



SECTION: Surplus

INDEX NO.: S900-250

TITLE: Court Applications for Surplus Entitlement in Wound Up Plans
- Parties Before the Courts

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Note: Due to legislative changes, references to the "PCO", the "Pension Commission of Ontario" or the "Superintendent of Pensions" should now read "FSCO", the "Financial Services Commission of Ontario" or the "Superintendent of Financial Services", as appropriate.

The Pension Commission of Ontario has taken the position that neither the Commission nor the Superintendent are proper parties before the Courts on applications by the employer for declarations relating to surplus entitlement in wound-up plans (Administrative Policy 7a(2)(c) -- November 1991 Bulletin; April 23, 1992 Commission meeting). If they are named, a motion will be brought to remove them from the proceedings, amend the title of the proceedings, and reimburse them for associated costs.

The following statement outlines the PCO's position:

On April 23, 1992 the Pension Commission of Ontario adopted a policy that in any application where the Pension Commission of Ontario or the Superintendent of Pensions is named as party respondents in a court application for a declaration relating to surplus entitlement, counsel on behalf of the Pension Commission of Ontario or the Superintendent of Pensions is to bring a motion to the court for an Order:

- (a) deleting the Pension Commission of Ontario and/or the Superintendent of Pensions as party respondents;
- (b) amending of the title of proceedings in the action to delete the Pension Commission of Ontario and/or the Superintendent of Pensions as party respondents from the title of proceedings;
- (c) for costs of the motion on a solicitor and client basis.