



SECTION:	Registration
INDEX NO.:	R500-351
TITLE:	Registration of a Pension Plan and a Pension Plan Amendment - PBA ss. 9, 10, 12, 13, 14, 16, 17, 18 and 19 - Regulation 909 ss. 2 and 3
APPROVED BY:	Superintendent of Financial Services
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This policy replaces R500-350 (Legal Effect) 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.*

The purpose of this policy is to provide an overview of the processes for registering a pension plan and a pension plan amendment.

At the onset of establishing a pension plan, the plan sponsor and/or the employer must select a plan administrator to administer the pension plan. The plan administrator may be a person or entity, as described in section 8 of the PBA.

Registration Process for a Pension Plan

The requirements for registering a pension plan are set out in section 9 of the PBA. These requirements include applying for the pension plan's registration within a prescribed period of time (see section 9 (1) of the PBA and the section below) and the filing of certain documents (refer to section 9(2) of the PBA).

Under section 9(2) of the PBA, the pension plan is required to file the following documents:

1. a completed [FSCO Form 1 – Application for Registration of a Pension Plan](#), along with the appropriate attestation (for more information on this requirement see below);
2. certified copies of documents that create and support the pension plan and pension fund;
3. any reciprocal transfer agreement related to the plan; and

4. certified copies of the information that is required to be provided to members when they join the plan, as set out in section 25 of the PBA.

Examples of documents that create and support the pension plan include a pension plan text, an employee booklet about the pension plan, a collective agreement and an actuarial valuation report (which must be prepared in accordance with section 13 of the Regulation).

A plan text provides information such as:

- who is the plan administrator;
- eligibility for plan membership;
- employee contribution obligations (if applicable);
- employer contribution obligations;
- the benefits and rights of plan members;
- the pension plan's early and normal retirement dates;
- the methods for calculating a member's termination, retirement and death benefits;
- the method for allocating assets on the plan's wind up; and
- the treatment of any surplus.

The documents that create and support the pension fund include a trust agreement, an insurance contract, a custodial agreement or any funding instrument.

Application for Registering a Pension Plan

The prescribed period of time for applying for the registration of a pension plan is set out in section 2 of the Regulation (i.e., within 90 days of the date the pension plan is established). For the purposes of section 2 of the Regulation, the date of establishment for the pension plan is the later of the effective date of the plan and the date on which the plan sponsor signs and adopts the pension plan. For example, if a single employer pension plan has an effective date of January 1 and is adopted by the board of directors on March 1 of the same year, then it has been established on March 1. On the other hand, if the board of directors adopts the pension plan on March 1 and the pension plan has an effective date of May 1 (in the same year), then the plan's date of establishment is May 1.

The administrator must ensure that all applicable information is correctly completed on Form 1. The administrator must sign the application in which he or she attests that the pension plan complies with the PBA and the Regulation, and any other pension legislation of a jurisdiction within Canada, if applicable. Once these steps have been completed, Form 1 needs to be submitted by the plan administrator to the Superintendent, along with the necessary documents that create and support the pension plan and pension fund.

FSCO will accept an application for the registration of a pension plan based on the administrator's certification of compliance with the PBA and Regulation. FSCO does not regularly examine each provision of a pension plan text for compliance with the PBA and Regulation. However, as part of FSCO's risk-based regulation review process and/or when FSCO becomes aware of a compliance issue with the terms of a pension plan, FSCO will take appropriate action to remedy the situation.

Within 30 days of receiving an application that meets the requirements of section 9 of the PBA, the Superintendent will issue an acknowledgment for the application for registering a pension plan. Following this, the Superintendent will issue a certificate of registration to the plan administrator/plan sponsor.

Registration Process for a Pension Plan Amendment

The process for registering a pension plan amendment is similar to the process for registering a pension plan. However, within 60 days of the date on which the pension plan is amended, the administrator must submit [FSCO Form 1.1 – Application for Registration of a Pension Plan Amendment](#) to the Superintendent. The application must meet the requirements that are set out in section 12 of the PBA, which require certified copies of amending documents to be filed with the Superintendent.

Effective Date of a Plan Amendment

Under section 13 of the PBA, an amendment is not effective until the plan administrator files an application for the registration of the amendment and the application meets the requirements of section 12 of the PBA. Furthermore, an amendment may become effective on a specific date which takes place before the date the amendment is registered. However, as stated in section 14(1) of the PBA, the amendment will be void if it reduces the amount or the commuted value of a pension benefit, a pension or deferred pension, or an ancillary benefit for which the member or former member has met the eligibility requirements under the pension plan necessary to exercise the right to receive payment of the benefit. As set out in sections 14(2) and (3), section 14(1) does not apply to:

- a multi-employer pension plan that was established pursuant to a collective agreement or trust agreement; and
- a pension plan that provides defined benefits, if the employer's obligation to contribute to the pension fund is limited to a fixed amount that is set out in a collective agreement.

Application for a Plan Amendment

Beginning April 2013, plan administrators have two methods of submitting an application for registration of a pension plan amendment. The plan administrator may submit a completed application (Form 1.1) to FSCO by mail or submit an electronic application through the Pension Services Portal (PSP). For more information on the submission process through the PSP, see [FAQs on Submitting Applications for the Registration of an Amendment through the PSP](#). Also, for step-by-step instructions on this process, please refer to FSCO's [Instructions for Submitting an Application for the Registration of a Pension Plan Amendment through the PSP](#) or watch an instructional Video on Submitting an Application for the Registration of a Pension Plan Amendment.

The plan administrator must ensure that all applicable information is correctly completed on the Form 1.1, in either case. When submitting the Form 1.1 in paper format, the administrator must sign the application in which he or she attests that the amendment complies with the PBA and the Regulation, and if applicable, any other pension legislation for a jurisdiction within Canada. When submitting the Form 1.1 electronically, the administrator's certification and submission provides the same attestation that the amendment complies. Once these steps have been completed, the Form 1.1 and the amending documents need to be submitted (either electronically or by mail) to the Superintendent for registration. The Superintendent will then issue a notice of registration to the plan administrator/plan sponsor on the following basis.

Scope of FSCO's Review

With the exception of the "other" category in question 6, where none of the items listed in question 6 or 7 of Form 1.1 is checked off, FSCO will accept the application for the registration of a pension plan amendment based on the administrator's certification of compliance with the PBA and Regulation and will not review the amendment in detail. Based on this acceptance, FSCO will issue a notice of registration. However, if FSCO becomes aware of a compliance issue with an amending provision, or any other provision of the pension plan, FSCO will take appropriate action to remedy the situation.

FSCO will conduct a detailed review of the amendment if the “other” category in question 6 of Form 1.1 is selected, or any items that are listed in questions 6 or 7 are checked off. If the amendment satisfies the requirements of the PBA, FSCO will issue a notice of registration.

Refusal or Revocation of Registration

Under section 18 of the PBA, the Superintendent may refuse to register or revoke the registration of a pension plan, a plan amendment or a part of a plan amendment. In the case of registration of the plan, the grounds for the refusal or revocation are that the plan does not comply with the PBA or Regulation, and/or the plan is not being administered in accordance with the PBA or Regulation. In the case of plan amendments, or part of a plan amendment, the grounds for refusal or revocation are that the amendment or partial amendment is void, or would result in the plan not being in compliance with the PBA or Regulation. As provided by section 89(1) of the PBA, the Superintendent shall carry out this process by issuing a notice of intended decision (NOID) to the plan administrator. Under section 89(6) of the PBA, the plan administrator is entitled to a hearing by the Financial Services Tribunal, if a written notice requiring a hearing is made within 30 days of the date the NOID was served.

Plan Administrator’s Obligations

Under section 19 of the PBA, the plan administrator has the responsibility to administer the pension plan and pension fund in accordance with the requirements of the PBA, Regulation and all documents that are filed with the Superintendent in respect of the pension plan.

Required Filings

The PBA and Regulation also require the plan administrator to ensure that various prescribed filings are prepared and submitted to FSCO. These include the following:

- annual information return;
- pension benefits guarantee fund assessment certificate (if applicable);
- annual or triennial actuarial valuation report and the accompanying actuarial information summary (if applicable); and
- pension fund financial statement and the accompanying investment information summary.

Effective January 1, 2013, these filings must be submitted electronically to FSCO. For more information on these filings and the submission process, visit FSCO’s website at www.fSCO.gov.on.ca.