

**DRAFT Proposed Amendments to Funding Rules in General Regulation 909 under the
Pension Benefits Act:
Contribution holidays / Actuarial gains / Benefit improvements**

- 1. Subsection 5 (2) of Regulation 909 is amended by striking out “clauses 1 (d) and (e)” and substituting “clause 1 (e)”.**

Note: This is a housekeeping change.

- 2. Section 5 of the Regulation is amended by adding the following subsection:**

(23) Subsections (25) to (29) apply with respect to an amendment to a pension plan that increases pension benefits or ancillary benefits, but does not apply to an amendment that provides an optional increase in a pension to reflect an increase in the Consumer Price Index.

(24) For the purposes of subsections (25) to (29), the going concern funded ratio of a pension plan is calculated using the formula,

$$A / B$$

in which,

“A” is the value of the assets of the pension plan determined on the basis of a going concern valuation, including accrued and receivable income but excluding the amount of any letter of credit held in trust for the pension plan, and

“B” is the value of the going concern liabilities of the pension plan including, where a pension plan provides for escalated adjustments, the estimated future costs of the escalated adjustments.

(25) Where an amendment to a pension plan increases pension benefits or ancillary benefits, the following rules apply with respect to the pension plan:

1. Any increase in the going concern unfunded liability that results from the amendment shall be liquidated, with interest at the going concern valuation interest rate, by equal monthly instalments over a period of eight years beginning on the valuation date of the report in which the increase in the going concern unfunded liability was determined.

2. Any increase in the solvency deficiency that results from the amendment shall be liquidated, with interest at the rates described in subsection (2), by equal monthly instalments over a period of five years beginning on the valuation date of the report in which the increase in the solvency deficiency was determined.

(26) Despite subsection (25), the following rules apply if, after the administrator of a pension plan files an amendment that increases pension benefits or ancillary benefits, the plan has a transfer ratio of less than 0.85 or a going concern funded ratio of less than 0.85:

1. The amount of additional assets needed to raise the transfer ratio to 0.85 and the going concern funded ratio to 0.85 shall be determined and the employer, or a person or entity required to make contributions under a pension plan on behalf of an employer, shall immediately make a payment to the pension fund equal to or greater than that amount.
2. The employer, or a person or entity required to make contributions under a pension plan on behalf of an employer, shall make special payments to liquidate any remaining going concern unfunded liability and any solvency deficiency relating to the amendment. The liquidation shall be carried out over five years beginning on the valuation date of the report in which the going concern unfunded liability or the solvency deficiency was determined.

(27) Despite subsections (25) and (26), the rules in subsection (28) apply with respect to the following pension plans:

1. Pension plans listed in subsection 1.3.1 (3).
2. Specified Ontario multi-employer pension plans, for reports with a valuation date before September 1, 2017.

(28) If an administrator of a pension plan mentioned in subsection (27) files an amendment that increases pension benefits or ancillary benefits, paragraph 1 of subsection (25) applies with respect to the pension plan. However, if after the administrator files such an amendment, the going concern funded ratio of the plan is less than 0.85, the employer, or a person or entity required to make contributions under a pension plan on behalf of an employer, shall make special payments to liquidate any going concern unfunded liability relating to the amendment over five years beginning on the valuation date of the report in which the going concern unfunded liability was determined.

(29) If an administrator of a pension plan files an amendment that increases pension benefits or ancillary benefits to confer a benefit improvement that is required by law, the rules in subsection (25) apply with respect to the pension plan.

3. (1) Section 7 of the Regulation is amended by adding the following subsection:

(2.1) Despite subsection (1), if a pension plan is amended to increase pension benefits or ancillary benefits that results in an increase in the going concern unfunded liability, any actuarial gain disclosed in a report shall be applied to any scheduled special payments such that the total monthly rate of the special payments in respect of going concern unfunded liabilities in the current or previously filed reports shall not be changed but the amortization period or periods for the special payments shall be reduced.

4. Subsections (3), (3.1), (3.2) and (4) of section 7 of the Regulation are revoked and the following substituted:

(3) An actuarial gain may be applied to reduce or suspend contributions for normal costs required to be made by the employer, by a person or entity required to make contributions on behalf of the employer, by the members of the pension plan or by any of them, for a fiscal year of the plan ending after [**date**], if the following criteria are satisfied:

1. The documents that create and support the pension plan and the pension fund do not prohibit the reduction or suspension of contributions.
2. No special payments are required under section 5 during the year.
3. No special payments are deferred under subsection 5 (1.0.1) during the year.
4. The administrator files with the Superintendent within the first 90 days of the fiscal year an actuarial cost certificate for the fiscal year.
5. The maximum amount of the actuarial gain that is applied to reduce or suspend the contributions for the year, does not exceed the lesser of,
 - i. the amount if any by which the going concern assets reported in the actuarial cost certificate filed for the fiscal year exceed the sum of the estimated going concern liabilities and the prior year credit balance as reported in the certificate; and
 - ii. the amount of the actuarial gain that, if deducted from the solvency assets, would reduce the estimated transfer ratio of the pension plan reported in the actuarial cost certificate to 1.05.

6. The administrator gives notice of the reduction or suspension of contributions for normal costs of the plan to all of the following within the first 90 days of the fiscal year:
 - i. Every member of the plan.
 - ii. Every trade union that represents members of the plan.
 - iii. Every former member of the plan.
 - iv. Every retired member of the plan.
 - v. The advisory committee, if any, established under section 24 of the Act for the plan.

(4) The notice under paragraph 6 of subsection (3) must contain the following:

1. A statement that the documents that create and support the pension plan and the pension fund do not prohibit the reduction or suspension of contributions.
2. The period during which contributions for normal costs required to be made by the employer, by a person or entity required to make contributions on behalf of the employer, by the members of the pension plan or by any of them will be reduced or suspended.
3. A statement that the reduction or suspension of contributions will not reduce the estimated transfer ratio of the pension plan to less than 1.05.
4. The estimated transfer ratio of the pension plan, calculated using the solvency assets and estimated solvency liabilities determined in the actuarial cost certificate.

(5) For a designated plan or an individual pension plan, an actuarial gain may be applied to reduce or suspend contributions for normal costs required to be made by the employer, by a person or entity required to make contributions on behalf of the employer, by the members of the pension plan or by any of them, for a fiscal year of the plan ending after [**date**], if the criteria in paragraphs 1, 2, 3 and 4 of subsection (3) are satisfied.

(6) Any actuarial gain not applied under subsections (1), (2) or (3) may be applied to pay the annual assessment to the Guarantee Fund otherwise required by subsection 37 (1) to be paid by the employer if the following criteria are satisfied:

1. No special payments are required under section 5 during the year
2. No special payments are deferred under subsection 5 (1.0.1) during the year.

3. The amount of the actuarial gain that is deducted from the solvency assets to pay the annual assessment for the year does not exceed an amount that would reduce the estimated transfer ratio of the pension plan to less than 1.05.
4. The administrator files with the Superintendent within the first 90 days of the fiscal year an actuarial cost certificate for the fiscal year.

Note: Consequential amendments to Reg. 909 and possibly other PBA regulations may be required, depending on the final numbering.

Commencement

- 5. This Regulation comes into force on ...**