***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. 193/18

(PURCHASE OF PENSION BENEFITS FROM AN INSURANCE COMPANY - SECTION 43.1 OF THE ACT)

1.  (1)  The definition of “date of the subsequent adjustment” in subsection 1 (2) of Ontario Regulation 193/18 is amended by striking out “subclause 43.1 (6) (a) (i) or (b) (i) of the Act” wherever it appears and substituting in each case “subsection 43.1 (6) or (6.1) of the Act”.

(2)  The definition of “solvency ratio” in subsection 1 (2) of the Regulation is revoked.

2.  Section 2 of the Regulation is revoked and the following substituted:

Notices required under subss. 43.1 (3) and (7) of the Act

**2.**(1)  The notices that are required to be given under subsections 43.1 (3) and (7) of the Act to a former member or to a surviving spouse entitled to a deferred pension under section 48 of the Act must include the following information:

1. A statement that the administrator has purchased a deferred pension and, if applicable, an ancillary benefit for the former member or the surviving spouse from an insurance company.

2. A statement that the deferred pension and, if applicable, the ancillary benefit purchased from the insurance company is the same as the deferred pension and, if applicable, the ancillary benefit that the former member or the surviving spouse would have received from the pension plan had the purchase not been made.

3. The date of the purchase.

4. The amount of pension benefits and ancillary benefits to which the former member or the surviving spouse would be entitled on early, normal and postponed dates for commencement of the payment of benefits.

5. The insurance company’s group policy number and the certificate number issued by the insurance company that confirms the purchase of the deferred pension and, if applicable, the ancillary benefit.

6. The name and contact information of the insurance company.

7. A statement that the administrator intends to file with the Superintendent a certificate prepared and signed by an actuary that the administrator has complied with subsection 43.1 (4) of the Act or section 5 or 5.1 of this Regulation, as applicable, in respect of the purchase.

8. In the case of a former member,

i. a statement that if the administrator is discharged under section 43.1 of the Act, the former member is no longer a former member under the Act for any purpose, except in certain circumstances where the pension plan is wound up and has a surplus,

ii. if the former member is entitled to surplus under the pension plan at the date of the purchase, a statement that in the event that the pension plan is wound up in the future and the pension plan has a surplus, the former member would be entitled to surplus, and

iii. if it is not clear that the former member is entitled to surplus under the pension plan at the date of the purchase, a statement that in the event that the pension plan is wound up in the future and the pension plan has a surplus, the former member may be entitled to surplus.

9. In the case of a surviving spouse, a statement that if the administrator is discharged under section 43.1 of the Act, the surviving spouse no longer has an entitlement to any payments from the pension plan.

(2)  The following information must be included in the notices that are required to be given under subsections 43.1 (3) and (7) of the Act to a retired member, a surviving spouse receiving a joint and survivor pension under section 44 of the Act, a surviving spouse receiving a pension under section 48 of the Act or a retired member’s spouse who is receiving a specified amount or a portion of the pension instalment otherwise payable to the retired member in accordance with section 67.4 or 67.6 of the Act, as applicable:

1. A statement that the administrator has purchased a pension and, if applicable, an ancillary benefit for the person from an insurance company.

2. A statement that the pension and, if applicable, the ancillary benefit purchased from the insurance company will provide or is providing the person with payments in the same amount and form as the pension or ancillary benefit, as the case may be, that the person would have received from the pension plan had the purchase not been made.

3. The date of the purchase.

4. The insurance company’s group policy number and the certificate number issued by the insurance company that confirms the purchase of the pension and, if applicable, the ancillary benefit.

5. The name and contact information of the insurance company.

6. A statement that the administrator intends to file with the Superintendent a certificate prepared and signed by an actuary that the administrator has complied with subsection 43.1 (4) of the Act or section 5 or 5.1 of this Regulation, as applicable, in respect of the purchase.

7. In the case of a retired member,

i. a statement that if the administrator is discharged under section 43.1 of the Act, the retired member is no longer a retired member under the Act for any purpose, except in certain circumstances where the pension plan is wound up and has a surplus,

ii. if the retired member is entitled to surplus under the pension plan on the date of the purchase, a statement that in the event that the pension plan is wound up in the future and the pension plan has a surplus, the retired member would be entitled to surplus, and

iii. if it is not clear that the retired member is entitled to surplus under the pension plan on the date of the purchase, a statement that in the event that the pension plan is wound up in the future and the pension plan has a surplus, the retired member may be entitled to surplus.

8. In the case of a surviving spouse receiving a joint and survivor pension under section 44 of the Act, a surviving spouse receiving a pension under section 48 of the Act or a retired member’s spouse who is receiving a specified amount or a portion of the pension instalment otherwise payable to the retired member in accordance with section 67.4 or 67.6 of the Act, a statement that if the administrator is discharged under section 43.1 of the Act, the person no longer has an entitlement to any payments from the pension plan.

3.  Clause 3 (f) of the Regulation is revoked and the following substituted:

(f) the insurance company shall provide a certificate confirming the purchase to the person in respect of whom the purchase was made.

4.  (1) Section 4 of the Regulation is amended by adding “of the Act” after “paragraph 6 of subsection 43.1 (4)” in the portion before paragraph 1.

(2)  Subparagraph 3 iv of section 4 of the Regulation is revoked and the following substituted:

iv. The name and address or last known address of the person entitled to receive a notice under subsection 43.1 (3) of the Act.

(3)  Subparagraph 3 vii of section 4 of the Regulation is revoked and the following substituted:

vii. In the case of a surviving spouse in respect of whom the purchase was made, any records necessary to determine the surviving spouse’s pension or deferred pension and, if applicable, ancillary benefit.

viii. If a spouse of a retired member is receiving a specified amount or a portion of the pension instalment otherwise payable to the retired member in accordance with section 67.4 or 67.6 of the Act, any records necessary to determine the amount or portion of the pension instalment payable to the person.

(4)  Paragraph 4 of section 4 of the Regulation is revoked and the following substituted:

4. When the administrator files the certificate referred to in subsection 43.1 (5), (6) or (6.1) of the Act, the administrator shall,

i. provide the Superintendent with the name and address or last known address of the person entitled to receive a notice under subsection 43.1 (3) of the Act, and

ii. file a copy of the contract to purchase the pension, deferred pension or ancillary benefit.

5.  (1)  Section 5 of the Regulation is amended by striking out “subclauses 43.1 (6) (a) (i) and (b) (i) of the Act” in the portion before paragraph 1 and substituting “subsections 43.1 (6) and (6.1) of the Act”.

(2)  Paragraph 1 of section 5 of the Regulation is amended by striking out “paragraphs 1, 2, 3 and 4 of subsection 43.1 (4) of the Act” and substituting “subsection 43.1 (4) of the Act”.

(3)  Paragraph 4 of section 5 of the Regulation is amended by striking out “subsection 43.1 (6) of the Act” and substituting “subsection 43.1 (6) or (6.1) of the Act”.

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

**5.1**For the purpose of subsection 43.1 (6.2) of the Act, the purchase must meet the following funding requirement on the date of the purchase of the pension, deferred pension or ancillary benefit under section 43 of the Act:

1. The solvency ratio of the pension plan shall be at least equal to or greater than 0.85.

Commencement

7.  [Commencement]