



SECTION:	Administrative Expenses
INDEX NO.:	A200-802
TITLE:	Costs for Wind Up and Surplus Applications - PBA ss. 10(1)9 and 22(11)
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO website (March 22, 2005)
EFFECTIVE DATE:	March 22, 2005 [references updated - August 2010] [No longer applicable - replaced by A200-803 - May 2013]
REPLACES:	A200-801

This policy replaces A200-801 (Costs for Wind Up and Surplus Applications) as of the effective date of this policy.

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

*Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fSCO.gov.on.ca. All pension policies can be accessed from the **Pensions** section of the website through the **Pension Policies** link.*

When costs are incurred in preparing wind up and surplus refund applications, can these expenses be paid from the pension fund?

Section 10(1)9 of the PBA requires that the documents that create and support a pension plan include "the mechanism for payment of the cost of administration of the pension plan and pension fund". Section 22(11) of the PBA limits the payment of expenses from the pension fund to agents to "the usual and reasonable fees and expenses for the services provided by the agent in respect of the pension plan".

In the case of a wind up, the payment of expenses from the pension fund is governed by the language of the pension plan text, including any applicable trust documents.

In the case of a surplus refund application, the payment of expenses associated with the surplus application is considered as a payment to the employer. FSCO's policy is to require full disclosure in the surplus sharing agreement of all arrangements pertaining to the application for and distribution of surplus, including the use of any surplus to pay the expenses associated with the surplus application.