***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. Subsection 22 (1) of Regulation 909 of the Revised Regulations of Ontario, 1990 is amended by revoking the portion before clause (a) and substituting the following:

(1) An insurance contract under which a deferred or immediate life annuity will be provided resulting from the transfer of the commuted value of a pension benefit, the transfer of an amount from a retired member’s variable benefit account or as the result of a purchase from a life income fund, a locked-in retirement income fund or a locked-in retirement account shall set out that,

. . . . .

(2) Section 22 of the Regulation is amended by adding the following subsection:

(3) Clause 22 (1) (e) does not apply to a life annuity purchased under subsection 39.1 (4) of the Act.

2. (1) Section 44 of the Regulation is amended by adding the following subsection:

(1.1) If a pension plan provides defined contribution benefits and authorizes payment of pension benefits that are variable benefits under subsection 39.1 of the Act, the administrator shall advise the member, in addition to the information referred to in subsection (1), that the member may elect to receive variable benefits from the pension plan and the administrator shall provide the member with information about variable benefits, including the following information:

1. A statement that if the member has a spouse who would be entitled to a joint and survivor pension under section 44 of the Act, that the variable benefit account cannot be established unless the retired member and the spouse have waived the entitlement to receive payment of pension benefits in the form of a joint and survivor pension in accordance with subsection 46(1) of the Act.

2. A description of the condition set out in subsection 39.1 (2.2) of the Act required in order for the waiver mentioned in paragraph 1 to be effective.

3. If a variable benefit account is established for the member, the entire amount credited to the member in his or her defined contribution account must be transferred to the member’s variable benefit account.

4. An estimate of the amount in the member’s defined contribution account at the member’s retirement date or the date at which the member has indicated that he or she intends to retire.

5. The minimum and maximum limits on the amount of income that may be paid out of a variable benefit account during a calendar year, as set out in paragraphs 9 and 10 of section 2 of *[insert O. Reg. # for new regulation to be made under the Pension Benefits Act re Variable Benefits]*.

6. Subject to maximum and minimum limits referred to in paragraph 5, that the member will be able to select, at any time but no more than twice in the same calendar year, the amount, frequency and method of payment.

(2) Subsection 44 (2) of the Regulation is revoked and the following substituted:

(2) An administrator who does not receive adequate advance notice of the intended retirement necessary to comply with subsections (1) and (1.1) shall provide the information referred to in subsection (1) and, if applicable, subsection (1.1) within thirty days following receipt by the administrator of a completed application required for commencement of the pension.

3. (1) Paragraph 1 of subsection 51.1 (3) of the Regulation is revoked and the following substituted:

1. An application must be made to the administrator of the pension plan for,

i. the withdrawal from the pension fund of the commuted value of the former member’s deferred pension or the retired member’s pension, or

ii. in the case of a retired member receiving variable benefits, the withdrawal from the retired member’s variable benefit account.

(2) Section 51.1 of the Regulation is amended by adding the following subection:

(8) Subparagraph 2 ii of subsection (3) and subsections (4), (5) and (6) do not apply in respect of the withdrawal of funds from a retired member’s variable benefit account.

4. Section 1 of Schedule 1.1 to the Regulation is revoked and the following substituted:

(1) The following persons may purchase, in accordance with this section, a life income fund that is governed by this Schedule:

1. A former member or retired member who is entitled to make a transfer under clause 42 (1) (b) of the Act or subsection 42 (12) of the Act.

2. A spouse or former spouse of a person described in paragraph 1.

3. A retired member or specified beneficiary who is entitled to make a transfer under subsection 39.1 (4) of the Act.

4. A spouse of a retired member who is entitled to make a transfer under subsection 39.1.1 (7) of the Act.

5. A person who has previously transferred an amount under subsection 39.1 (4), subsection 39.1.1 (7), clause 42 (1) (b) or subsection 42 (12) of the Act into a locked-in retirement account.

6. A person who has previously transferred an amount under paragraph 2 of subsection 67.3 (2) or paragraph 2 of subsection 67.8 (2) of the Act into a life income fund or a locked-in retirement account.

7. An eligible spouse who is entitled to transfer a lump sum under paragraph 2 of subsection 67.3 (2) or paragraph 2 of subsection 67.8 (2) of the Act.

(2) The fund must be purchased using all or part of the amount transferred under subsection 39.1 (4), subsection 39.1.1 (7), clause 42 (1) (b), subsection 42 (12), paragraph 2 of subsection 67.3 (2) or paragraph 2 of subsection 67.8 (2) of the Act, or using all or part of the assets in a life income fund, a locked-in retirement account or a locked-in retirement income fund.

(3) The purchaser must have the written consent of his or her spouse in order to make the purchase but,

(a) the consent of a spouse who is living separate and apart from the purchaser on the date of purchase is not required;

(b) the consent of a spouse is not required if none of the money to be transferred into the fund is derived, directly or indirectly, from a pension benefit provided in respect of any employment of the purchaser; and

(c) the consent of a spouse is not required in respect of a transfer under subsection 39.1 (4) of the Act.

5. Subsections 5 (1) and (2) of Schedule 3 to the Regulation are revoked and the following substituted:

(1) The following persons may purchase a locked-in retirement account in accordance with this section:

1. A former member or retired member who is entitled to make a transfer under clause 42 (1) (b) of the Act or subsection 42 (12) of the Act.

2. A spouse or former spouse of a person described in paragraph 1.

3. A retired member or specified beneficiary who is entitled to make a transfer under subsection 39.1 (4) of the Act.

4. A spouse of a retired member who is entitled to make a transfer under subsection 39.1.1 (7) of the Act.

5. A person who has previously transferred an amount under subsection 39.1 (4), subsection 39.1.1 (7), clause 42 (1) (b) or subsection 42 (12) of the Act into a locked-in retirement account.

6. A person who has previously transferred an amount under paragraph 2 of subsection 67.3 (2) or paragraph 2 of subsection 67.8 (2) of the Act into a locked-in retirement account.

7. An eligible spouse who is entitled to transfer a lump sum under paragraph 2 of subsection 67.3 (2) or paragraph 2 of subsection 67.8 (2) of the Act.

(2) The account must be purchased using all or part of the amount transferred under subsection 39.1 (4), subsection 39.1.1 (7), clause 42 (1) (b), subsection 42 (12), paragraph 2 of subsection 67.3 (2) or paragraph 2 of subsection 67.8 (2) of the Act, or using all or part of the assets in a locked-in retirement account.

6. Clause 5 (1) (a) of Schedule 3 to the Regulation is revoked and the following substituted:

(a) to the pension fund of a pension plan registered under the pension benefits legislation in any Canadian jurisdiction;

(a.1) if a pension plan registered under the pension benefits legislation in any Canadian jurisdiction so permits, to the variable benefit account of the pension plan;

(a.2) to the pension fund of a pension plan provided by a government in Canada;

Commencement

7. [Commencement]