

Slide 1



The slide features a header with three images: a green sign with a white arrow pointing left and right and the word 'CHANGE' below it; a group of four business professionals (three men and one woman) smiling and looking at a document; and a document titled 'EMPLOYEE TERMINATION' with a pair of glasses and a pen resting on it.

Webinar on the Administrator's Obligations on Termination of Employment

Financial Services Commission of Ontario

December 4, 2012

Welcome to FSCO's Webinar on the Administrator's Obligations on Termination of Employment.

We will begin this webinar in one minute to give everyone a chance to join us.

Welcome Message

◆ **This webinar:**

- Provides information on plan administrators' obligations related to termination of employment
- Focuses on the July 1, 2012 changes, consent benefits and highlights changes related to member statements

◆ **Please complete the survey at the end of this presentation**



Dave Gordon

12/19/2012Financial Services Commission of Ontario ²

Good morning! My name is Dave Gordon and I'm the Deputy Superintendent of Pensions at the Financial Services Commission of Ontario.

I'm pleased to welcome you to today's webinar, which will focus on providing information on a plan administrator's obligations and responsibilities when a plan member terminates employment. Our discussion will cover a plan member's benefit entitlements relating to regular termination, retirement and death.

We are holding this webinar for a number of reasons:

- First, a number of legislative changes came into effect on July 1, 2012. In addition to the information we posted on our website in July this year, this webinar will highlight some of the changes, specifically those changes that affect entitlements on termination of employment.
- Second, over the last few years, FSCO has observed a lack of understanding of what constitutes a consent benefit in regards to the deemed consent provisions of the Pension Benefits Act. As a plan administrator, you need to ensure that you understand the terms of the pension plan you administer, as well as what constitutes a consent benefit under the legislation. If your plan provides consent benefits, you

must also understand when the employer's consent is deemed to have been given under the legislation.

- Similarly, we have also encountered some issues with the treatment of indexation, or escalated adjustment provisions, which we also want to share with you.
- Through our on-site plan examinations, we have found numerous instances where member statements issued by plan administrators annually and on termination were deficient, as they did not contain all the required statutory disclosure items. As a plan administrator, you must ensure that you are aware of the disclosure of information requirements under the PBA and Regulation 909, and that every required disclosure item is included in the member statements that you issue.

If you are the administrator of a multi-jurisdictional pension plan, you also need to be aware of the disclosure requirements of all the other jurisdictions in which you have plan members. However, today's presentation will only focus on Ontario's requirements.

We've condensed this material as much possible. However, due to the complex nature of this topic, a fair amount of detail has been provided. Therefore, we may go slightly over the hour we planned for this webinar. We appreciate your time and patience.


And finally, since we plan to continue hosting webinars for our pension stakeholders, we'd appreciate it if you could please complete the short survey that will appear at the end of this presentation. It will only take a few minutes, and will greatly assist us in identifying topics for new webinars and in making future improvements.

Our two speakers, Pauline Alcendor and Herman Tse will now deliver the presentation.


I thank you for your time, and hope you find this webinar both informative and helpful.

Slide 3

Our Speakers



Pauline Alcendor



Herman Tse


12/19/2012

Financial Services
Commission of Ontario ³

Good morning, my name is **Pauline Alcendor**. I'll be hosting today's webinar with my co-presenter **Herman Tse**.

A Few Notes Before We Get Started

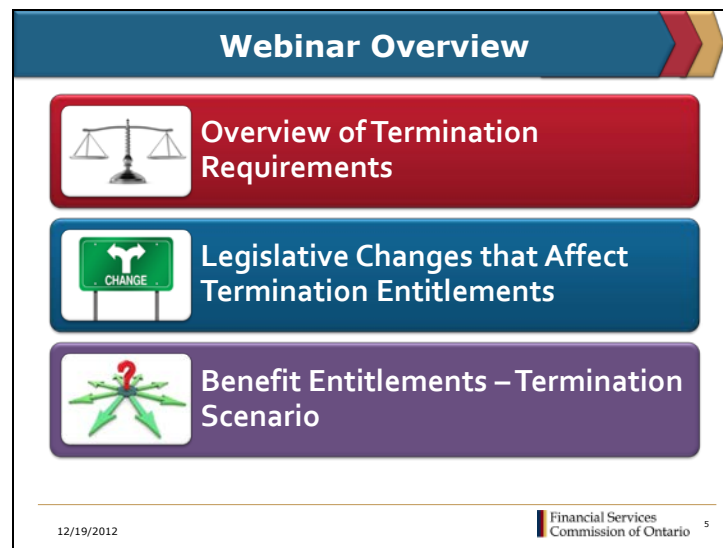
- ◆ When we say “**you**”, we are referring to plan administrators and their agents
- ◆ To ask a question, send an e-mail to pensionwebinar@fSCO.gov.on.ca
- ◆ A self-assessment question will be asked after each section of the presentation



Financial Services
Commission of Ontario 4

Before we get started, there are a few things you need to note:

- When we say “**you**” during this presentation, we’re referring to plan administrators or third parties that were hired by the administrator to provide these administrative duties.
- If you have questions about this presentation, please send us an email at pensionwebinar@fSCO.gov.on.ca. We’ll post all of your questions and answers on our website within a few weeks of this webinar. In addition, we will send you an email with links to the webinar recording, presentation slides, and questions and answers, once they’re posted on our website.
- This webinar is divided into three sections. After each section, we’ll ask you a self-assessment question and give you a few seconds to choose an answer from a list. Then we’ll provide the correct answer.



In this day and age, the new normal is that most of us will have more than one employer during our working lifetime. Staying with the same employer is not so common any more, as people move from one job to the next. And for many of us, if our employer offers a pension plan, it is definitely an added bonus! If an employer offers a pension plan, and the employee leaves, he or she will have some form of pension entitlement. In this case, the plan member will want to know that his or her entitlement has been calculated and valued accurately.

This webinar is designed to provide information about the rights and entitlements of a plan member when his or her employment and plan membership is terminated under the Ontario Pension Benefits Act and Regulation 909 – which will be referred to as the PBA and Regulation from here on.

In the first section of this presentation, we'll provide an overview of what is required of the plan administrator when a member's employment and membership is terminated, as well as some information on disclosure requirements.

In the second section, we'll talk about the July 1, 2012 legislative changes that affect benefit entitlements.

And, in the final section, we'll go over one termination scenario.


Slide 6



Let's begin with an Overview of the Termination Requirements.

Defined Contribution vs. Defined Benefit Plans

- ◆ A plan administrator's obligations on termination of employment are the same for both DC and DB plans
- ◆ In a DC plan, the commuted value = the account value
- ◆ Generally, there are no ancillary benefits in a DC plan



12/19/2012

Financial Services
Commission of Ontario 7

We will begin this section with a very brief discussion of a plan administrator's obligations relating to defined contribution (DC) and defined benefit (DB) pension plans.

In the context of termination of employment, a plan administrator's obligations are the same for both DC and DB plans. The data is verified, the entitlements are calculated, a disclosure statement is issued to the member, and a benefit is paid in accordance with the member's election.

On termination of employment, the commuted value of a member's pension benefit in a DC plan is merely his or her account balance with interest. Generally, there are no ancillary benefits in a DC plan. However, a DC plan may have ancillary benefits, if there is a prior DB component. Therefore, when we discuss certain topics, such as grow-in benefits, ancillary benefits and consent benefits, the discussion would only apply to a DB plan, or a pension plan that has a DB component.

Termination of Employment and Plan Membership

Termination by member (s. 38 of PBA)

- ◆ Occurs when an employee leaves an employer, retires or dies
- ◆ In a SEPP, a termination of employment = termination of plan membership
- ◆ In a MEPP, termination of employment is not necessarily termination of plan membership
- ◆ In a MEPP, a part-time/laid-off member may terminate plan membership, if no contributions are paid, or required to be paid, for 24 consecutive months (or less, as specified in plan)
- ◆ Excludes situations where 2 plans have a reciprocal agreement, or where there is a transfer of business/assets

12/19/2012Financial Services Commission of Ontario ⁸

The PBA's definition of "termination" in relation to employment, includes retirement or death. A termination of employment occurs when an employee leaves his or her job, or if the employee retires or dies.

Ordinarily, in a single employer pension plan (or SEPP), an individual's membership in the pension plan ends when his or her employment is terminated. However, this is not necessarily true for a multi-employer pension plan (or MEPP).

A pension plan is a MEPP if it is established and maintained for employees of two or more unrelated employers. MEPPs are common in certain industries, such as the construction industry where employees work on different projects, moving from one employer to another when a project comes to an end. MEPPs frequently come about as a result of collective bargaining where a MEPP has been established for the members of that particular union. Examples include the unions that represent construction trades, such as plumbers, carpenters and electricians, just to name a few.

For example, a plumber who is a member of Local 000 and a member of a MEPP, moves from one employer to another depending on where he or she is sent by the union. Although the plumber's employment may be terminated when he or she leaves one employer, section 38(4) of the PBA provides that for the purpose of determining entitlement to a deferred pension, his or her employment with that employer is deemed not to have been terminated until plan membership is terminated.

A member of a MEPP may voluntarily terminate his or her plan membership, if no contributions are paid into the pension fund, by or on behalf of the member for 24 consecutive months (or for a shorter period of time as specified in the pension plan). In such circumstances, the member is deemed to have terminated his or her employment when his or her plan membership is

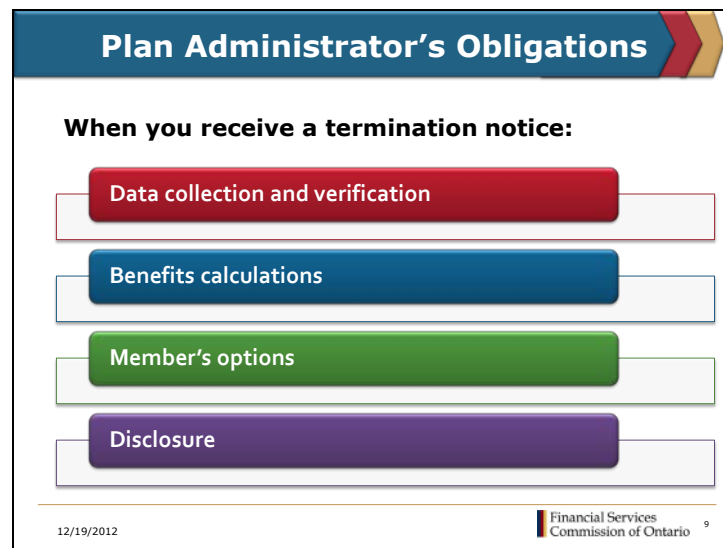
terminated. To terminate plan membership, the member must deliver written notice of his or her election to the plan administrator at the end of the 24 month period (or a shorter period of time, as specified in the pension plan), whichever is later. Membership is not terminated on the date that contributions cease to be paid, or are required to be paid.

There are two other circumstances where a member may voluntarily terminate his or membership in the plan after 24 months with no contributions. This includes:

- if a member is employed on a less than a full-time basis; or
- if a member has been laid off.

These circumstances apply to both a MEPP and a SEPP.

Note that a member may **not** voluntarily terminate membership in a pension plan, if contributions are not paid, or required to be paid, because the member has joined another pension plan and there is a reciprocal transfer agreement between the two pension plans, or the membership in the successor plan is as a result of a sale or divestment.



When you receive a notice of termination of employment or cessation of plan membership from a member, or a notice of death from the spouse or beneficiary of a member, former member or retired member, you usually consider a number of factors.

Please note from here on, when we refer to a “termination of employment”, we mean cessation of membership as well.

Although it will vary slightly from plan to plan, you normally consider the following when you receive a termination notice.

Data collection and verification. As you are aware, you need to ensure you have all relevant data relating to the member, to enable you to determine the member’s pension entitlements. This may include for example, member information such as marital status, and the name and date of birth of the spouse, if applicable. If it’s a contributory pension plan, you may need to verify the contributions that were made up to the member’s termination date, or necessary salary information to calculate a final average earnings benefit. There are strict timelines for providing disclosure statements to members or other individuals who are entitled to a payment under the plan. If a third party service provider is doing the calculations on your behalf, you need to ensure a process is in place, so

they receive the required information in a timely fashion, to enable them to meet the time lines.


Having a process in place is also important for a MEPP. Before the calculation can be done, the employer of a terminated member needs to notify the plan administrator about the termination, and provide all relevant information relating to the terminated member. This must be done in a timely fashion, if the time lines in the PBA and Regulation are to be met.

Once you know the reason for the termination, you can determine which benefits, options and disclosure are required. Different disclosure requirements and options are available for the member, spouse or beneficiary, depending on the reason for termination of employment. There may be other calculations that you may have to do, such as shortened life expectancy or family law value calculations. However, for this webinar, we'll only focus on three — regular termination, retirement and death.

Lastly, you need to issue a disclosure statement based on the member's reason for termination of employment. The detailed requirements of the disclosure statements and timelines are set out in sections 41, 43 and 44 of the Regulation respectively.

Disclosure

- ◆ **Requirement to provide statements (s. 28 of PBA)**
- ◆ **Timing and content prescribed in Regulation:**
 - deferred pension (s. 41)
 - small benefit payments or transfers under s. 50(1) of PBA (s. 41(1.1))
 - retirement (s. 44)
 - death (s. 43)



12/19/2012Financial Services
Commission of Ontario ¹⁰

Although disclosure is the last step, we'll begin with a discussion of:

- the disclosure requirements; and
- the recent changes that affect the various termination statements.

The requirement to provide statements is set out in section 28 of the PBA. The minimum content and the timing related to the statement is set out in the regulations. Members have a legislated period of time to make an election, before the default election comes into play.


The recent amendments set out additional disclosure requirements that you need to be aware of. They also introduce a simplified termination statement for small benefit payments or transfers under section 50(1) of the PBA. The contents of this statement are set out in section 41(1.1) of the Regulation.

We won't go over all the disclosure statement requirements. Instead, we'll focus on the recent changes that affect the termination statement provided to a member whose employment is terminated, for reasons other than retirement or death, and who is entitled to a deferred pension. There are no significant changes relating to death/survivor benefits statements, and termination statements that are provided to retired members.

Timing for Statements

If a member is entitled to a deferred pension:
(s. 41 of Reg.)

- ◆ Provide a termination statement within 30 days of termination of employment
- ◆ If you are not notified before the termination takes place, provide a termination statement within 30 days following receipt of notice
- ◆ Communicate options available to the member and time period for exercising options
- ◆ Comply with the election or direction within prescribed time period



12/19/2012 Financial Services
Commission of Ontario 11

You must issue a termination statement to a member who is entitled to a deferred pension within 30 days following his or her termination of employment.

If you are not provided with a notice of termination before the termination takes place, the statement must be provided within 30 days, after you receive such notice.

Within 60 days of the date of termination, section 20 of the Regulation requires the member to deliver a completed direction to you, if he or she is electing a portability option under section 42 of the PBA. This is why the time period in which any options relating to transfers available under section 42 must be included in the termination statement. The member should be advised that if a completed direction is not delivered to you within this timeframe, he or she will receive a deferred pension from the plan.

You must comply with the direction within 60 days of receiving all information from the member.


You are, no doubt, thinking about situations where this timing does not work. For example, if you receive information about the termination 60 days after the termination date, the member will not be able to comply with the time line. We

recognize that the legislation does not address this situation. our expectation is that you would provide the information as soon as possible using the time line you would have, if you received the notice on time. We expect that you would provide the former member with a reasonable period of time to make the election. FSCO considers a reasonable period of time to be 60 days, after you provide the notice.

Timing for Statements

If a person is entitled to a small amount:
(s. 22.1 & s. 41(1.1) of Reg.)

- ◆ Provide a simplified termination statement within 30 days of termination of employment
- ◆ If you are not notified before the termination takes place, provide a termination statement within 30 days following receipt of notice
- ◆ Communicate that member elections must be made within 90 days after the administrator notifies the member of his/her options (s. 22.1(2))
- ◆ Comply with the direction within 60 days of receiving it (s. 22.1(3))



12/19/2012 Financial Services
Commission of Ontario 12

The timing for issuing a simplified statement and complying with the member's direction is the same as discussed on the previous slide.

One exception is that, within 90 days of the date the administrator's notice is received, the member must deliver a completed direction to you, if he or she is electing to make a transfer to an RRSP or RRIF.

You must comply with the direction within 60 days after receiving it.

Timing for Statements

If a member is retiring: (s. 44 of Reg.)

- ◆ Advise member of his/her options **60 days** before his/her normal retirement date, or date of intended retirement
- ◆ If you don't receive adequate notice of intended retirement, advise member of his/her options within **30 days** following receipt of a completed application
- ◆ Provide termination statement to a retired member within **30 days** after his/her retirement
- ◆ If you didn't receive notice prior to retirement, provide termination statement **30 days** after receipt of a completed application

12/19/2012Financial Services
Commission of Ontario 13

Next up is when a member retires.

60 days before a member's normal retirement date, or the date the member has indicated that he or she intends to retire, you must advise the member of any options relating to the payment of his or her pension, and the time period in which the options may be exercised.

If you don't receive adequate advance notice of the intended retirement, you must advise the member of his or her options, and the time period for exercising the options, within 30 days following receipt of the completed application required to start the pension.

These time limits are set out in sections 44(1) and (2) of the Regulation.


Note that the transfer options under section 42 of the PBA are not available to a former member who is entitled to an immediate pension payment, or to an early retirement option under section 41 of the PBA, unless the pension plan provides for it. Therefore, if the plan you administer provides transfer options to members in these situations, then you must advise your members of the portability options in section 42. These portability options must be within the time limits discussed earlier. This must be done before you provide the member with his or her termination statement.

The termination statement must be given to a retired member within 30 days, after his or her retirement. Or, if you didn't receive notification before retirement, provide the termination statement within 30 days of receipt of a completed application that is required for starting the pension payments.

Timing for Statements

If a member, former member or retired member dies: (s. 43 of Reg. 909)

- ◆ Provide a death/survivor benefits statement within **30 days**, after you receive notice of death
- ◆ A surviving spouse who is entitled to a pre-retirement death benefit must make an election within **90 days** after receiving the statement
- ◆ Comply with the spouse's direction within **60 days** after receipt



12/19/2012Financial Services Commission of Ontario 14

If a member, former member or retired member dies, you must issue a statement to his or her spouse, beneficiary, estate, or whoever is entitled to receive the benefit (for example, dependent children). In this situation, you must provide the statement within 30 days, after you receive notice of the individual's death.

Death benefits may be paid to a:

- surviving spouse of a member or former member who died before the deferred pension began; or
- surviving spouse of a member who continued to work after his or her normal retirement date, and died before the payment of pension benefits.

The options are:

- a lump sum payment that is equal to the commuted value of the deferred pension; and
- a lump sum payment of any amount payable as an excess amount under section 39(4) of the PBA, and additional voluntary contributions (AVCs) and any pre-1987 contributions under section 48(8.1) of the PBA, plus interest on each;
- an amount equal to the commuted value of the deferred pension that may be paid into a registered retirement savings arrangement; or
- an immediate or deferred pension, which is at least equal to the commuted value of the deferred pension.

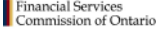
Section 43(2) of the Regulation provides that the surviving spouse must make an election within 90 days after receiving the death/survivor benefits statement. If an election is not made within this time period, under section 48(4) of the PBA the spouse is deemed to have elected to receive an immediate pension. You must comply with the spouse's direction within 60 days after receiving it.

However, if the statement is going to the beneficiary or personal representative of the member or former member, the only option is a lump sum payment equal to the commuted value of the deferred pension, plus any excess amount under section 39(4) and any amount arising from section 48(8.1) of the PBA.

Self-Assessment Question # 1

Which of the following statements is true?

- a) A termination of employment automatically means a termination of plan membership.
- b) Generally, when a member of a MEPP terminates employment, his/her plan membership continues.
- c) When a part-time employee's employment is terminated, his/her plan membership is also terminated.
- d) A member of a MEPP can't terminate his/her membership, even if contributions aren't paid, or required to be paid, on his/her behalf for 24 consecutive months.
- e) None of the above.

12/19/2012 Financial Services
Commission of Ontario ¹⁵

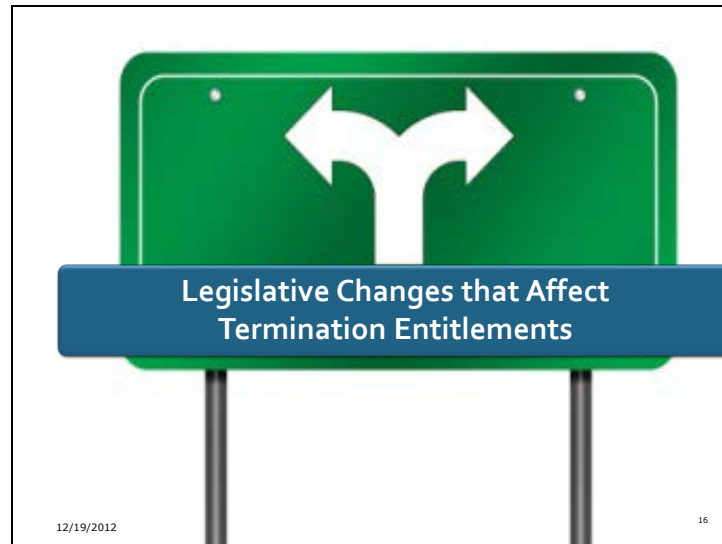
We'd now like to ask you a self-assessment question.

Which of the following statements is true?

- a) A termination of employment automatically means a termination of plan membership.
- b) Generally, when a member of a MEPP terminates employment, his or her plan membership continues.
- c) When a part-time employee's employment is terminated, his/her plan membership is also terminated.
- d) A member of a MEPP can't terminate his/her membership, even if contributions aren't paid, or required to be paid, on his/her behalf for 24 consecutive months.
- e) None of the above.

We'll give you about 30 seconds to answer the question.

The correct answer is b.




We'll now go over the legislative changes that came into effect on July 1, 2012, and that impact benefit entitlements on termination of employment.

Recent Changes

Legislative changes that affect benefit entitlements:

1. Immediate vesting (s. 36(1) & s. 37(1) of PBA)
2. Additional disclosure requirements
3. Unlocking for small amounts
 - to former or retired members (s. 50(1) of PBA)
 - to the surviving spouse of a retired member (s. 44(7) of PBA)
 - transfer rights
4. Grow-in benefits (s. 74 of PBA)



12/19/2012 Financial Services Commission of Ontario 17

The first change that affects benefit entitlements is immediate vesting. Before July 1, 2012, plan members had to meet certain minimum legislative requirements to become “vested”.

As of July 1, 2012, immediate vesting came into effect. This means that there are no minimum legislative requirements that a member must meet to become vested. In other words, as soon as an Ontario employee becomes a member of a pension plan, he or she is immediately vested, and his or her pension benefit is locked in. Furthermore, it means all members who terminate employment on or after July 1, 2012 are automatically vested.

Immediate vesting applies to benefits earned before July 1, 2012, and is not dependent on whether the member works on a part-time or full-time basis.

Also, immediate vesting does not affect the existing two year maximum eligibility for membership requirement. The PBA continues to permit employers to impose a waiting period of up to two years, for joining a pension plan.

The second change is additional disclosure requirements. In a later slide, we’ll go over the new disclosure requirements that came into effect this past July, as well as which member statement is affected by these changes.

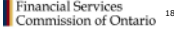
The third change relates to unlocking of small benefit amounts. In conjunction with immediate vesting and locking-in, section 50(1) of the PBA has been amended to increase the threshold for paying benefits by cash payment or an unlocked transfer, upon termination and retirement. Section 44(7) of the PBA now extends small benefit amount unlocking to survivor benefits. We'll discuss this topic more later on.

The last change is the eligibility to "grow-in" to certain benefits. Grow-in rights give eligible members of a defined benefit plan the right to grow-in to certain early retirement benefits that are provided under the terms of the plan, that they may not otherwise be entitled to receive. Before July 1, 2012, members were entitled to grow-in only when the plan was fully or partially wound up. Although partial wind ups with an effective date on or after July 1, 2012 were eliminated, the PBA was amended to expand the circumstances in which members are entitled to grow-in to certain benefits. A more detailed discussion about grow-in will follow.

**Changes to Termination Statement
– Deferred Pension**

Additional information to include:
(s. 41(1) of Reg.)

1. Date the member joined the plan and a statement that member's benefits have vested (s. 41(1)(c))
2. Date the member was employed by the employer (for all plans except MEPPs) (s. 41(1)(c.1))
3. Number of years of employment credited under the plan (s. 41(1)(c.2))
4. Amount of pension and ancillary benefits the member is entitled to on termination, and any options relating to the benefits at various retirement dates. And if applicable, an explanation of which options include benefit enhancements as a result of grow-in (s. 41(1)(e))

12/19/2012  18

Due to the July 1, 2012 legislative changes (O. Reg. 178/12), the termination statement that is given to a member who is entitled to a deferred pension must disclose the following information:

1. In addition to including the date the member joined the plan, you also need to state that the member's benefits have vested.
2. If your plan is not a MEPP, you must provide the date the member became employed by the employer.
3. Include the number of years of employment credited under the pension plan for the purpose of calculating the pension benefit.
4. You also need to provide the amount of pension benefits and ancillary benefits, and any options that the member is entitled to receive on termination, including at early, normal and postponed retirement dates. And, if applicable, an explanation of which options include benefit enhancements resulting from the application of grow-in. It's been our experience that termination statements don't generally disclose the actual dollar amount of pension benefits payable at various dates, other than the normal retirement date. For example, if a pension plan provides an unreduced pension at age 60, then the statement must now disclose the amount that is payable at age 60.

Members can't make an informed decision about their options, if they don't have all relevant information. It's therefore in the best interests of everyone, for administrators and their third-party service providers to now take the time to review and update the member's termination statements. This will ensure that the requirements of the PBA and Regulation are followed.

**Changes to Termination Statement
– Deferred Pension**

5. A statement that explains the member is:

- entitled to grow-in benefits, or
- not entitled to grow-in benefits because of s. 74(1.1) of PBA and an explanation why (s. 41(1)(e.1))

6. For payment of excess amount due to 50% rule on post-86 service accruals, or amount of AVCs, include:

- amount of any refund (s. 39(4) or s. 63(2) or (7) of PBA)
- any available options
- time period for exercising the options
- effect of member's election on his/her pension
- right of the member to transfer a lump sum into a registered retirement savings arrangement (s. 39(4.1) or 63(9) of PBA)

12/19/2012 Financial Services
Commission of Ontario 19

5. If the plan provides grow-in benefits and the member is entitled to these benefits, the termination statement must provide this information. If the member is not entitled to grow-in benefits because of section 74(1.1) of the PBA, the termination statement must state this and set out the reason why the member is not entitled to grow-in.


Although it's currently not required under the regulation, you may wish to consider addressing "grow-in" in all termination statements. For example, if a pension plan does not provide any grow-in benefits, you may wish to include this information in the termination statement. If the plan provides grow-in benefits and a member has not met the eligibility criteria for grow-in, then you may wish to include an explanation in the statement as to why the member is not eligible. We believe that it's in your best interests to provide as much information as possible, as this will minimize questions and complaints from plan members.


6. The 6th item involves payment of either the excess amount which arises in contributory pension plans due to the application of the 50% rule, or the amount of AVCs.

In either case, the termination statement must include the information shown on this slide.

Changes to Termination Statement – Deferred Pension

7. If small benefits are provided under the plan, use the simplified termination statement (s. 41(1.1) of Reg.)



12/19/2012  20

7. The last change relates to small benefits. This is something that we'll discuss in greater detail later on. In short, if your pension plan provides for small benefit unlocking, then you should issue a simplified termination statement in accordance with section 41(1.1) of the Regulation.

Annual Statements

- ◆ **Each member must receive a written statement that contains information set out in s. 40 of Reg. 909.**

- ◆ **Changes that came into effect on July 1, 2012:**
(Reg. 178/12)
 - date the member joined the plan and immediate vesting

- ◆ **Changes that came into effect on Jan. 1, 2012:**
(Reg. 177/11)
 - transfer ratio disclosure and explanation
 - additional disclosure for JSPPs electing solvency funding relief

12/19/2012Financial Services
Commission of Ontario 21

Although they don't directly relate to termination benefits, we want to draw your attention to the recent changes to the disclosure requirements for annual statements. As you know, on an annual basis, you're required under section 27 of the PBA to provide each member a written statement that contains the information set out in section 40 of the Regulation.

Currently, the PBA does not require you to provide annual statements to former and retired members. There are provisions in the PBA to this effect. However, they have not been proclaimed in force yet.

The recent changes include the following new requirements:

- The first change relates to a vesting statement.

- The second change is the disclosure of the plan's transfer ratio as of the valuation date, as set out in each of the two most recent valuation reports filed with FSCO. An explanation of the transfer ratio and how it relates to the level of funding of members' benefits is also required.

- The last changes relates to eligible jointly sponsored pension plans (or JSPPs). If you administer such a plan, and it decides to take advantage of solvency funding relief, the annual member statements must include additional information listed under section 40(1)(u) of the Regulation.


As mentioned earlier, there have been numerous instances where plan administrators issued deficient member statements, annually and on termination. In the case of annual statements, some had incorrect plan registration numbers, and some did not set out the earliest date the member was eligible to receive an unreduced pension, or the amount of pension benefit payable.

Annual statements that were issued to members in other jurisdictions did not always contain the information that is required by that province. For example, the annual statement that's provided to members in British Columbia must include a statement that explains the right to examine plan documents. There were instances where such a statement was not included in the annual statements that were provided to BC members.

Plan administrators should take some time to review all statements that they issue to plan members, to ensure they meet the legislative requirements of all designated jurisdictions.

Electronic Transmission

- ◆ **S. 30.1 of PBA provides authority to use electronic transmission**
 - effective July 1, 2012
 - notices, statements and other records may be sent electronically
 - person must provide his/her consent
 - electronic transmission must comply with Electronic Commerce Act, 2000



12/19/2012 Financial Services
Commission of Ontario 22

As of July 1, 2012, plan administrators may send notices, statements and other records electronically to members, former members, retired members, and other persons entitled to benefits under the pension plan, if the plan administrator has the person's permission to do so. However, the electronic means must comply with the Electronic Commerce Act, 2000.

Pension Benefit - Small Amount

- ◆ **Before July 1, 2012:** (s. 50(1))
 - Plans may pay former members the commuted value of a benefit, if annual benefit at NRD was not more than 2% of YMPE in termination year.

- ◆ **Effective July 1, 2012:** (s. 50(1))
 - Plans may pay former/retired members the commuted value of a benefit, if:
 1. annual benefit at NRD is not more than 4% of YMPE in termination year; or
 2. commuted value of benefit is less than 20% of YMPE in termination year

- ◆ Small benefits under s. 50(1) of PBA aren't subject to restrictions under s. 19 of Reg.

12/19/2012Financial Services
Commission of Ontario 23

Effective July 1, 2012, plans may pay former or retired members the commuted value of a benefit, if the annual benefit on the normal retirement date is not more than 4% of the YMPE in the termination year, or the commuted value of the benefit is less than 20% of the YMPE in the termination year.

The new rules apply to both DB and DC plans.


If the member is entitled to the small amount, you should issue the simplified termination statement referred to earlier.

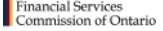
Note that if small benefits are paid, they're not subject to the restrictions on the amounts that can be transferred from a pension plan where the most recently determined transfer ratio is less than 1.0.

For more information on this topic, go to FSCO's website, select "Pensions", and click on "Legislative Changes effective July 1, 2012" under "What's New".

Pension Benefit - Small Amount

- ◆ **For pre-1987 service:** members are entitled to payment of a small amount that's ≤ **25%** of commuted value of deferred pension, if plan provides it (s. 50(2) of PBA)
- ◆ **Right to transfer small amount to a registered retirement savings arrangement** (s. 50(3) of PBA)
 - former/retired member **must** exercise right within 90 days (s. 22.1(2) of Reg.)
 - administrator **must** make transfer within 60 days (s. 22.1(3) of Reg.)



12/19/2012  24

There is another small amount that may be paid as a lump sum. Plans that were registered before January 1, 1988 may provide that upon termination of employment, a member who is entitled to a deferred pension is entitled to a payment of an amount not greater than 25% of the commuted value of the deferred pension in connection with his or her employment before January 1, 1987.

We want to draw your attention to a new requirement that came into effect on July 1, 2012.

For any of the small benefits amounts that are payable, the member, former member or retired member now has a right to require you to pay the amount into a registered retirement savings arrangement. He or she must deliver a direction to you within 90 days, after you notify the person that he or she is entitled to require such a transfer.


If you've received this type of direction, the Regulation requires that you make the payment into the registered retirement savings arrangement in accordance with section 50.1 of the PBA within 60 days of receiving it. This section states that if the amount to be paid into the registered retirement savings arrangement is greater than the amount prescribed under the Income Tax Act (or ITA) for such a transfer, you must pay the excess as a lump sum. Therefore, you need to be satisfied that the member, former member or retired member has RRSP room, before you make the payment, as you cannot pay an amount that exceeds the amount prescribed under the ITA.

Survivor Benefit - Small Amount

◆ **A pension plan may provide for payment of commuted value of survivor benefit as a lump sum, if at the date of death:** (s. 44(7) of PBA)

- annual survivor benefit payable is $\leq 4\%$ of YMPE*, or
- commuted value of survivor benefit is $<20\%$ of YMPE*

* This is the YMPE for the year the retired member died



12/19/2012 Financial Services
Commission of Ontario 25

Lump sum payment provisions for small survivor benefits also came into effect on July 1, 2012. Section 44(7) of the PBA allows a pension plan to provide for payment upon the death of a retired member, of the commuted value of the survivor benefit to the surviving spouse, if the criteria that are set out in this slide are met. These criteria mirror those for small benefit amounts for former or retired members discussed earlier. There is one difference – you would use the YMPE for the year the retired member died (as opposed to the year of termination of employment).

Survivor Benefit - Small Amount

- ◆ **Right to require transfer to a registered retirement savings arrangement (s. 44(8) of PBA)**
 - Surviving spouse may make request and deliver direction within 90 days (s. 22.1(2) of Reg.)
 - Transfer must be made within 60 days (s. 22.1(3) of Reg.)
 - Small amounts under s. 44(7) of PBA aren't subject to restrictions under s. 19 of Reg. 909

- ◆ **If 1st installment of retired member's pension is due before July 1, 2012, plan can only provide lump sum payment of small amount to surviving spouse, if he/she provides written consent (s. 44 (7.1) effective Oct. 1, 2012)**


12/19/2012 Financial Services
Commission of Ontario 26

And as shown on this slide, the surviving spouse has the right to require you to transfer the lump sum directly to a registered retirement savings arrangement. This is provided under section 44(8) of the PBA. The time lines discussed earlier that apply to small benefit payments to former and retired members, also apply to survivor small benefits.

If the first installment of the retired member's pension is due before July 1, 2012, the plan can only provide a lump sum payment of the small amount to a surviving spouse, if he or she provides written consent.

Grow-in Rules

- ◆ **Grow-in is also called the Rule of 55**
- ◆ **Eligibility criteria for grow-in:**
(s. 74 of PBA)
 - "activating event"
 - Ontario plan member
 - member's age + years of continuous employment or membership = at least 55 on effective date of activating event
- ◆ **Bridging benefits**
 - 10 years of continuous employment or membership



12/19/2012Financial Services
Commission of Ontario 27

Grow-in allows a member who meets certain criteria the right to an early retirement benefit that he or she might not otherwise have qualified for, because of the termination of the member's employment.

What are the criteria for grow-in?

1. The individual ceases to be a member of the plan as a result of certain circumstances which are referred to as "activating events". (We will discuss these activating events in the next slide.).
2. The member was employed in Ontario on the effective date of the activating event.
3. The member has met the "Rule of 55". This means that on the effective date of the activating event, the member's age plus years of continuous employment or membership add up to at least 55.

If all of these criteria are met, and the pension plan provides enhanced early retirement benefits (for example, early unreduced pension or subsidized reduction for an early retirement pension), the member has the right to receive the reduced or unreduced pension on the date he or she would have been entitled to it, if the activating event had not occurred, and if the individual's membership continued to that date.

If an individual has been a plan member for at least 10 years, or has at least 10 years of continuous employment, he or she will also be entitled to any bridging benefits under the plan.

As you can see, the ability to grow-in to benefits applies if your pension plan provides subsidized early retirement benefits. If your plan does not offer these benefits, there would be nothing for the member to grow-in to.


There are two key points to remember. First, the amount of pension that the member would be entitled to is based on the actual service or membership as of the effective date of the activating event. The grow-in provisions will determine when the pension benefit will start to be paid as a pension and the amount of the early retirement reduction.

Second, if the member meets the criteria and is entitled to grow-in benefits, these benefits (including bridging benefits) must be included in calculating the member's pension benefit, or the commuted value of the pension benefit.

Activating Events

◆ **Circumstances that trigger grow-in benefits, as of July 1, 2012:**
(s. 74(1) of PBA and s. 30.1 of Reg.)

- Wind up of a pension plan
- Employer terminates the member's employment, if effective date of termination is on or after July 1, 2012 (subject to limited exceptions)
- Member resigns before the date specified on termination notice (subject to limited exceptions)



12/19/2012 Financial Services
Commission of Ontario 28

As of July 1, 2012, the following circumstances are defined as “activating events” in the PBA:

1. The wind up of the pension plan.
2. The employer's termination of the member's employment, if the effective date of termination is on or after July 1, 2012. Exceptions to this requirement are outlined on the next slide.
3. The member resigns from his or her job before the termination date that was provided to him or her in a written notice of termination of employment.

To illustrate point 3, Jane just received written notice that her employment with Company ABC will end on December 31, 2012. In the meantime, Jane finds a new job and she needs to start immediately. Although her termination with Company ABC is before December 31st, she's entitled to grow-in benefits, if she meets the criteria discussed on the last slide.

Non-Activating Events

◆ **Grow-in will not be triggered if a member:**

- has been terminated due to willful misconduct, disobedience, or willful neglect of duty that is not trivial and has not been condoned by the employer (section 74(1.1))
- is a construction employee (within meaning of Reg. 285/01 made under ESA)
- is on a temporary lay-off (within meaning of s. 56(2) of ESA)



12/19/2012Financial Services Commission of Ontario 29

The new amendments specify certain circumstances that are not considered activating events, and in which members would not be entitled to grow-in benefits. These exceptions are:

- A termination of employment, if it's a result of willful misconduct, disobedience, or willful neglect of duty by the member that is not trivial, and that has not been condoned by the employer.
- If the member is a construction employee, as defined in Regulation 285/01, made under the Employment Standards Act, 2000 (or ESA).
- If the member is on temporary lay-off, within the meaning of section 56(2) of the ESA.

Therefore, if an eligible member's employment is terminated, you need to consider whether any of these circumstances apply, before you decide if the member is entitled to grow-in.

FSCO recognizes that there may be disputes between the employer, plan administrator and the member, on whether or not a member is entitled to grow-in benefits. As with any other member inquiry or complaint made to FSCO, the member should first attempt to resolve the matter with his or her plan administrator. The member may also need to try and resolve the matter with the employer, because employment issues are generally handled by the employer, not the plan administrator. If the matter can't be resolved, a written inquiry may be

sent to FSCO. After hearing from all those affected, FSCO will determine if the member is entitled to grow-in. For more information on this topic, go to FSCO's website, select "plan members" and click on "Inquiries and Complaints".

Opting Out of Grow-in

- ◆ **A JSPP or a MEPP may elect to exclude the plan and its members from grow-in, if notice of election and effective date of election is provided:**
 - to Ontario members, new members, trade unions and the advisory committee (if any)
 - within the prescribed timeframe and manner
- ◆ **Election must be filed with the Superintendent**
- ◆ **Keep in mind:**
 - filing date cannot be retroactive
 - only one election per plan
 - election to opt out may be rescinded

Members of a JSPP or MEPP may be entitled to grow-in, if plan does not elect to opt out

12/19/2012Financial Services
Commission of Ontario ³⁰

Finally, the PBA allows employers and members of a JSPP, and the administrator of a MEPP, to elect to exclude the plan and its members from the application of grow-in provisions. Notice of the election and effective date of election must be provided to Ontario members, new members, each trade union that represents Ontario members, and the advisory committee (if any), as well as the Superintendent of Financial Services (Superintendent). This notice of election must be provided within the timelines and in the manner prescribed under section 74.1 of the PBA and section 30.2 of the Regulation.

There's a lot of information on the opting out process on FSCO's website. Keep in mind that grow-in rights may extend to eligible JSPP or MEPP members on or after July 1, 2012, if the plan has not elected to exclude itself and its members from the application of the grow-in provisions, within the timelines. Therefore, in this situation you must include the value of grow-in benefits in the member's pension benefits and the commuted value of the pension benefits, if the member is eligible for grow-in.

Grow-in Example

Plan Provision:
An employee who has 30 or more years of continuous service, and has reached age 55, shall be entitled to an unreduced pension.

Situation:
Jane is 48 years old, has 25 years of service and is employed in Ontario. Her employment is being terminated as a result of a plant closure.

Observation:

- An activating event has occurred and member has 55 points
- Member is eligible for grow-in and will receive an unreduced pension

12/19/2012 Financial Services
Commission of Ontario 31

In this slide, we'll go over an example of grow-in benefits.

Jane is 48 years of age, has 25 years of continuous service and is employed in Ontario. The plant Jane works at is being closed and she has received notice of her termination of employment. According to the plan, to be entitled to an unreduced pension, Jane must meet two eligibility requirements:

1. she must have at least 30 years of continuous service; and
2. she must be at least 55 years old.

As of the termination date, Jane has not met either eligibility requirement. However, Jane's termination by the employer is an activating event. Jane is an Ontario employee and her age plus years of service add up to at least 55 points.

This means Jane will be eligible to receive the unreduced pension when she would have completed 30 years of service and reached age 55. If Jane had remained in the plan, she would have had 30 years of service at age 53. However, to qualify for the benefit she would also have to be age 55. Therefore, Jane would be eligible to receive the unreduced pension once she reached age 55.

Therefore, Jane's termination statement will tell her, in addition to the other options, that she is eligible for grow-in. As a result, she will receive an unreduced pension at age 55. The commuted value available for transfer will include the

value of the unreduced pension at age 55, based on the amount that has accrued as of the effective date of termination.

Consent Benefits

- ◆ **A consent benefit is an ancillary benefit in which consent of the employer is one of the eligibility requirements** (s. 1(1) of Reg.)
- ◆ **Ancillary benefits that may be provided under a pension plan:** (s. 40(1) of PBA & s. 1(1) of Reg.)
 - disability benefits
 - death benefits in excess of those under s. 48 of PBA
 - bridging benefits
 - supplemental benefits, other than bridging benefits, payable for a temporary period
 - early retirement options and benefits in excess of those under s. 41 of PBA
 - postponed retirement options and benefits in excess of those under s. 35(4) of PBA

12/19/2012 Financial Services Commission of Ontario 32

As mentioned earlier, FSCO has observed that plan administrators do not fully understand how the provisions in the PBA relating to consent benefits apply on termination of employment.

Ancillary benefits are set out in section 40 of the PBA. We have listed them on this slide. We want to draw your attention to bridging and early retirement options and benefits in excess of those provided under section 41 of the PBA. It is here where we most often see issues relating to consent benefits.


The Regulation defines “consent benefit” as an ancillary benefit, other than a plant closure benefit, or permanent layoff benefit, the eligibility requirements of which include the consent of an employer, or, in the case of a JSPP, the consent of the employer or plan administrator.

It is important to know and understand all of the eligibility requirements under the pension plan that must be met by a member to receive an ancillary benefit. If the consent of the employer is one of the eligibility requirements, or the benefit is provided at the discretion or option of the employer, then the ancillary benefit is a consent benefit. The member may qualify to receive consent benefits on termination of employment, whether or not the employer consents to the benefit being given.

A member may be entitled to a consent benefit if he or she is eligible for grow-in. However, a member who terminates employment and is not eligible for grow-in, may also be entitled to a consent benefit pursuant to section 40(2) of the PBA.

Deemed Consent

- ◆ Member met all eligibility requirements to receive payment of the ancillary benefit (s. 40(2))
- ◆ Deemed consent or consent of employer/administrator (s. 40(3)-(4) & s. 74(7) of PBA)
- ◆ Consent is deemed to be given, if all eligibility requirements for receiving ancillary benefit are met (other than eligibility requirement that employer/administrator provide its consent)



12/19/2012 Financial Services Commission of Ontario 33

Under section 40(2) of the PBA, if a member has met all eligibility requirements to receive an ancillary benefit under the plan, it must be included in the calculation of the member's pension benefit or in the commuted value of the pension benefit.

Under sections 40(3) and (4), if the employer's/administrator's consent (for a JSPP) is an eligibility condition, and all other eligibility requirements are met, then consent is deemed to be given.

This applies on termination of employment, retirement or death. If the member is entitled to an ancillary benefit, including a consent benefit, you need to ensure that the member's pension benefit, or the commuted value of the pension benefit, includes the value of the ancillary benefit.

How would a member become eligible for a consent benefit? Let's consider a plan that provides a member may receive an unreduced pension at age 60, if the member has 30 years of service and the employer's consent. Otherwise, the plan provides that the member will receive a pension that is reduced from age 65. For example, Tom has decided to retire. He is age 62 and has 30 years of service. Tom has met all of the eligibility requirements to receive the pension, but the employer has not given its consent. Is Tom entitled to the unreduced pension? Yes, once Tom meets all of the eligibility requirements other than the employer's consent, then it's deemed to be given.

If Tom retired at age 62 with 29 years of service, he would not have met all of the eligibility requirements, and would not be entitled to the unreduced pension.

Two final points: The word “consent” in the PBA has been interpreted to include any situation where the exercise of the employer’s discretion is an eligibility requirement for the member to receive the ancillary benefit. In other words, it may be a consent benefit, even if the word “consent” is not used.

Note that the requirements of the PBA override any plan provisions that do not comply with the PBA.

Consent Benefit - Example

Plan Provision:

The company may, at its sole discretion, in the case of retirement of a long service member, eliminate the reduction that normally applies to his retirement pension upon early retirement.

“Long service member” means a member who has completed thirty (30) years of service with the company, or a member for whom age and years of service with the company add up to at least eighty (80) years.

Observation:

The member must meet eligibility requirement **1 or 2** to qualify for the benefit. Employer’s consent is deemed to be given, if:

- 1) at least 30 years of service, or
- 2) the member’s age and years of service equal at least 80, and
- 3) has the employer’s consent

12/19/2012 Financial Services
Commission of Ontario 34

Here’s another example. In the case of a long service member, a company has sole discretion to decide if it wants to eliminate the reduction that normally applies to the member’s pension, if he or she retires early.

Under the plan, to be entitled to the benefit, the member must satisfy the following eligibility requirements:

- he/she must have 30 or more years of service, or the member’s age plus years of service must be at least 80; and
- he/she must have the employer’s consent.

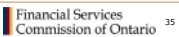
Under section 40 of the PBA, as long as the member satisfies either of the first two requirements, the employer’s consent is deemed to be given. That is, a member who has at least 30 years of service, or whose age and years of service equal at least 80, is deemed to have the employer’s consent. In this situation, the member is entitled to have the consent benefit included in the calculation of his or her pension benefit or the commuted value of the pension benefit.

What we want to emphasize is that the employer’s consent is deemed to be given, if and only if, all other eligibility requirements for receiving the ancillary benefit are met.

Self-Assessment Question # 2

There are 4 eligibility requirements for the consent benefit under pension plan X. The employer's consent is deemed to be given, if:

- a) The member has met 2 of the 4 eligibility requirements.
- b) The member has met 3 of the 4 eligibility requirements.
- c) It is provided in writing.
- d) The member has met all eligibility requirements for the consent benefit, except the one requiring the employer's consent.
- e) The member is a long service member and has reached age 55.

12/19/2012  35

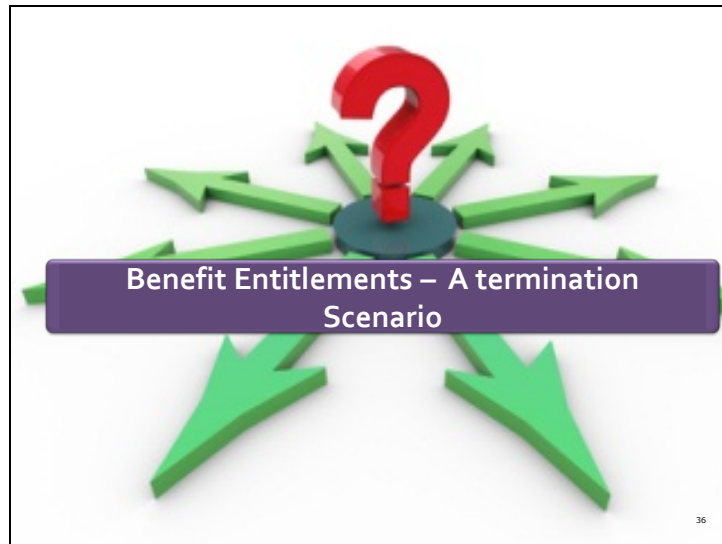
Here's another self-assessment question.

There are 4 eligibility requirements for the consent benefit under pension plan X. The employer's consent is deemed to be given, if:

- a) The member has met 2 of the 4 eligibility requirements.
- b) The member has met 3 of the 4 eligibility requirements.
- c) It is provided in writing.
- d) The member has met all eligibility requirements for the consent benefit, except the one requiring the employer's consent.
- e) The member is a long service member and has reached age 55.

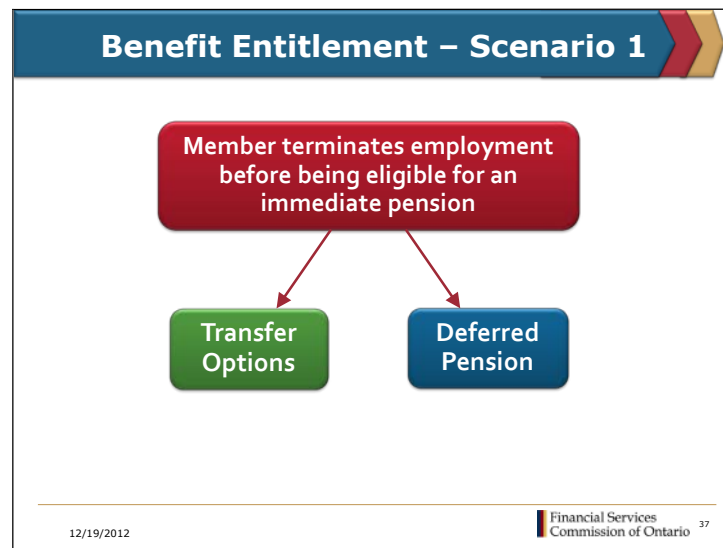
We'll give you about 30 seconds to answer the question.

The correct answer is d.



We'll now cover the last section of our presentation, benefit entitlements.

For purposes of this discussion and illustrations, we'll go over one termination scenario. In this scenario, we'll talk about the available options, as well as the termination statement that's applicable. Let's assume that we're dealing with a single employer pension plan that provides defined benefits.



In scenario 1, we have a plan member named Robert who is 48 years old and has been in the plan for 20 years. Robert submitted a notice of termination to his employer stating that his employment will end on December 31, 2012. Under the plan, Robert does not yet qualify for early retirement pension benefits.

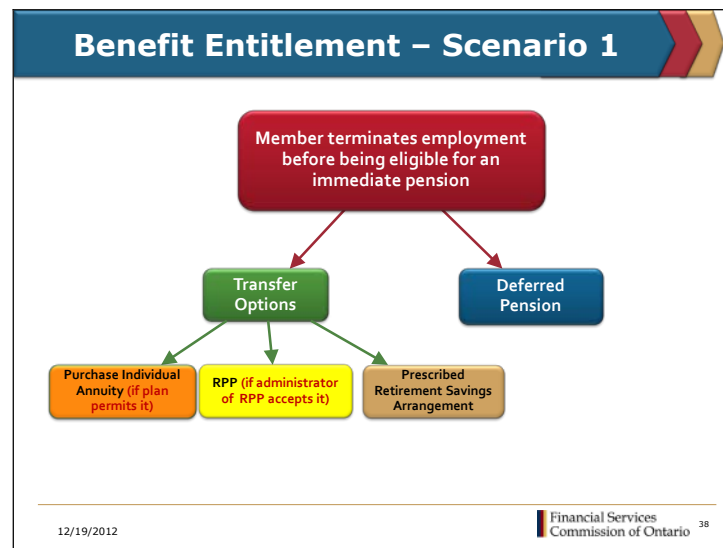
Let's assume that you're the plan administrator of this pension plan. What is your obligation? From the notice of termination, it's clear that Robert's termination is a "regular" termination (that is, it's neither a retirement nor death). Therefore, you'd issue a termination statement to Robert by January 31, 2013, as discussed earlier.

Once you verify Robert's information, including any applicable spousal information, you need to consider what options are available based on his situation. Since Robert is 48 years old on the date of termination, he is not eligible for an immediate pension. Given his years of service, he would probably not be eligible for a small benefit payment. At a minimum, he is entitled to:

- A deferred pension starting on his normal retirement date.
- Or, he can require you to transfer the commuted value of his deferred pension out of the pension plan, which we'll discuss in the next slide.

Robert's termination statement must include the information under section 41 of the Regulation. This includes the information we mentioned earlier. The

statement should also specify the default option, if you don't receive his election within the timeframe discussed earlier. The default option is a deferred pension that is payable on the normal retirement date. However, if Robert receives the default option he can apply to have the pension start at any time, after the earliest date he can receive an immediate pension.



We'll now go over the various transfer options under section 42 of the PBA that are available to Robert. This provision is generally known as the "portability rule".

Robert would be entitled to direct the plan administrator to pay an amount equal to the commuted value of his deferred pension to one of the following:

1. Another registered pension plan (or RPP);
2. A prescribed retirement savings arrangement, as set forth in section 21 of the Regulation; or
3. An insurance company (of his choice) to purchase a deferred life annuity that wouldn't start before the earliest date on which he would have been entitled to receive a pension under the plan. In this option, Robert gets the deferred pension that can be provided by the commuted value. The value of this deferred pension may be different than the pension that's paid under the pension plan. Note that this option is only available if the plan provides for it.

Keep in mind that section 42(6) of the PBA states that the administrator shall not make the transfer unless the retirement savings arrangement, or the contract to purchase the deferred life annuity, meet prescribed requirements. These requirements are set out in in sections 20(3) and 22, and Schedules 1.1 and 3 of the Regulation.

Therefore, you must be satisfied that these requirements are met, before transferring the commuted value of pension benefit out of the plan.

The ITA places maximum transfer limits on the amounts that may be transferred to a locked-in account, or that may be used to purchase an annuity. We'll discuss this in the next slide.

Benefit Entitlement - Commuted Value

- ◆ **Commuted value can't be less than value determined according to section 3500 of the CIA's Standards of Practice of the Actuarial Standards Board (s. 19(1) & s. 29(2) of Reg.)**
- ◆ **If commuted Value > amount allowed under ITA, pay the excess in cash to the former member (s. 42(6.1) & (6.2) of PBA)**
 - Applies to transfers to LIRA/LIF, or for the purchase of a life annuity
 - May request transfer of excess to RRSP, if member has RRSP room

12/19/2012 Financial Services
Commission of Ontario 39

As of July 1, 2012, the commuted value cannot be less than the value determined in accordance with section 3500 of the Standards of Practice of the Actuarial Standards Board, which is published by the Canadian Institute of Actuaries.

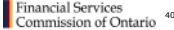
As mentioned earlier, the ITA places a limit on the commuted value amount that may be transferred from an RPP to a prescribed retirement savings arrangement. Under section 42(6.1) of the PBA, if the commuted value is greater than the amount prescribed under the ITA, the excess amount must be paid in cash to the member.

Similarly, under section 42(6.2), if the commuted value of the deferred pension that was used to purchase the life annuity is greater than the amount permitted under the ITA for the purchase, the excess amount must be paid in cash.

The member may ask you to transfer the excess amount to his or her RRSP or RRIF. In this event, you may only transfer the amount if you're satisfied that the member has the RRSP room to make the transfer. If you are not satisfied that the member has sufficient RRSP room, then the excess transfer amount needs to be paid in cash.

Benefit Entitlement - Commuted Value

- ◆ **There are restrictions on the amount that may be transferred, if transfer ratio is <1.0** (s. 19 of Reg. 909)
- ◆ **100% of commuted value can be paid, if:**
 - the transfer ratio is ≥ 1.0
 - amount equal to transfer deficiency is paid into the fund, or
 - total of transfer deficiencies for all transfers made since last valuation is <5% of plan's assets
- ◆ **If <100% of commuted value is paid, balance must be paid within 5 years of date of initial transfer** (s. 19(7) of Reg.)

12/19/2012  40

The Regulation restricts the amount that may be paid out of a pension fund, if the plan's transfer ratio is less than 1. The rules that apply are found in section 19. Due to time constraints, we will not go into details here.

What you need to know is if the transfer ratio of the plan is less than 1.0, you may not be able to transfer the whole commuted value at once.

There are however, circumstances where you may transfer 100% of the commuted value of the benefit, even if the ratio is less than 1.0. These are set out in section 19(6) and are outlined on this slide.

In all cases, if you transfer less than 100% of the commuted value of the benefit, you must transfer the balance within 5 years after the date of the initial transfer, along with any earned interest, which must be calculated at the same rate you used for the commuted value of the benefit.

You should have a process in place to monitor any changes in the transfer ratio. If any events have taken place that may result in a reduction of the transfer ratio to a value less than 0.9, or that may result in the reduction of the transfer ratio by 10 % or more, you cannot make the transfer without the prior approval of the Superintendent.

Indexation

- ◆ Indexation is also known as cost of living adjustment (COLA) or escalated adjustment
- ◆ If an indexation formula is set out in plan's terms, then include it in pension benefit
- ◆ If indexation is ad hoc, then include it in pension benefit when granted by company

Commutated value of a pension benefit is based on:

- ◆ Pension benefits payable at NRD with post retirement death benefits and indexation, **and**
- ◆ Any ancillary benefits, if the member has met the plan's eligibility requirements to receive payment of the benefit

12/19/2012Financial Services
Commission of Ontario 41

We'll now discuss pension indexation and when it should be included in the commuted value of the pension benefit.

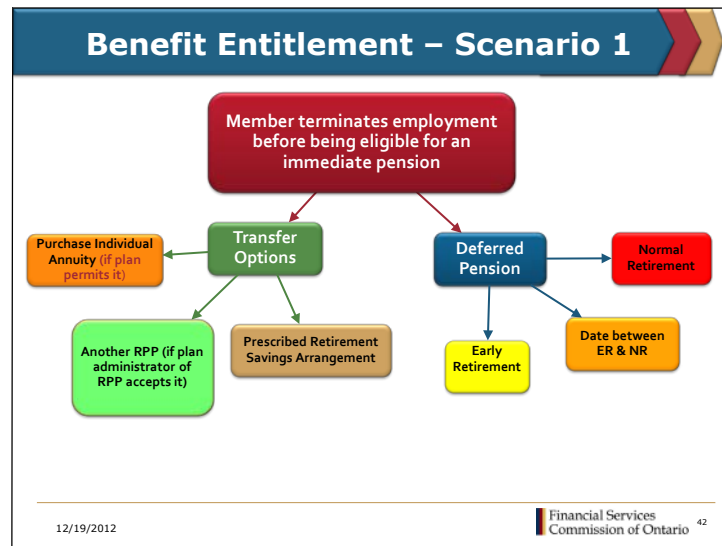
Indexation of a pension benefit is known by many names, including cost of living adjustment (or COLA) and escalated adjustment. It may be found in a plan in two ways. The first is if the plan contains a formula where each year it is determined if the pension will be increased. In this case, indexation is included in the pension benefit and in its commuted value. Indexation is not an ancillary benefit. Furthermore, the options available to the member will reflect the start date of the indexation and the indexation formula.

For example, a pension plan may provide that a pension be increased at the beginning of each year by an amount that is equal to the Consumer Price Index, less 2%. In this situation, the calculation will be done each year, and an increase, if any, will be added to a retired member's pension.

Where indexation is not built into the plan's formula, the company may provide increases on an ad hoc basis from time to time. In this case, the increase would be reflected in the retired member's pension when the plan is amended to provide the increase to the pensions in pay. In this situation, the possibility of an increase is not included in the commuted value of the pension benefits.

The commuted value of the pension benefit is usually:

- the dollar amount of the pension benefit that is payable on the normal retirement date;
- must include post-retirement death benefits and indexation provided under a plan formula (before and after retirement age), if any; and
- the value of any ancillary benefits, provided that the member has met the eligibility requirements to receive them.

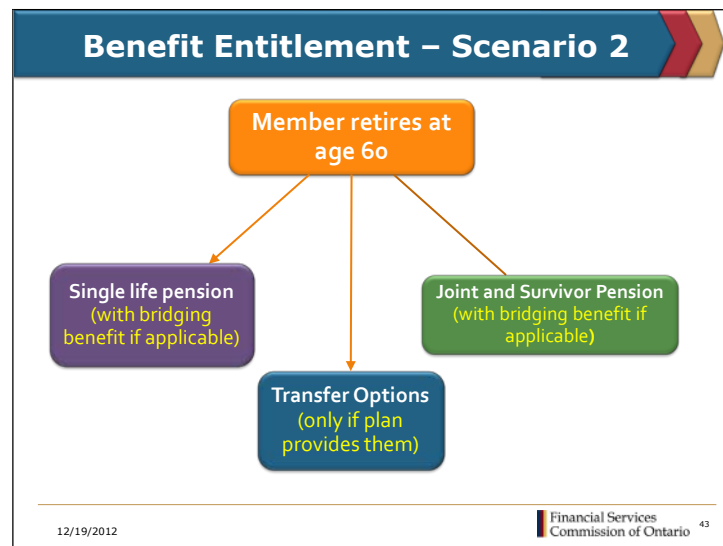


We'll now move on to the deferred pension option. As mentioned earlier, Robert has 60 days after termination of employment to elect a transfer option under section 42. And, if he does not do so within this timeframe, he is deemed to have elected a deferred pension that starts at the normal retirement age.

If Robert makes an election, or by default has elected a deferred pension, he may decide to start his pension payments any time between the plan's early retirement date and the normal retirement date.

If Robert elects to receive a pension before his normal retirement date, under section 41(6) of the PBA, he must provide his plan administrator a signed election form.

We have prepared two more scenarios, but due to time constraints, we will not cover them. However, they will be included in the presentation slides when we post them on our website.



This brings us to a second scenario where an active member is retiring before the plan's normal retirement date.

Let's assume the pension plan provides a bridging benefit at age 60, if a member has at least 10 years of continuous service. The pension plan also provides portability options after the plan's early retirement date.

We will also assume that you've received a written request from a member named Julie, who wants to retire at age 60. Julie has 20 years of continuous service with her employer.


If Julie does not have a spouse, her pension amount is determined on the basis of a single life pension, with or without the guarantee period, depending on the plan terms. On the other hand, if Julie has a spouse who she's living with on the date of retirement, and her spouse has not filed a spousal waiver, Julie's pension will be paid on a joint and survivor (or J&S) basis.

Julie's pension plan provides a bridging benefit payable from age 60 to the normal retirement date. Since she is retiring at age 60, and since she has more than 10 years of continuous service, she qualifies to receive a bridging benefit from ages 60 to 65.

If Julie's pension plan allows commuted value transfers under section 42 of the PBA after the plan's early retirement date, then any options with respect to transfers available must be provided to Julie in her termination statement.

Benefit Entitlement - Retirement Pension

- ◆ Survivor benefit must not be <60% of pension paid to retired member (s. 44(2) of PBA)
- ◆ **This is payable to the:**
 - **spouse**, if he/she outlives retired member (s. 44(3) of PBA)
 - **retired member**, if he/she outlives his/her spouse (44(3.1) of PBA)
- ◆ Use **Form 3 – Waiver of Joint and Survivor Pension** to waive a joint and survivor pension (s. 46(1) of PBA)
- ◆ Waiver can be jointly cancelled before pension payments begin (s. 46(3) of PBA)



12/19/2012 Financial Services
Commission of Ontario 44

Under section 44(3) of the PBA, when a retired member dies, the amount of the J&S pension payable to his or her surviving spouse must not be less than 60% of the pension paid to the retired member during their joint lives.

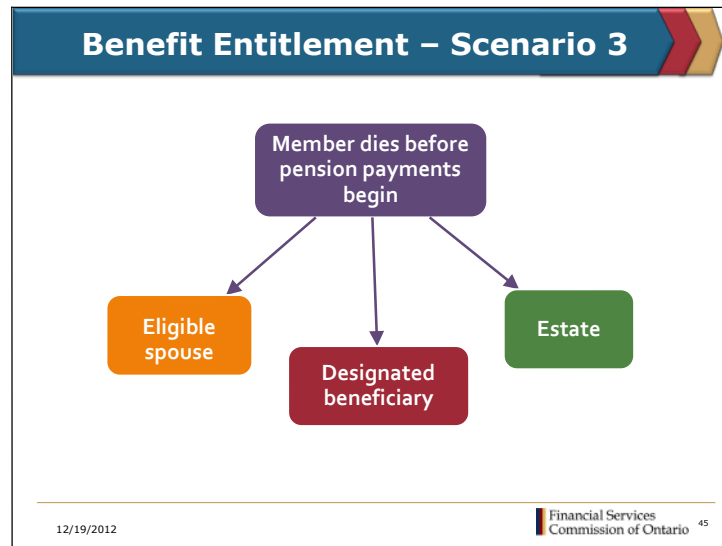
If Julie's living with her spouse on the date that her first pension payment is due, and no spousal waiver is in effect, and if she dies before her spouse, he'll receive a pension that is at least 60% of the pension Julie received while she was alive. However, if Julie's spouse dies first, the pension will not change.

Section 44(3.1) of the PBA came into effect on October 1, 2012. It provides that, if the plan provides a survivor benefit which reduces on the death of the member's spouse who dies before the member, the pension payable to the member cannot be less than 60% of the benefit paid to the retired member.

If the plan provides a survivor benefit on the first death of either the retired member or spouse, 60% of the pension will continue to be paid to the survivor.

If a retired member has a spouse on the date his or her pension payment is due, section 46 of the PBA permits them to waive the J&S pension. The retired member and the spouse may waive this entitlement by submitting a completed, dated and signed Superintendent's Form 3 – Waiver of Joint and Survivor Pension to you within 12 months before retirement. By the same token, this waiver can be cancelled at anytime before pension payments are due to start.

If Julie and her spouse wish to waive their entitlement to a J&S pension, they must jointly complete, date and sign Form 3, and then submit it to you up to 12 months before Jane's 60th birthday (the date her pension payments start).

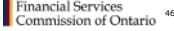


This brings us to a third scenario, where a member dies before his first pension payment is due. Note that this scenario also applies to former members and retired members who die before the first installments of their pensions are due.

Scenario 3 - Pre-retirement Death Benefit

◆ **Recipients of Larry's pre-retirement death benefit may be his: (s. 48 of PBA)**

- **Spouse** with whom he was living with when he died, if she has not waived her entitlement; **or**
- **Designated beneficiary** if there is no spouse, or if there is a spouse, but they were living separate and apart, or if his spouse waived her entitlement; **or**
- **Personal representative/estate** if there is no spouse, or if there is a spouse, but they were living separate and apart, or if his spouse waived her entitlement and there's no designated beneficiary; **and**
- **Any dependent child(ren)**, if the plan provides payment of benefits to them

12/19/2012  46

We'll now talk about the pre-retirement death benefits that may be payable to a member's spouse, a designated beneficiary, estate and/or dependent children when he or she dies.

Pre-retirement death benefits are covered under section 48 of the PBA, and apply to a member, former member or a retired member who dies before the first installment of his or her deferred pension is due to be paid.

In this scenario, you just received notice that Larry, an active member of the pension plan, has passed away. The pre-retirement death benefits depend on Larry's circumstances on the date of his death, and may be paid to one or more of the following:


- The person who was Larry's spouse, and with whom he was living with on the date he died. Note that Larry's spouse could have waived her entitlement to a pre-retirement death benefit by providing you with a written waiver using Superintendent's Form 4 – Waiver of Pre-retirement Death Benefit.
- Pre-retirement death benefits could also be paid to a beneficiary designated by Larry, if on the date of his death there is no spouse, or if there is a spouse, they were living separate and apart, or if his spouse waived her entitlement.


- Pre-retirement death benefits could also be paid to Larry's personal representative, as defined in the Estates Administration Act (i.e., his estate). This would apply if on the date of his death there is no spouse, or if there is a spouse, but they were living separate and apart, or if his spouse waived her entitlement and Larry had not designated a beneficiary.
- If the plan provides for payment of pension benefits to dependent children upon his death, Larry's dependent child or children would be entitled them.

Scenario 3 - Pre-retirement Death Benefit

Where applicable, the available options are:

- ◆ **Spouse** (s. 48(1) & (2) of PBA)
 - a lump sum equal to commuted value of deferred pension; **or**
 - a transfer of commuted value of deferred pension to a registered retirement savings arrangement; **or**
 - an immediate or deferred pension
- ◆ **Beneficiary** (s. 48(6) of PBA)
 - the commuted value of the deferred pension





12/19/2012  47

Due to time constraints, we have outlined in this and the next slide the options available to each person relating to Larry's pre-retirement death benefit. The only key point we'd like to emphasize here is that the timeframe within which Larry's spouse must make an election, that should be disclosed to her on the survivor benefit statement, to enable her to exercise her options on a timely basis.

Scenario 3 - Pre-retirement Death Benefit

- ◆ **Personal Representative/Estate**
(s. 48(7) of PBA)
 - Commuted value of the deferred pension
- ◆ **Dependent Child/Children**
(s. 48(8) & (8.1) of PBA)
 - Commuted value of payments may be deducted from entitlement of the designated beneficiary, or entitlement of the personal representative



12/19/2012  Financial Services Commission of Ontario 48

Note that the only option available to someone other than a spouse, is to receive a lump sum payment equal to the commuted value of the deferred pension.

Self-Assessment Question # 3

Which of the following is not true?

- a) The plan administrator must verify the member's data before proceeding with a benefit calculation.
- b) The new threshold level for a small amount benefit only applies to terminations on and after July 1, 2012.
- c) Generally, the plan administrator has 30 days to provide a termination statement and the member has 60 days to make an election.
- d) A member may have transfer options after the plan's earliest retirement date, if the plan provides them.
- e) A person who is entitled to a small amount may require the administrator to transfer the amount into his/her RRSP/RRIF.

12/19/2012Financial Services
Commission of Ontario 49

Here's another self-assessment question.

Which of the following is not true?

- a) The plan administrator must verify the member's data before proceeding with a benefit calculation.
- b) The new threshold level for a small amount benefit only applies to terminations on and after July 1, 2012.
- c) Generally, the plan administrator has 30 days to provide a termination statement and the member has 60 days to make an election.
- d) A member may have transfer options after the plan's earliest retirement date, if the plan provides them.
- e) A person who is entitled to a small amount may require the administrator to transfer the amount into his/her RRSP/RRIF.

We'll give you about 30 seconds to answer this question.

The correct answer is b.

The screenshot shows the FSCO Resources web page. At the top, there is a blue header with the text 'FSCO Resources' and a navigation bar with links for 'Skip To Content', 'Ontario', 'Ministry of Finance', and 'FSCO'. Below the header is the FSCO logo and name, 'Financial Services Commission of Ontario', along with a search bar. A secondary navigation bar contains links for 'HOME', 'ABOUT FSCO', 'FORMS', 'PUBLICATIONS & RESOURCES', 'NEWS ON DEMAND', and 'CONTACT US'. The main content area is titled 'Legislative Changes July 1, 2012' and includes a breadcrumb trail: 'You are here: Home > Pensions > Legislation: Act & Regulations > Legislative Changes July 2012'. The page text states that on June 21, 2012, the Lieutenant Governor in Council proclaimed a number of sections of the Securing Pension Benefits Now and for the Future Act, 2010 (Bill 120), Pension Benefits Amendment Act, 2010 (Bill 236), Better Tomorrow for Ontario Act (Budget Measures), 2011 (Bill 173) and Creating the Foundation for Jobs and Growth Act, 2010 (Bill 16) to be in force on July 1, 2012. It lists the proclaimed sections of each Bill: Bill 16, Bill 120, Bill 173, and Bill 236. Additionally, it lists regulations filed on June 26, 2012: Ontario Regulation 178/12, Ontario Regulation 179/12, and Ontario Regulation 180/12.

FSCO has a web page dedicated to all the changes that came into effect on July 1, 2012. This page contains links to the various changes, as well as many frequently asked questions that relate to each topic. For more information, please visit our website at www.fSCO.gov.on.ca.

Slide 51



Thank you for participating in today's webinar. Please note that we'll develop answers to any questions we receive by e-mail. We'll post the answers on FSCO's website within the next few weeks.

We also plan to send an e-mail blast to everyone in the next few weeks. It'll include links to the webinar recording, presentation slides and frequently asked questions relating to the July 1, 2012 legislative changes.

Please remember to complete the survey that will appear on your screen momentarily.