

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 O. Reg. 287/11

(FAMILY LAW MATTERS)

1. Subsection 2 (4) of Ontario Regulation 287/11 is amended by striking out “Subsections 19 (1) and (1.2) of the General Regulation” at the beginning and substituting “Subsections 19 (1) and (1.2) of the General Regulation and subsections 17 (1) and (3) of Ontario Regulation [O. Reg. # for new target benefits regulation] (Target Benefits) made under the Act”.

2. (1) Subsection 3 (2) of the Regulation is amended by adding the following paragraphs:

2.1 The commuted value of pension benefits that are target benefits.

2.2 The commuted value of a deferred pension or pension that is provided with respect to target benefits.

(2) Subsection 3 (2.1) of the Regulation is revoked and the following substituted:

(2.1) For a pension plan described in subsection 14 (2) or (3) of the Act, if a family law valuation date is before the day Ontario Regulation [O. Reg. # of this regulation] comes into force, the methods and actuarial assumptions referred to in subsection (2) of this section must be consistent with section 3500 of the *Standards of Practice* as if subsection 14 (1) of the Act applied in respect of the pension plan.

(3) Subsection 3 (5) of the Regulation is amended by striking out “his or her employment” and substituting “the member’s employment”.

(4) Section 3 of the Regulation is amended by adding the following subsections:

(7) If, under a pension plan, a member is entitled to both pension benefits that are defined contribution benefits and pension benefits that are target benefits, the preliminary value of the member's pension benefits is determined separately for the defined contribution benefits and for the target benefits and, for each, is determined with reference to the corresponding period of the member's employment or membership that is credited under the pension plan for the purposes of calculating the pension benefits.

(8) Subsection (7) applies, with necessary modifications, with respect to the preliminary valuation of a deferred pension that is provided with respect to defined contribution benefits and a deferred pension that is provided with respect to target benefits, if they are being provided separately under the same pension plan.

3. (1) Subsection 6 (2) of the Regulation is amended by striking out "defined benefits" in the portion before paragraph 1 and substituting "defined benefits or target benefits".

(2) Paragraph 1 of subsection 6 (5) of the Regulation is revoked and the following substituted:

1. The member would meet all of the other eligibility requirements for their entitlement to be paid the unreduced pension, if they continue their employment or membership in the pension plan on the same terms to the earliest date on which the unreduced pension could commence.

(3) Section 6 of the Regulation is amended by,

- (a) striking out "his or her employment or membership" wherever it appears and substituting in each case "the member's employment or membership"; and
- (b) striking out "he or she" wherever it appears and substituting in each case "they".

4. (1) Subsection 7 (2) of the Regulation is amended by striking out "defined benefits" in the portion before paragraph 1 and substituting "defined benefits or target benefits".

(2) Subsection 7 (4) of the Regulation is amended by striking out "he or she" and substituting "they".

5. Section 8 of the Regulation is amended by striking out "defined benefits" and substituting "defined benefits or target benefits".

6. (1) Subsection 9 (1) of the Regulation is amended by striking out "defined benefits" and substituting "defined benefits or target benefits".

(2) Subsection 9 (2) of the Regulation is amended by striking out “defined benefits” in the portion before clause (a) and substituting “defined benefits or target benefits”.

7. Subsections 16 (2) and (3) of the Regulation are revoked and the following substituted:

(2) If, under a pension plan, a member is entitled to both pension benefits that are defined contribution benefits and pension benefits that are either defined benefits or target benefits, the imputed value of the member’s pension benefits is,

- (a) determined separately for the defined contribution benefits and for the defined benefits or target benefits; and
- (b) determined for each with reference to the corresponding period of the member’s employment or membership that is credited under the pension plan for the purposes of calculating the pension benefits.

(3) Subsection (2) applies, with necessary modifications, with respect to the imputed value of a deferred pension that is provided with respect to defined contribution benefits and a deferred pension that is provided with respect to either defined benefits or target benefits, if the deferred pensions are being provided separately under the same pension plan.

8. Section 18 of the Regulation is revoked and the following substituted:

Imputed value of pension benefits, etc. (defined benefits and target benefits)

18. The imputed value of a member’s pension benefits that are defined benefits or target benefits, a former member’s deferred pension that is provided with respect to defined benefits or target benefits or a retired member’s pension that is provided with respect to defined benefits or target benefits is the amount calculated using the formula,

$$G \times H/J$$

in which,

“G” is the preliminary value of their pension benefits, deferred pension or pension,

“H” is that portion of their period of employment or membership that is credited under the pension plan for the purpose of calculating the pension benefits, deferred pension or pension and that falls within the period that begins on the starting date for the imputed value and ends on the family law valuation date, and

“J” is the entire period of their employment or membership that is credited under the pension plan for the purpose of calculating the pension benefits, deferred pension or pension as of the family law valuation date.

9. Section 19 of the Regulation is amended by striking out “his or her pension benefits” wherever it appears and substituting in each case “their pension benefits”.

10. Paragraph 2 of subsection 21 (2) of the Regulation is amended by striking out “his or her spouse” and substituting “their spouse”.

11. (1) Paragraph 2 of section 23 of the Regulation is amended by striking out “defined benefits” and substituting “defined benefits or target benefits”.

(2) Section 23 of the Regulation is amended by adding the following paragraph:

- 4. \$800, if the pension plan provides a separate target benefit and a defined contribution benefit to the member or former member.

12. (1) Paragraph 3 of subsection 24 (2) of the Regulation is amended by striking out “he or she” wherever it appears and substituting in each case “they”.

(2) Paragraph 1 of subsection 24 (6) of the Regulation is amended by striking out “he or she” and substituting “they”.

(3) Paragraphs 2 and 3 of subsection 24 (6) of the Regulation are revoked and the following substituted:

- 2. If applicable, a description of the option available to the former spouse under subsection 67.4 (2) of the Act for a division of the retired member’s pension and for payment of the former spouse’s share to them. The statement must also indicate the following:
 - i. How the former spouse applies for a division.
 - ii. The information that the former spouse will be required to provide in such an application.
 - iii. For a former spouse of a retired member receiving a pension that is a target benefit, a statement that the pension may be reduced.
- 3. If applicable, a description of the option available to the former spouse under subsection 67.4 (10) of the Act to request payment of a single pension instead of payment of a share of the retired member’s pension and payment of a pension on the death of the retired member. The statement must also indicate the following:
 - i. How the former spouse applies for payment of a single pension.

- ii. The information that the former spouse will be required to provide in such an application.
- iii. For a former spouse of a retired member receiving a pension that is a target benefit, a statement that the pension may be reduced.

(4) Paragraph 2 of subsection 24 (7) of the Regulation is revoked and the following substituted:

- 2. If the plan provides defined benefits, the transfer ratio of the plan as of the valuation date of the most recent report under section 3 or 14 of the General Regulation that was filed with the Chief Executive Officer before the date of the statement of imputed value.
- 2.1 If the plan provides target benefits, for a statement to a retired member and their spouse, the going concern funded ratio of the plan as of the valuation date of the most recent report under section 3 or 14 of the General Regulation that was filed with the Chief Executive Officer before the date of the statement of imputed value.

13. Paragraph 2 of subsection 26 (2) of the Regulation is amended by striking out “his or her spouse” at the end and substituting “their spouse”.

14. (1) Section 28 of the Regulation is amended by adding the following subsection:

(2.1) For a plan that provides target benefits, the administrator is not required to make the transfer if, after the administrator gave the statement of imputed value to the spouses but before the eligible spouse gave the administrator the completed application for transfer, the retired member’s pension ceased to be available for apportionment for family law purposes as a result of a transfer or otherwise.

(2) Section 28 of the Regulation is amended by adding the following subsection:

(4.1) For a plan that provides target benefits, if the pension plan is being wound up in whole and if the administrator receives the application for the transfer before any assets attributable to the retired member are distributed,

- (a) the transfer of the lump sum is subject to the same restrictions on the wind up of the pension plan as the distribution of the retired member’s pension; and
- (b) the maximum lump sum that may be transferred is 50 per cent of the retired member’s entitlement on the wind up.

15. (1) The French version of subsection 29 (2) of the Regulation is amended by striking out “le délai dans lequel doit être transféré” and substituting “le délai accordé pour transférer”.

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

(4) Despite subsection (1), if the transfer is subject to a restriction described in clause 28 (4.1) (a) on the wind up of the pension plan, the deadline for transferring the lump sum is the same as the deadline for transferring the retired member’s pension benefits on the wind up.

16. (1) Subsections 30 (2) and (3) of the Regulation are revoked and the following substituted:

(2) If, under a pension plan, a member is entitled to both pension benefits that are defined contribution benefits and pension benefits that are either defined benefits or target benefits, the imputed value of the member’s pension benefits must be updated separately for the defined contribution benefits and for either the defined benefits or target benefits.

(3) Subsection (2) applies, with necessary modifications, with respect to the imputed value of a deferred pension that is provided with respect to defined contribution benefits and a deferred pension that is provided with respect to either defined benefits or target benefits, if the deferred pensions are being provided separately under the same pension plan.

(2) Paragraph 2 of subsection 30 (5) of the Regulation is amended by striking out “defined benefits” wherever it appears and substituting in each case “defined benefits or target benefits”.

17. Subsections 31 (2) and (3) of the Regulation are revoked and the following substituted:

(2) If, under a pension plan, a member is entitled to both pension benefits that are defined contribution benefits and pension benefits that are either defined benefits or target benefits, the adjustment to the member’s pension benefits is determined separately for the defined contribution benefits and for the defined benefits or target benefits, based on the amounts transferred from the respective portion of the pension benefits, if any.

(3) Subsection (2) applies, with necessary modifications, with respect to the adjustment to a deferred pension that is provided with respect to defined contribution benefits and a deferred pension that is provided with respect to defined benefits or target benefits, if the deferred pensions are being provided separately under the same pension plan.

18. Section 32 of the Regulation is amended by striking out “his or her pension benefits” in the portion before the formula and substituting “their pension benefits”.

19. (1) Subsection 33 (1) of the Regulation is revoked and the following substituted:

Adjustment of member's pension benefits (defined benefits or target benefits)

(1) If the member's pension benefits are defined benefits or target benefits, the adjusted amount of the member's pension benefits is determined in accordance with this section.

(2) Paragraph 3 of subsection 33 (3) of the Regulation is amended by striking out "he or she" and substituting "the member".

(3) Paragraph 4 of subsection 33 (3) of the Regulation is amended by striking out "his or her accrued pension benefits" in the portion before the formula and substituting "the member's accrued pension benefits".

(4) Paragraph 2 of subsection 33 (4) of the Regulation is amended by striking out "he or she" and substituting "the member".

20. (1) Subsection 34 (1) of the Regulation is revoked and the following substituted:

Adjustment of former member's deferred pension (defined benefits or target benefits)

(1) If the former member's deferred pension is provided with respect to defined benefits or target benefits, the adjusted amount of the former member's deferred pension is determined in accordance with this section.

(2) Paragraph 1 of subsection 34 (3) of the Regulation is amended by striking out "he or she" and substituting "the former member".

21. (1) Paragraph 2 of subsection 35 (2) of the Regulation is amended by striking out "his or her spouse" at the end and substituting "their spouse".

(2) Subsection 35 (3) of the Regulation is amended by striking out "his or her entitlement" and substituting "their entitlement".

22. Subsection 38 (3.1) of the Regulation is revoked and the following substituted:

(3.1) For a pension plan described in subsection 14 (2) or (3) of the Act, if a family law valuation date is before the day Ontario Regulation [O. Reg. # of this regulation] comes into force, the methods and assumptions referred to in subsection (3) of this section must be consistent with section 3500 of the *Standards of Practice* as if subsection 14 (1) of the Act applied in respect of the pension plan.

23. Subsection 44 (1) of the Regulation is revoked and the following substituted:

Application of Part

(1) If, as of the family law valuation date, a retired member is receiving payment of pension benefits that are variable benefits and pension benefits that are either defined benefits or target benefits under a pension plan,

- (a) the preliminary value and imputed value of the retired member's pension benefits is determined separately for the variable benefits and for the defined benefits or target benefits; and
- (b) this Part applies in respect of the pension benefits that are variable benefits and Part II applies in respect of the pension benefits that are defined benefits or target benefits.

24. Subsection 51 (2) of the Regulation is amended by striking out “his or her defined contribution account balance” and substituting “the retired member’s defined contribution account balance”.

25. Paragraph 2 of subsection 52 (2) of the Regulation is amended by striking out “his or her spouse” and substituting “their spouse”.

26. (1) Paragraph 2 of subsection 55 (2) of the Regulation is amended by striking out “he or she” and substituting “they”.

(2) Paragraph 1 of subsection 55 (5) of the Regulation is amended by striking out “he or she” and substituting “they”.

27. Paragraph 2 of subsection 57 (2) of the Regulation is amended by striking out “his or her spouse” at the end and substituting “their spouse”.

Commencement

28. [Commencement]