



SECTION: Benefits

INDEX NO.: B100-110

TITLE: Consent Benefits Where Amount of Benefit Not Determinable
- PBA ss. 10(1)7
- Regulation 909 s. 1(2)

APPROVED BY: Superintendent of Financial Services

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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.fsrao.ca. All pension policies can be accessed from the **Pensions** section of the website through the **Pension Policies** link.*

Can a pension plan provide a consent benefit where the amount of the benefit is at the discretion of the employer?

No. All consent benefits provided by a pension plan must be determinable.

Section 10(1)7 of the PBA requires that the method of determining benefits payable under a pension plan be set out in the documents that create and support the pension plan. This applies to all benefits, including those where the employer's consent is required to receive an ancillary benefit (i.e., a consent benefit). Accordingly, any plan provision that sets out a consent benefit where the amount of the benefit is at the discretion of the employer is inconsistent with section 10(1)7 of the PBA. Such a provision must be amended to clearly set out the method of determining the benefit payable. If such a provision is not amended, the administrator of the plan should sever the provision or read it out of the plan.

Should the employer wish to provide an enhancement to selected individuals based on the previous wording of the provision, the method of determining the enhanced benefit must be set out in an amendment to the plan, taking into account policy B100-251 (Amendments for Benefit Improvements - Notice and Funding).