

Interpretive Guideline#06

Registration and Amendment of a Pension Plan

Issued: March 2015

This guideline is designed to outline the process and requirements for the Registration of a Pension Plan and the Amendment of a Pension Plan as required by the provisions of the [Employment Pension Plans Act](#) (the Act) and the [Employment Pension Plans Regulation](#) (the Regulation). This guideline summarizes the legislative requirements which apply to the subject matter, and includes (as applicable) additional details to outline the Superintendent of Pensions (the Superintendent) expectations and requirements where such authority has been provided by the Act and Regulation. Finally, the guideline outlines best practices and policies that the Superintendent expects from provincially regulated pension plans.

The Act and Regulation should be used to determine specific legislative requirements. Any legal authority of this Guideline rests in the areas in which the legislation delegates authority to the Superintendent to accept a proposal or action.

Legislative Reference

Part 4 of the Act and Part 3 of the Regulation state the requirements and restrictions with respect to the Registration of a Pension Plan and the amendment of the plan text document and other supporting documents.

Plan Registration

Where to Register

A pension plan is registered with the jurisdiction in which the majority of members are employed. There are ten pension jurisdictions in Canada: the federal jurisdiction, and all provinces except Prince Edward Island. Members are under the federal jurisdiction if the member is employed in one of the territories or is employed in “included employment” anywhere in Canada.

Under the Federal [Pension Benefits Standards Act](#), “included employment” means employment, other than excepted employment, on or in connection with the operation of any work, undertaking or business that is within the legislative authority of the Parliament of Canada, including, without restricting the generality of the foregoing,

- (a) any work, undertaking or business operated or carried on for or in connection with navigation and shipping, whether inland or maritime, including the operation of a ship and transportation by ship anywhere in Canada;
- (b) any railway, canal, telegraph or other work or undertaking connecting a province with another province or extending beyond the limits of a province;
- (c) any line of steam or other ships connecting a province with another province or extending beyond the limits of a province;

- (d) any ferry between a province and another province or between a province and a country other than Canada;
- (e) any aerodrome, aircraft or line of air transportation;
- (f) any radio broadcasting station;
- (g) any bank or authorized foreign bank within the meaning of section 2 of the [Bank Act](#);
- (h) any work, undertaking or business that, although wholly situated within a province, is before or after its execution declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more provinces; and
- (i) any work, undertaking or business outside the exclusive legislative authority of provincial legislatures, and any work, undertaking or business of a local or private nature in Yukon, the Northwest Territories or Nunavut.

If the person is not in included employment then the physical location where a member reports to work determines which jurisdiction they are employed in. Note: a person could reside in one province and work in another. In this case it is the province of employment, not residence, that determines which pension law applies to the individual.

If the plan has members in more than one jurisdiction, the laws of each jurisdiction must be applied to the members employed in that jurisdiction, regardless of where the plan is registered.

When to Register (Regulation Section 17)

In Alberta, a pension plan administrator must apply to have a pension plan registered within 60 days of the date of the plan's establishment.

Between the date the plan was established and the date the plan is registered, the administrator may administer the plan as if it were registered unless they have received notice from the Superintendent not to do so.

Application for Registration (Act Section 13)

To register a pension plan, the administrator must complete an application ([Form 18](#)) and file it with the Superintendent along with

- the required filing fee
- a certified copy of
 - the plan text document,
 - the record that established the plan (e.g. Board Resolution, relevant section of the collective agreement, signed application form if plan is being managed by a third party, e.g. and insurance company, etc.),
 - the fundholder agreement, and
 - in the case of a non-collectively bargained plan

- (NCBMEP),
 - a copy of the participation agreement, and
 - a list of participating employers,
- if the plan text document contains a benefit formula provision (defined benefit or target benefit)
 - an actuarial valuation performed as at the effective date of the plan, and
 - a cost certificate,
- a completed [Form 1](#) certifying that the documents comply with the Act and that the governance, funding and investment policies, as applicable, are in place.
 - all plans must have a written governance policy,
 - plans with a benefit formula provision must have a funding policy with respect to that provision, and
 - all plans whose funds are invested at the direction of the employer must have a statement of investment policies and procedures.

The statement of investment policies and procedures, governance policy and funding policy are to be in place when the plan is registered or in case of the governance policy and funding policy by the later of August 31, 2015 and when the plan is registered.

The documents will then be reviewed for compliance and consistency. Additional information may be requested to complete the review. Once all items are determined to comply with the legislation, the plan will be registered.

If the Superintendent refuses to register the plan and/or the administrator withdraws application for registration before the plan is registered, then any contributions to the plan must be returned to the person(s) who made the contributions with interest net of expenses.

Plan Text Document Amendment

The plan text document is the governing document of a pension plan. It must be kept up-to-date and any changes registered with the Superintendent. The plan must be administered in accordance with the provisions in the document as filed with the Superintendent.

When to File the Amendment (Act Section 17 and Regulation Section 19)

When a plan text document is amended, the amendment must be filed for Registration within 60 days after the amendment is made. The administrator is not to administer the plan in accordance with the amendment unless the application for Registration has been filed with the Superintendent.

Application for Registration (Act Sections 18 and 19)

To register a plan text document amendment, the administrator must file:

- a certified copy of the amendment,

- a completed [Form 2](#),
- if the amendment impacts cost with respect to a benefit formula provision, an actuarial valuation and cost certificate that meet the requirements of section 49 of the Regulation, and
- any other documentation required by the Superintendent to determine compliance with the legislation.

The Superintendent will register the amendment once satisfied that it complies with the legislation. If there is a part of an amendment that does not comply, but the balance of the amendment complies, the Superintendent may sever the non-compliant part and register the balance of the amendment. In that case, the administrator may not administer the severed part of the amendment.

Restrictions on Amendments (Act Sections 20 and 21 and Regulation Sections 21,22 and 23)

An amendment that reduces a member's accrued benefits may not be made unless:

- the plan is a jointly sponsored plan and the participating employers and representatives of the plan members have agreed to reduce benefits to meet funding requirements rather than increase contributions and the consent of the Superintendent must be given before the amendment is made,
- the plan is a Collectively Bargained Multi-Employer Plan (CBMEP) and the reduction is necessary for the plan to meet funding requirements and the consent of the Superintendent must be given before the amendment is made, or
- the plan has a target benefit provision and the reduction is necessary for the plan to meet funding requirements for that provision.

In the last case, if an actuarial valuation reveals that contributions are insufficient to meet funding requirements, the amendment must be made immediately with effect from the as at date of the valuation and filed with the Superintendent within 60 days of its being made along with the valuation demonstrating the need for the amendment and verifying that once the amendment is made the plan meets the Act funding requirements.

Subject to funding restrictions, a target benefit provision may be amended to provide pensioners with a temporary increase in pensions. If plan funding changes, the Superintendent may require the plan administrator to cease making the payments related to the increase.

Where an amendment is refused and the administrator has been administering the amendment as if it were registered, the administrator must reverse all transactions related to the amendment. The Superintendent requires confirmation that this has been done within 180 days of the refusal being issued.

Amendment of Supporting Plan Documents

When a supporting plan document is amended, the amendment must be filed within 60 days after the amendment is made (note that this applies only to supporting documents that are required to be filed with the Superintendent such as fundholder agreements and participation agreements). The administrator is not to administer the amendment unless the amendment has been filed with the Superintendent.

What must be filed (Act 26)

To file an amendment to a supporting plan document, the administrator must file:

- a certified copy of the amendment,
- a completed [Form 3](#), and
- any other documentation required by the Superintendent to determine compliance with the legislation.

Note that a new supporting plan document, whether it replaces an existing supporting plan document or not, is considered to be an amendment and must be filed.

Effective date of a Plan or a Plan Amendment

Section 27 of the Act states that the effective date of a pension plan or an amendment may be before the date that the decision to institute a pension plan or the date that the amendment is made, subject to the restriction in section 20 of the Act regarding the reduction of accrued benefits.

Disclosure

In accordance with section 31(2)(h) of the Regulation, a summary of amendments made to the plan during the most recently completed fiscal year of the plan must be included in the member's annual statement. The summary must explain what has changed and how it affects the member's benefits.

Where an amendment will result in an increase in member contributions or a decrease in member benefits advance notice is required under section 44 of the Regulation. Notice of contributions increases must be provided to members at least 30 days prior to the increased coming into effect. Notice of benefit reductions must be provided within 30 days of the amendment being accepted by the Superintendent. Where either of these two notices have been given during the year they need not be repeated in the annual statement.

Designation of a Pension Plan

Section 28 of the Act states that upon application for Registration or subsequent to a plan text document amendment, the Superintendent may designate a plan to be a CBMEP or an NCBMEP. This may require additional documents to be filed before the plan/amendment is registered.

For further information please contact:

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