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SECTION:	Membership
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TITLE:	Mandatory versus Optional Membership in a Pension Plan - PBA ss. 10(1)2 and 25 - Regulation 909 s. 38
APPROVED BY:	Superintendent of Financial Services
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This policy replaces M100-200 (Deadline For Membership Not Acceptable), M100-500 (Mandatory vs Voluntary) and M100-501 (Mandatory and Voluntary – Changes After Effective Date) 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](http://www.fSCO.gov.on.ca). All pension policies can be accessed from the **Pensions** section of the website through the **Pension Policies** link.*

The purpose of this policy is to clarify the difference between mandatory and optional membership in a pension plan.

### **Conditions for Membership in a Pension Plan**

When a pension plan is established, section 10(1)2 of the PBA requires the plan documents to set out the conditions for membership in the plan. One of the conditions that the plan text should specify is whether membership in the plan is mandatory, optional or a combination of both. The difference between mandatory and optional membership is explained below.

### **Mandatory Membership**

If the terms of the plan specify mandatory membership for a class of employees, all employees in that class are required to become members of the plan. However, if an employee, because of his or her religious beliefs, objects to becoming a member of the plan, he or she should be permitted to opt out even though membership in the pension plan is mandatory.

Employees will be enrolled in the pension plan once they satisfy the eligibility requirements for membership. They do not have the option of deferring their membership.

For information on eligibility requirements, see Policy [M100-100 \(Eligibility for Membership in a Pension Plan\)](#).

### **Optional Membership**

If the terms of the plan specify optional membership for a class of employees, all employees in that class can decide if they want to become members of the plan. Employees may enrol in the pension plan once they satisfy the eligibility requirements for membership. The pension plan may not set a deadline that prevents an employee from joining the plan after the deadline has passed.

Employees also have the option of deferring their membership in the plan, as explained below:

#### **a) Full-time Employee**

Once a full-time employee satisfies the eligibility requirements for membership in the plan, he or she is entitled to become a member. If the full-time employee decides not to become a member when he or she becomes eligible to join the plan, the option to join the plan must be given at any time in the future, provided the employee remains in continuous full-time employment. As long as the employee remains in continuous full-time employment, he or she will continue to satisfy the eligibility requirements for membership in the plan under section 31(2) of the PBA. The terms of the plan may permit the employee to join the plan sooner than the minimum requirements under the PBA. For information on eligibility requirements for full-time employees, see Policy [M100-100 \(Eligibility for Membership in a Pension Plan\)](#).

#### **b) Part-time Employee**

Once a part-time employee satisfies the eligibility requirements for membership in the plan, he or she is entitled to become a member. If the part-time employee decides not to become a member when he or she becomes eligible to join the plan, the option to join the plan must be given at any time in the future, provided the employee continues to satisfy the eligibility requirements for part-time employees under section 31(3) of the PBA. If the employee no longer satisfies the eligibility requirements for membership in the plan, he or she may have to wait to join the plan until the eligibility requirements have been satisfied. The terms of the plan may permit the employee to join the plan sooner than the minimum requirements under the PBA. For information on eligibility requirements for part-time employees, see Policy [M100-100 \(Eligibility for Membership in a Pension Plan\)](#).

#### **c) Change in Employment Status**

If a full-time or part-time employee decides not to become a member when he or she becomes eligible to join the plan, and then his or her employment status subsequently changes (i.e., from part-time to full-time, or vice versa), the employee may have to satisfy the eligibility requirements that apply to his or her new employment status in order to join the plan. The terms of the plan may permit the employee to join the plan sooner than the minimum requirements under the PBA. Once an employee becomes a member of the plan, he or she will remain a member, regardless of any subsequent change(s) to his or her employment status.

For example, if a part-time employee, who has satisfied the eligibility requirements, decides not to become a member and subsequently becomes a full-time employee, he or she may have to satisfy the eligibility requirements that apply to full-time employees in order to join the plan. Once the employee becomes a member of the plan, the employee will remain a member, even if he or she returns to part-time employment.

### **Combination of Mandatory and Optional Membership**

The terms of the plan may also provide a combination of mandatory and optional membership. Pension plans that provide both mandatory and optional memberships may have, but are not limited to, the following structures:

- mandatory membership for current employees and optional membership for new employees (or vice versa);
- mandatory membership for full-time employees and optional membership for part-time employees (or vice versa);
- mandatory membership for hourly employees and optional membership for salaried employees (or vice versa); or
- optional membership for new employees that later becomes mandatory membership once they reach a specified threshold under the terms of the plan.

### **Plan Enrolment Process**

The administrator of a pension plan (administrator) must provide each employee – who is either required to become a member of the plan or who will be eligible to become a member – written information about the pension plan in accordance with section 25 of the PBA. The written information must be provided to each employee within the time period specified in section 38 of the Regulation. For details about the legislated requirements, see policy [M100-100 \(Eligibility for Membership in a Pension Plan\)](#).

The administrator should also have in place a formal enrolment process that documents the enrolment of employees into the pension plan, as explained below:

#### **a) Enrolment Process – Mandatory Membership**

If membership in the plan is mandatory, each employee who satisfies the eligibility requirements for membership (except an employee who because of his or her religious beliefs objects to becoming a member) should complete an application or plan enrolment form. The application or plan enrolment form documents the employee's plan entry date. The administrator may provide this form to the employee at the same time as the written information that must be provided to the employee under section 25 of the PBA.

#### **b) Enrolment Process – Optional Membership**

If membership in the plan is optional, each employee who satisfies the eligibility requirements for membership should complete an election form. The election form documents the employee's decision to become a member of the plan. The administrator may provide this form to the employee at the same time as the written information that must be provided to the employee under section 25 of the PBA.

It is important for the employee to complete and return the election form to the administrator, even if he or she decides not to become a member. Retention of the election form by the administrator serves two main purposes:

- confirmation that an employee was given the opportunity to become a member; and
- an explanation for an employee's late plan entry date (i.e., in cases where the employee decided not to become a member when he or she became eligible to join the plan).

If an employee decides not to become a member when he or she is eligible to join the plan, and decides to join at a future date, he or she is responsible for contacting the administrator to enrol in the plan. The employee should rescind his or her previous election in writing. Once the administrator confirms that the employee meets the eligibility requirements for membership, the administrator is responsible for providing the employee with the necessary documentation to enrol the employee in the plan, which includes an application or plan enrolment form.