to pay all the pension benefits and other benefits on the wind up of the pension plan, the pension benefits and other benefits shall be reduced in the prescribed manner. R.S.O. 1990, c. P.8, s. 77; 2010, c. 9, s. 60.

Section Amendments with date in force (d/m/y) [+]

TRANSITION – PARTIAL WIND UP

Authority for partial wind up

77.1 (1) A pension plan may be wound up in part if the effective date of the partial wind up precedes the date on which this section comes into force. 2010, c. 9, s. 61.

Restriction

(2) A pension plan cannot be wound up in part if the effective date of the partial wind up would fall on or after the date on which this section comes into force. 2010, c. 9, s. 61.

Effective date

(3) The effective date of the partial wind up may be determined after the date on which this section comes into force. 2010, c. 9, s. 61.

Same

(4) The Superintendent by order may change the effective date of the partial wind up if the Superintendent is of the opinion that there are reasonable grounds for the change. 2010, c. 9, s. 61.

Definition

(5) In this section and in sections 77.2 to 77.9,

“partial wind up” means the termination of part of a pension plan and the distribution of the assets of the pension fund related to that part of the pension plan. 2010, c. 9, s. 61.

Section Amendments with date in force (d/m/y) [+]**Partial wind up by employer, administrator**

77.2 Section 68 applies, with necessary modifications, with respect to a partial wind up of a pension plan. 2010, c. 9, s. 61.

Section Amendments with date in force (d/m/y) [+]**Order by Superintendent for partial wind up**

77.3 (1) The Superintendent by order may require the partial wind up of a pension plan,

- (a) if a significant number of members of the pension plan cease to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer;
- (b) if all or a significant portion of the business carried on by the employer at a specific location is discontinued;
- (c) if part of the employer's business or part of the assets of the business are sold, assigned or otherwise disposed of and the person or entity who acquires the business or assets does not provide a pension plan for the members of the employer's pension plan who become employees of the person or entity;
- (d) if the liability of the Guarantee Fund is likely to be substantially increased unless the pension plan is wound up in part;
- (e) if any of the circumstances described in clauses 69 (1) (a), (b), (c) or (h) exists; or
- (f) if any other prescribed event or prescribed circumstance occurs. 2010, c. 9, s. 61.

Date

(2) The order must specify the effective date of the partial wind up. 2010, c. 9, s. 61.

Notice of the order

(3) The administrator of the pension plan shall give notice of the order to the persons and entities listed in clauses 68 (2) (b) to (e) and shall include in the notice such information about the partial wind up as the order may specify. 2010, c. 9, s. 61.

Duty to file notice

(4) The administrator shall file with the Superintendent a copy of the notice given under subsection (3). 2010, c. 9, s. 61.

Section Amendments with date in force (d/m/y) [+]**Wind up report for partial wind up**

77.4 (1) Section 70 applies, with necessary modifications, with respect to a partial wind up of a pension plan. 2010, c. 9, s. 61.