

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

Amending Reg. 909 of R.R.O. 1990

(GENERAL)

1. Section 21 of Regulation 909 of the Revised Regulations of Ontario, 1990 is amended by adding the following subsection:

(2) In the case of a person who exercises their entitlement under paragraph 2 of subsection 73 (2) of the Act, the amount to be transferred must be transferred into a life income fund.

2. The Regulation is amended by adding the following section:

Limitations re entitlement to transfer

22.2.1 (1) The limitations set out in this section apply with respect to a person's entitlement under paragraph 2 of subsection 73 (2) of the Act to the transfer of an amount into a life income fund.

(2) The following limitations apply if the person entitled to the transfer is a retired member of the pension plan:

1. If the person has a qualifying spouse or former spouse, and if the pension benefit payable to the qualifying spouse or former spouse is payable for the life of the person, the person is not entitled to the transfer unless the qualifying spouse or former spouse gives their consent.
2. If, upon the person's death, another person is entitled to a survivor benefit under the pension plan, the person is not entitled to the transfer unless the other person gives their consent.

(3) The following limitations apply if the person entitled to the transfer is a qualifying spouse or former spouse of a retired member of the pension plan:

1. If the pension benefit payable to the qualifying spouse or former spouse is payable for the life of the retired member, the qualifying spouse or former spouse is not entitled to the transfer unless the retired member gives their consent.

(4) The person's direction under subsection 42 (4) of the Act about their entitlement must include the following declarations:

1. Depending upon the circumstances,
 - i. the person's declaration that there is no qualifying spouse or former spouse who is entitled to payment of a pension benefit which is payable for the life of the retired member, or
 - ii. a declaration signed by the qualifying spouse or former spouse who is entitled to payment of the pension benefit stating that they consent to the transfer under subsection 42 (1) of the Act.
2. Depending upon the circumstances,
 - i. the person's declaration that no other person is entitled to a survivor benefit under the pension plan upon the person's death, or
 - ii. a declaration signed by the person entitled to the survivor benefit stating that they consent to the transfer under subsection 42 (1) of the Act.
3. Depending upon the circumstances,
 - i. the person's declaration that they are not a qualifying spouse or former spouse who is entitled to payment of a pension benefit which is payable for the life of the retired member, or
 - ii. a declaration signed by the retired member stating that they consent to the transfer under subsection 42 (1) of the Act.

(5) In this section,

“qualifying spouse or former spouse” means a spouse or former spouse who is entitled to payment of a pension benefit by virtue of an order made under Part I (Family Property) of the *Family Law Act* or under a family arbitration award or a domestic contract.

3. Paragraph 12 of subsection 28 (2) of the Regulation is amended by striking out the portion before subparagraph i and substituting the following:

12. In the case of a plan providing defined benefits or target benefits,

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4. (1) Subsection 29 (2) of the Regulation is amended by striking out “in respect of a person who exercises his or her entitlement under subsection 73 (2) of the Act” and substituting “in respect of a person who exercises their entitlement under paragraph 1 of subsection 73 (2) of the Act”.

(2) Subsection 29 (2.1) of the Regulation is amended by striking out “subsection 14 (2) or (3)” and substituting “subsection 14 (2), (3) or (3.1)”.

(3) Section 29 of the Regulation is amended by adding the following subsection:

(2.2) If a pension plan is being wound up, the minimum commuted value of a pension in respect of a person who exercises their entitlement under paragraph 2 of subsection 73 (2) of the Act is determined as follows:

1. Calculate the commuted value of the person’s pension as of the effective date of the wind up in accordance with section 3500 (“Pension Commuted Values”) of the *Standards of Practice* of the Actuarial Standards Board, published by the Canadian Institute of Actuaries, as amended from time to time, but as if the person were a member who would receive an immediate pension and as if subsection 14 (1) of the Act applied in respect of the pension plan.
2. Adjust the calculation under paragraph 1 in order to reflect the pension payments made from the effective date of the wind up to the beginning of the month in which the transfer is made under subsection 42 (1) of the Act.

(4) Subsection 29 (5) of the Regulation is amended by striking out “a defined benefit” and substituting “a defined benefit or a target benefit”.

(5) Clause 29 (7) (b) of the Regulation is amended by adding “or target benefits” after “defined benefits”.

5. (1) Subsection 1 (1) of Schedule 1.1 to the Regulation is amended by adding the following paragraph:

7. A person who is entitled to make a transfer under clause 42 (1) (b) of the Act by exercising their entitlement under paragraph 2 of subsection 73 (2) of the Act.

(2) Section 8 of Schedule 1.1 to the Regulation is amended by adding the following subsection:

(3.2) Despite subsection (2.1), if the assets are transferred into the receiving fund under subsection 21 (2) of this Regulation, the owner cannot make a withdrawal or transfer described in subsection (2.1).

Commencement

6. [Commencement]