

PROPOSED REGULATION

ONTARIO REGULATION

made under the

PENSION BENEFITS ACT

ASSET TRANSFERS UNDER SECTION 80.1 OF THE ACT

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Interpretation

1. (1) In this Regulation,

“General Regulation” means Regulation 909 of the Revised Regulations of Ontario, 1990 (General) made under the Act.

(2) Expressions used in this Regulation have the same meaning as in the General Regulation, unless the context requires otherwise.

Prescribed pension plans

2. The following pension plans are prescribed pension plans for the purposes of paragraph 2 of subsection 80.1 (2) of the Act:

1. Healthcare of Ontario Pension Plan, registered under the Act as number 346007.
2. OMERS Primary Pension Plan, registered under the Act as number 345983.

3. Ontario Public Service Employees' Union Pension Plan, registered under the Act as number 1012046.
4. Public Service Pension Plan, registered under the Act as number 208777.
5. VON Canada Pension Plan, registered under the Act as number 315937.

Effective date of transfer

3. The effective date of a transfer of assets under section 80.1 of the Act cannot be earlier than the date on which section 80.1 comes into force and cannot be later than June 30, 2015.

Transfer agreements, additional requirements

4. (1) A transfer agreement under section 80.1 of the Act must provide for the matters set out in this section, in addition to those required by subsection 80.1 (4) of the Act.

(2) It must specify the effective date of the transfer of assets from the original pension plan to the successor pension plan.

(3) It must specify the deadline for delivery of each eligible employee's election to transfer the value of accrued pension benefits and ancillary benefits under the original pension plan to the successor pension plan. The deadline cannot be earlier than 90 days after the date on which the eligible employee receives notice of his or her right to make the election.

(4) It must set out any options available to an eligible employee to purchase additional service in the successor pension plan if, after the transfer, the amount transferred does not result in the same number of years of service being credited to the eligible employee under the successor pension plan as were credited to him or her under the original pension plan.

(5) It must specify the deadline for electing an option referred to in subsection (4). The deadline cannot be earlier than 90 days after the date on which the eligible employee receives notice of the option.

Duty to transfer, additional criteria

5. (1) The administrator of the original pension plan is required by subsection 80.1 (9) of the Act to transfer assets to the successor pension plan if the requirements set out in this section are satisfied, in addition to those set out in that subsection.

(2) The election by eligible employees to transfer the value of their accrued pension benefits and ancillary benefits to the successor pension plan must have been made by the deadline specified in the transfer agreement.

(3) Notice of the election by an eligible employee must be accompanied by one of the following statements if the effective date of the transfer of assets is on or after the due date of the first instalment of the eligible employee's pension:

1. A statement signed by the person who is the eligible employee's spouse on the due date of the first instalment of the pension stating that the person consents to the transfer of the value of the accrued pension benefits and ancillary benefits of the eligible employee from the original pension plan to the successor pension plan.
2. A statement signed by the eligible employee attesting to the fact that, on the due date of the first instalment of the pension,
 - i. he or she did not have a spouse,
 - ii. he or she was living separate and apart from his or her spouse, or
 - iii. a waiver under section 46 of the Act (waiver of joint and survivor pension benefit), delivered by the eligible employee and his or her spouse, was in effect.

Related duties of administrators

6. (1) The administrators of the original pension plan and the successor pension plan are required by subsection 79.2 (7) of the Act to comply with the requirements set out in this section with respect to a transfer of assets under section 80.1 of the Act.

(2) If any eligible employees are represented by a trade union, the administrators must make reasonable efforts to notify the trade union that the administrators intend to enter into a transfer agreement under section 80.1 of the Act.

(3) Within 30 days after the transfer agreement is signed, the administrators must file with the Superintendent a copy of the transfer agreement and a copy of any notice to be given to eligible employees under the transfer agreement.

(4) Within 30 days after the transfer agreement is signed, the administrators must give a copy of the transfer agreement to the trade union, if any, together with any other documents filed in relation to the transfer agreement. However, this requirement does not apply if both of the administrators have posted the transfer agreement and the other documents on their websites.

(5) Upon receipt of a written request, the administrators must give a copy of the transfer agreement to the advisory committee, if any, and to any eligible employee or to an agent of an eligible employee.

(6) The administrators must give the notices described in section 8 to each eligible employee.

(7) After the assets have been transferred, the administrators must file an actuarial cost certificate described in section 7 with the Superintendent. It must be filed within a reasonable time after the transfer is complete and, in any event, it must be filed no later than June 30, 2015.

(8) Upon receipt of a written request, the administrators must give a copy of the actuarial cost certificate to the trade union, if any, and to the advisory committee, if any. However, this requirement does not apply if both of the administrators have posted a copy of the actuarial cost certificate on their websites.

(9) The administrators are not required to file a report or other document under section 3 of the General Regulation with respect to the transfer of assets.

(10) The administrators are required to make a copy of the transfer agreement, and any other documents filed that relate to it, available for inspection without charge by the persons specified in subsection 29 (1) of the Act.

Actuarial cost certificate

7. (1) The actuarial cost certificate to be filed under subsection 6 (7) must set out the following information:

1. The number of eligible employees who elected to transfer the value of their accrued pension benefits under the original pension plan to the successor pension plan.
2. The going concern assets, estimated going concern liabilities, solvency assets and estimated solvency liabilities related to the eligible employees who elected the transfer, each determined as of the effective date of the transfer.

(2) The valuation date, for the purposes of the actuarial cost certificate, is the effective date of the transfer of assets.

(3) Subsection 7.1 (2) of the General Regulation does not apply with respect to the actuarial cost certificate.

Notice of right to elect to make transfer

8. The administrators of the original pension plan and the successor pension plan must give each eligible employee a notice of his or her right to elect to transfer his or her pension benefit under the original pension plan to the successor pension plan, and the notice must contain the following information:

1. A statement that the transfer cannot be made unless the eligible employee delivers an election in writing to the administrator of the original pension plan, and such other documents as the administrator may require, by the deadlines specified in the notice.
2. A statement that any transfer is subject to the *Income Tax Act* (Canada).

Notice re benefits, etc., under original pension plan

9. (1) The administrator of the original pension plan must give each eligible employee a notice containing the following information:

1. The name of the original pension plan and its provincial registration number.
2. The eligible employee's name and date of birth.
3. The number of years of service credited under the pension plan for the purpose of calculating his or her pension benefit.
4. The value of the accrued pension benefits under the pension plan and the ancillary benefits for which he or she has met the eligibility requirements. The value is as determined under the transfer agreement.
5. The accumulated amount of his or her contributions to the pension fund, including interest credited to the contributions.
6. If the eligible employee is a member or former member of the pension plan when the notice is given,
 - i. his or her normal retirement date and the amount of the pension that would be payable at that date, and
 - ii. the earliest date on which he or she would be eligible to receive an unreduced pension under the original pension plan and the amount of the pension that would be payable at that date.
7. If the eligible employee is a retired member of the pension plan when the notice is given,
 - i. the annual amount of the pension payable to him or her,
 - ii. the name of his or her spouse, if any, as indicated on the records of the administrator and the type of joint and survivor pension selected when the eligible employee became a retired member.
8. The name of any person designated by the eligible employee as a beneficiary for the purposes of the pre-retirement death benefit under section 48 of the Act.
9. If applicable, the formula for computing the eligible employee's pension benefit under the original pension plan.

10. A description of any indexation provisions applicable to the pension benefit.
11. Particulars of any integration of the eligible employee's pension entitlement with pensions payable under the *Canada Pension Plan* or the *Old Age Security Act* (Canada) and the effect of such integration.
12. Particulars of any benefit payable in the event of the eligible employee's death, other than those required under section 44 or 48 of the Act.
13. Particulars of any benefit payable in the event of the termination of the eligible employee's employment.
14. Particulars of any bridging benefit or special allowance and the date on which it ceases to be paid.
15. The information described in subsection (2) or (3), as applicable, with respect to the potential impact of the transfer to the successor pension plan, as it might affect other benefits (i.e., benefits other than pension benefits and ancillary benefits) of the eligible employee that were provided by the original employer.

(2) The notice given by the administrator of the Ontario Public Service Employees' Union Pension Plan or the Public Service Pension Plan must describe the potential impact of the transfer of assets from the original pension plan to the successor pension plan, as it might affect other benefits (i.e., benefits other than pension benefits and ancillary benefits) of the eligible employee that were provided by the original employer.

(3) The notice given by the administrator of the Healthcare of Ontario Pension Plan, the OMERS Primary Pension Plan or the VON Canada Pension Plan must indicate that the transfer of assets from the original pension plan to the successor pension plan may have an impact on other benefits (i.e., benefits other than pension benefits and ancillary benefits) of the eligible employee that were provided by the original employer.

Notice re benefits, etc., under successor pension plan

10. The administrator of the successor pension plan must give each eligible employee a notice containing the following information:

1. The name of the successor pension plan and its provincial registration number.
2. The eligible employee's name and date of birth.
3. The accumulated amount of his or her contributions to the pension fund, including interest credited to the contributions.

4. If the eligible employee is a member or former member of the pension plan when the notice is given,
 - i. an estimate of the amount of pension that would be payable to him or her under the successor pension plan at the normal retirement date, if the employee elects to make the transfer, and a description of how the estimate was calculated,
 - ii. the earliest date on which he or she would be eligible to receive an unreduced pension under the successor pension plan,
 - iii. an estimate of the amount of the pension that would be payable under the successor pension plan at that date if the employee elects to make the transfer, and a description of how the estimate was calculated, and
 - iv. an estimate of the amount of the pension that would be payable under the successor pension plan at that date if the employee does not elect to make the transfer, and a description of how the estimate was calculated.
5. If the eligible employee is a retired member of the pension plan when the notice is given,
 - i. an estimate of the amount of pension that would be payable to him or her under the successor pension plan, if he or she elects to make the transfer, and a description of how the estimate was calculated,
 - ii. the name of his or her spouse, if any, as indicated on the records of the administrator and the type of joint and survivor pension selected when the eligible employee became a retired member.
6. The number of years of service that would be credited to the eligible employee under the successor pension plan, if he or she elects to make the transfer.
7. A description of any options available to the eligible employee if, after the transfer, the amount transferred would not result in the same number of years of service being credited to the eligible employee under the successor pension plan as were credited to him or her under the original pension plan.
8. The deadline for electing an option described in paragraph 6.
9. The name of any person designated by the eligible employee as a beneficiary for the purposes of the pre-retirement death benefit under section 48 of the Act.

10. If applicable, the formula for computing the eligible employee's pension benefit under the original pension plan.
11. A description of any indexation provisions applicable to the pension benefit.
12. Particulars of any integration of the eligible employee's pension entitlement with pensions payable under the *Canada Pension Plan* or the *Old Age Security Act* (Canada) and the effect of such integration.
13. Particulars of any benefit payable in the event of the eligible employee's death, other than those required under section 44 or 48 of the Act.
14. Particulars of any benefit payable in the event of the termination of the eligible employee's employment.
15. Particulars of any bridging benefit or special allowance and the date on which it ceases.