



Financial Services Commission of Ontario  
Commission des services financiers de l'Ontario

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| SECTION:        | Registration                                                                  |
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*Note: Due to legislative changes, the references to the “Pension Commission of Ontario” and the “PCO” should now read “FSCO” and the reference to the Pension Benefits Act, 1987 and PBA, 1987 should now read PBA, R.S.O. 1990. In addition, a Pension Plan Document Checklist is no longer required to be completed and returned with the application to register a pension plan.*

### **The Legal Effect of Pension Plan Registration**

Registration of a pension plan with the Pension Commission of Ontario (the “PCO”) becomes effective when the Superintendent of Pensions issues a certificate of registration. In the case of a **plan amendment**, registration is effective when the Superintendent issues a notice of registration of a plan amendment. The requirements for such registration are found under sections 16 and 17 of the *Pension Benefits Act*, 1987 (the “PBA, 1987”).

The question which arises from time to time from pension practitioners concerns the legal effect of such registration. Is the purpose of the registration to confirm that the plan and the amendments are in strict conformity with the PBA, 1987 and Regulations? Or, is the purpose to accept the plan and amendments for filings and make them available for inspection by interested parties to the pension deal: for instance, plan members, beneficiaries and bargaining agents?

Registration constitutes notice that the plan contains the contractually required terms. We accept applications for registration of pension plans or amendments based on a certificate of compliance with the PBA, 1987 which is signed by the Administrator. The Superintendent and staff do not undertake to examine each detail of the plan. Our role is to assure that the minimum standard for information disclosure is addressed as required by section 10 of the PBA, 1987.

To achieve the objective of compliance, a checklist must be completed and returned with the application. In this way, the Administrator and the PCO staff reviewing the application are assured that the minimum standards are met and a certificate of registration can be issued.

### **Verification of Compliance**

Staff have taken every opportunity recently to indicate that changes will be made to the way the PCO conducts its business of regulating the occupational pension system in Ontario. In order to meet the challenges of the 90's, regulators will rely increasingly on Administrators and their agents to perform their duties in accordance with the legislation, in a timely fashion and accurately. Finally, they will be expected to certify that they are in full compliance.

The PCO will also rely more on information technology to monitor AIRs, cost certificates, audit reports and assessments to ensure that:

- a) they have been filed on a timely basis;
- b) they cross check for information; and
- c) selected filings are subject to manual review.

Time previously spent in manual review of plan filings, amendments and other documents will be devoted to on-site plan examinations. When we implement these operational changes staff resources will become available for on-site plan examinations. Our goal is that over a period of three years, plans representing 75% of members will have been examined by PCO staff.

The primary purpose of these examinations is to assure that plans are being administered in accordance with the PBA, 1987. Recent experience with certain plans (for which Administrators were appointed) demonstrates that record keeping of members' entitlements is often inaccurate. We have found that remittances to the pension fund were not filed on a timely basis and in some cases, required pension contributions were deliberately withheld from the trustee or insurance carrier.

The majority of Administrators do a proper job of complying with the legislation in a timely manner. Nevertheless, it is necessary for PCO staff to determine what is happening on an inspection basis; only in this way can we be sure that an adequate job of regulation is being done and that plan members' benefits are protected.

The process of inspection has begun with a review of all plans for delinquent AIRs and triennial reports/triennial cost certificates. This inspection (it is being carried out in order ensure compliance and to bring our information up-to-date prior to its transfer to computer) has triggered letters to 47% of plans. Of those who have not filed, 32% have delinquent AIRs, 34% have delinquent triennial filings, and many have both. The PCO is committed to obtaining all outstanding filings and to ensuring future filings are made on time. If you are a pension plan Administrator who has been notified of a delinquency, we urge you to make your required filings as soon as possible. If your filing has already been made, please advise us accordingly.