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FSRA is actively reviewing all FSCO regulatory direction, including but not limited to forms, guidelines and FAQs.

Until FSRA issues new regulatory direction, all existing regulatory direction remains in force.



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FAQs on the Most Significant Changes under Bill 120 in force on December 8, 2010 and July 1, 2012

This page provides information about the most significant changes to the Pension Benefits Act (PBA) that came into effect on December 8, 2010 and July 1, 2012.

- Rules for payment of surplus to an employer (July 1, 2012)
- Application for a refund of employer overpayments (December 8, 2010)
- Clarification about the payment of fees and expenses (December 8, 2010)

Application for a Refund of Employer Overpayments

Q1. How have the rules changed for refunds of employer overpayments to the pension fund?

A1. Sections 78(4) and (5) of the PBA previously allowed an employer to receive a refund of an overpayment to the pension fund. These provisions were repealed and are now re-enacted in a new section of the PBA (section 62.1).

The employer may apply for the Superintendent's consent to the payment of a refund in the following situations:

- if the employer made a payment in respect to the pension plan that should have been paid out of the pension fund; or
- if the employer made an overpayment into the pension fund.

In multi-employer pension plans or jointly-sponsored pension plans, the administrator may make the application.

In all cases, the application must be made before the later of the following:

• 24 months after the date on which the employer made the payment or overpayment; and

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• six months after the date on which the administrator, acting reasonably, becomes aware of the payment or overpayment by the employer.

Note that the Superintendent must provide his consent before the employer can receive a refund. - 12/10

Q2. Will FSCO update its current policy on refunds of employer overpayments to reflect the new rules? If I want to apply now, how do I proceed?

A2. FSCO is currently developing an updated policy to reflect the recent changes to the rules for refunds of employer overpayments. In situations where a current policy conflicts with the PBA or regulations, the PBA or regulations govern. Until the new policy is issued, applicants should continue using the existing policy and make whatever modifications are necessary, in light of the new requirements. - 12/10

Clarification about the Payment of Fees and Expenses

Q3. How have the rules for payment of fees and expenses changed?

A3. Under section 22.1 (a new section of the PBA), a plan administrator is now entitled to receive payments from the pension fund for reasonable fees and expenses relating to the administration of the pension plan, as well as the administration and investment of the pension fund. However, the amendments clarify that an administrator is not entitled to these fees and expenses if:

- payment to an administrator is prohibited; or
- payment of these fees and expenses is otherwise provided for under the plan documents, PBA or regulations.

This entitlement also applies to a member of a pension committee, or board of trustees that is also the administrator of the pension plan.

The administrator may now also pay reasonable fees and expenses to an agent of the administrator, to the employer, or to any other person who provides such services. However, the administrator is prohibited for paying these fees and expenses if:

- payment to the agent, employer or other person is prohibited; or
- payment of the fees and expense is otherwise provided for under the plan documents, PBA or regulations.

These new rules allow the plan to pay third party expenses from the pension fund, even if the plan prohibits the administrator from charging the same expenses to the pension fund. - 12/10

For more information see FSCO Policies:

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Reimbursement of Employer Overpayment from a Continuing Pension Plan Administrative Expenses

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