



SECTION:	Wind Up
INDEX NO.:	W100-225
TITLE:	Vesting, Locking in and Growing in on Wind Up - PBA ss. 42, 50, 73, and 74 - Regulation 909 s. 51(1)
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	October 1992 – PCO Bulletin 3/2
EFFECTIVE DATE:	When Published [references updated – January 2009]

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.*

Vesting and Locking in on Wind Up

When a pension plan winds up, the accrued benefits of all members automatically become fully vested, regardless of age, service, or length of membership.

FSCO has adopted the position that a member's vested benefit is not automatically locked in on wind up. In adopting this position, FSCO recognizes that there are actually three types of vesting that apply to a member's benefits on the wind up of a pension plan. The locking-in requirements which apply to a member's entitlements depend on the type of vesting which applies to those benefits. It should also be noted that the locking-in requirements may be further affected by the options available to a member and the election made.

The following explanation describes each of the types of vesting and the basic locking-in requirements. This explanation is followed by a review of the options available to a member on wind up and how a member's election may affect the locked-in status of the member's benefits.

- (1) Statutorily Vested Benefits: This refers to benefits vested under the 45 & 10 (pre 1987) or 2 year membership (post 1987) rules as of the wind-up date. Such benefits are locked in.
- (2) Plan Vested Benefits: This refers to benefits that are not captured by (1) above but which are vested because of a provision of the plan. Such benefits may or may not be locked in by the terms of the plan.

- (3) Section 73(1)(b) Vesting: This refers to benefits automatically vested on plan wind up. Benefits vested solely under section 73(1)(b) of the PBA are not locked in. The commuted value of the benefit is available to the member in cash.

Growing in to Benefits on Wind up

Members of defined benefit plans whose age plus service equals 55 (Rule of 55) are entitled to elect one of the grow-in options under section 74 of the PBA. The benefits of members who elect an option under section 74 (Rule of 55) of the PBA are always locked in, regardless of age, service or membership.

Some plans offer members who meet the Rule of 55 additional options apart from the section 74 enhancements. Vesting and locking-in requirements for these additional options are determined based on the three types of vesting described above: statutory vesting; plan vesting; or section 73(1)(b) vesting.

On wind up, members and former members (who are not already receiving monthly pensions) are entitled, under section 73(2) and section 42 of the PBA, to purchase an immediate or deferred annuity or transfer the commuted value of their pensions according to the following options:

- to another pension fund willing to accept the payment;
- to a prescribed retirement savings arrangement;
- a life annuity.

Transfers made under these provisions are locked in, regardless of the locked-in status of the person's benefits.

Members may be entitled to a cash settlement or a variation in terms of payment of certain locked-in benefits under the following circumstances, but only if the pension plan specifically provides for them or is deemed to so provide:

- shortened life expectancy (s.49 of the PBA and s. 51.1 of the Regulation);
- if the annual benefit is less than 2% of the Year's Maximum Pensionable Earnings (YMPE) under the Canada/Quebec Pension Plan (s. 50(1) of the PBA); and
- for pre-87 benefits, 25% of the benefit may be released (s. 50(2) of the PBA) if the plan was registered before January 1, 1988.

These vesting and locking-in rules apply to the basic pension benefit entitlements of members and former members on the wind up of a pension plan.