

**ONTARIO REGULATION**

made under the

**PENSION BENEFITS ACT**

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

(GENERAL)

Note: Regulation 909 has previously been amended. For the legislative history of the Regulation, see the Table of Consolidated Regulations – Detailed Legislative History at [www.e-Laws.gov.on.ca](http://www.e-Laws.gov.on.ca).

**1. Subsection 28 (1) of Regulation 909 of the Revised Regulations of Ontario, 1990 is amended by striking out the portion before clause (a) and substituting the following:**

(1) A notice of the intended wind up of a pension plan, required by subsection 68 (2) of the Act, must include,

. . . . .

**2. The Regulation is amended by adding the following section after the heading “Plan Wind ups — General”:**

**28.2** For the purposes of clause 69 (1) (i) of the Act, the following are prescribed as events and circumstances in which the Superintendent by order may require the wind up of a pension plan:

1. The pension plan does not have any members. It has only former members, retired members and other beneficiaries who are not members.
2. Members of the pension plan no longer accrue pension benefits or ancillary benefits under the plan and employees are no longer permitted to become members of the pension plan under section 31 of the Act.

**3. The heading preceding section 30 of the Regulation is revoked.**

**4. The Regulation is amended by adding the following sections:**

## GROW-IN BENEFITS

**30.1** (1) For the purposes of paragraph 3 of subsection 74 (1) of the Act, the following circumstances constitute activating events:

1. An employee resigns not more than 60 days before the termination date specified in a written notice of termination of employment given to him or her. However, this is not an activating event if subsection 74 (1.1) of the Act applies with respect to the termination.

(2) For the purposes of subsection 74 (1.1) of the Act, termination of employment is not an activating event in any of the following circumstances:

1. The employee was hired on the basis that his or her employment is to terminate on the expiry of a definite term or on the completion of a specific task.
2. The employee is a construction employee within the meaning of Ontario Regulation 285/01 made under the *Employment Standards Act, 2000* (Exemptions, Special Rules and Establishment of Minimum Wage).
3. The employee is only on temporary lay-off within the meaning of subsection 56 (2) of the *Employment Standards Act, 2000*.

**30.2** (1) This section governs elections under section 74.1 of the Act to exclude certain pension plans and their members from the operation of section 74 of the Act.

(2) The following are the deadlines for making and filing an election under subsection 74.1 (1) of the Act for a jointly sponsored pension plan and for its members:

1. For a pension plan that is a jointly sponsored pension plan on July 1, 2012, the deadline is July 1, 2013.
2. For a pension plan that becomes a jointly sponsored pension plan after July 1, 2012, the deadline is one year after the date on which the administrator files a statement under subsection 3.2 (1) of this Regulation certifying that the plan satisfies the criteria to be a jointly sponsored pension plan.

(3) The following are the deadlines for making and filing an election under subsection 74.1 (2) of the Act for a multi-employer pension plan and for its members:

1. For a pension plan that is a multi-employer pension plan on July 1, 2012, the deadline is July 1, 2013.

2. For a pension plan that becomes a multi-employer pension plan after July 1, 2012, the deadline is one year after the date on which the plan is registered as, or is amended to become, a multi-employer pension plan.

(4) The effective date of the election cannot be earlier than the date on which the election is filed.

(5) The filed election must state the name and registration number of the pension plan, the name and contact information of the administrator and the effective date of the election.

(6) The administrator of the pension plan must give notice of the election and the effective date of the election to the following persons and entities in the manner indicated:

1. Notice to each person who, on the effective date of the election, is a member: notice is to be included in the first annual statement under section 27 of the Act that is transmitted to members after the election is filed.
2. Notice to each person who, on or after the effective date of the election, is eligible or is required to become a member: notice is to be included in the information to be provided to the person under subsection 25 (1) of the Act, within the period specified in section 38 of this Regulation.
3. Notice to each trade union that represents members: notice is to be given in writing within 30 days after the election is filed.
4. Notice to the advisory committee, if any, established under section 24 of the Act: notice is to be given in writing within 30 days after the election is filed.

(7) The administrator shall certify to the Superintendent that each notice required by paragraph 1, 3 or 4 of subsection (6) has been given, and the date on which the notice was given, and the administrator shall file the certificate for each notice within 60 days after the notice to which it relates is required by subsection (6).

(8) If an election is rescinded under subsection 74.1 (6) of the Act, the effective date of the rescission cannot be earlier than the date on which notice of the rescission is filed.

(9) Notice of the rescission of an election must state the name and registration number of the pension plan, the name and contact information of the administrator, the effective date of the election and the effective date of the rescission.

(10) The administrator of the pension plan must give notice of the rescission and the effective date of the rescission to the following persons and entities in the manner indicated:

1. Notice to each person who, on the effective date of the rescission, is a member: notice is to be included in the first annual statement under section 27 of the Act that is transmitted to members after notice of the rescission is filed.
2. Notice to each trade union that represents members: notice is to be given in writing within 30 days after notice of the rescission is filed.
3. Notice to the advisory committee, if any, established under section 24 of the Act: notice is to be given in writing within 30 days after notice of the rescission is filed.

(11) The administrator shall certify to the Superintendent that each notice required by subsection (10) has been given, and the date on which the notice was given, and the administrator shall file the certificate for each notice within 60 days after the notice to which it relates is required by subsection (10).

**5. The Regulation is amended by adding the following heading before section 31:**

LIABILITY ON WIND UP

**6. The Regulation is amended by adding the following heading before section 33:**

PENSION BENEFITS GUARANTEE FUND AND BENEFITS ON WIND UP