

Caution:

This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.

CONSULTATION DRAFT

ONTARIO REGULATION

to be made under the

PENSION BENEFITS ACT

CONVERSIONS TO TARGET BENEFITS UNDER SECTION 81.0.2 OF THE ACT

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Application

1. This Regulation applies with respect to every conversion of benefits to target benefits under section 81.0.2 of the Act.

Interpretation

2. (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.

Additional criteria re proposed conversion

3. (1) The following criteria are prescribed for the purposes of paragraph 7 of subsection 81.0.2 (2) of the Act:

1. If the pension plan provides both defined benefits and defined contribution benefits, the total market value of the plan assets in respect of defined contribution benefits

held in any part of the pension fund that also holds assets in respect of benefits proposed to be converted must not exceed five per cent of the total market value of the plan assets in respect of benefits proposed to be converted.

2. At the end of the previous year, no more than 95 per cent of the members of the plan were employed by one employer.
3. During the previous year, either of the following circumstances existed:
 - i. At least 15 employers made contributions to the plan.
 - ii. At least 10 per cent of the members of the plan were employed by two or more employers.
4. The pension plan is not a jointly sponsored pension plan.
5. Employee contributions to the pension fund in respect of the benefit do not exceed employer contributions to the pension fund in respect of the benefit.

(2) For the purposes of paragraph 1.2 of subsection 81.0.2 (2) of the Act, the benefits proposed to be converted do not need to be determined in part with reference to the value of the assets of the pension fund if the reduction of the benefits is prohibited by the applicable legislation of a designated jurisdiction and the exemption in subsection (3) of this section applies in respect of the benefits.

(3) For the purposes of paragraph 5 of subsection 81.0.2 (2) of the Act, the reduction of the benefits provided by a pension plan may be prohibited by the applicable legislation of a designated jurisdiction, but only if, at the end of the plan's last fiscal year, no more than 10 per cent of the members entitled to benefits proposed to be converted have a benefit whose reduction is prohibited by a designated jurisdiction.

(4) For the purposes of this section, a group of employers that are affiliates within the meaning of the *Business Corporations Act* or the *Not-for-Profit Corporations Act, 2010* is deemed to be one employer.

(5) In this section,

“previous year” means, in relation to a pension plan, the fiscal year of the plan before the year in which the application for the Chief Executive Officer's consent to the proposed conversion is made.

Application for Chief Executive Officer's consent

4. For the purpose of subsection 81.0.2 (12) of the Act, the following information must be included in an application for the Chief Executive Officer's consent to the proposed conversion of benefits to target benefits:

1. A copy of the proposed amendments to the pension plan relating to the proposed conversion.
2. If applicable, a statement by the administrator certifying compliance with the consultation requirement in subsection 81.0.2 (9) of the Act.
3. A statement by the administrator certifying that the criteria mentioned in subsection 81.0.2 (2) of the Act have been satisfied.
4. A statement by the administrator certifying that all benefits provided by the plan that are not defined contribution benefits, including benefits in respect of employment in Ontario and in any designated jurisdictions, are proposed to be converted.

Effective date of conversion

5. (1) The effective date of a conversion of benefits to target benefits must be after the day on which the Chief Executive Officer consents to the proposed conversion and no later than 12 months after that day.

(2) Amendments to the pension plan to convert benefits to target benefits must be filed under section 12 of the Act no later than 60 days after the effective date of conversion.

Report to be filed

6. Within nine months after the effective date of a conversion of benefits to target benefits under section 81.0.2 of the Act, the administrator of the pension plan shall file a report under section 14 of the General Regulation. For the purpose of the report, the effective date of the conversion shall be used as the valuation date.

Cancellation of special payments

7. (1) For the purpose of subsection 81.0.2 (15) of the Act, if all of the following circumstances exist, the requirement to make special payments on or after the effective date of the conversion is cancelled:

1. The Chief Executive Officer consents to the conversion of benefits to target benefits under section 81.0.2 of the Act.
2. The special payments relate to a solvency deficiency, a reduced solvency deficiency, a consolidated prior solvency deficiency or a specified consolidated prior solvency deficiency identified in a report with respect to the pension plan and the report has a valuation date that is before the effective date of the conversion.

(2) For the purpose of this section,

“specified consolidated prior solvency deficiency” has the same meaning as in subsection 6.0.5 (3) of the General Regulation.

Commencement

8. [Commencement]