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SECTION:	Administrator
INDEX NO.:	A300-802
TITLE:	Requirement to Provide Information to Members - PBA ss. 25, 27, 28, 29, 50 and 55.2 - Regulation 909 ss. 38, 40, 41, 43, 44 and 45
APPROVED BY:	Superintendent of Financial Services
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REPLACES:	A300-800 and A300-801

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This policy replaces A300-800 (Requirement to Provide Information to Members) and A300-801 (Requirement to Make Documents Available on Request) as of the effective date of this policy.

*Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.*

*Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at [www.fSCO.gov.on.ca](http://www.fSCO.gov.on.ca). All pension policies can be accessed from the **Pensions** section of the website through the **Pension Policies** link.*

The purpose of this policy is to identify the types of information, records and documents the administrator of a pension plan (administrator) is required to provide to existing and prospective plan members under the PBA and Regulation, and when.

### **MEMBER BOOKLETS (Section 25 of the PBA, Section 38 of the Regulation)**

Every person who is eligible or required to be a member of a plan must be provided with an employee or member booklet by the administrator. Section 25 of the PBA requires that this booklet explain the plan provisions and the members' rights and obligations under the plan.

In accordance with section 38 of the Regulation, an administrator must provide this information to employees/members:

- within the 60 days after the date the plan is established, if it is a new plan;
- within the 60 days before an employee's eligibility date, if a plan has a membership eligibility period;

- within the 60 days after a new employee starts employment, if a plan has no eligibility period and an employee automatically becomes a member.

The administrator must review the member booklet on a regular basis to keep it up-to-date and complete.

### **VIEWING PLAN RECORDS (Section 29 of the PBA, section 45 of the Regulation)**

Members, and their agents authorized in writing, are entitled to inspect and copy annually, the plan records set out below, upon written request to the administrator, in accordance with section 29 of the PBA. The records must be made available to members at the location where the member is employed, or another location mutually agreed upon by the administrator and the member.

A member may make copies of the records, or may request that the administrator make copies for them. The administrator may charge a fee not exceeding 25 cents per page for paper copies provided by the administrator but may not charge a person for making their own copies. An administrator should decide if members may bring a personal copier or scanner on site.

As of July 1, 2012, a member may also annually require an administrator to provide certain plan records by mail or electronically. These plan records are also set out below. An administrator may charge a fee not exceeding 5 dollars for each request for one or more records to be provided electronically.

A member is entitled to access plan records that apply to the member, such as copies of pension statements. Member-specific records may only be obtained by direct request to the administrator.

Members may contact FSCO for assistance if an administrator does not respond within 30 days. As the Ontario pension regulator, FSCO has the authority to require an administrator to discharge its duties under the PBA.

The following plan records set out in section 45 of the Regulation are available for viewing and/or copying:

- current plan provisions including any amendments;
- any documents that must be filed in support of an application for plan registration or in support of registration of an amendment;
- provisions of any predecessor plan including amendments;
- any documents that must be filed in support of an application for plan registration or in support of registration of an amendment respecting any predecessor plan;
- applicable provisions of any document that sets out the employer's (or any previous employer's) responsibilities for the plan;
- documents appointing a plan or pension fund administrator;
- any information returns (for example Annual Information Returns), actuarial information summaries and other information summaries that are filed with FSCO in respect of the plan;
- any plan financial statements or actuarial reports that are filed with FSCO under sections 3, 4, 13 or 14 of the Regulation;
- copies of any letter of credit held in trust for the pension fund, any related trust agreement and any certificate filed by the administrator under subsection 55.2 (7) of the PBA;
- correspondence about the plan between the administrator and FSCO within five years before the date of the request, except correspondence regarding individual members;
- provisions of any agreement concerning the purchase or sale of a business or the assets of a business that relate to the plan;
- any financial statements (audited or unaudited) filed with FSCO; and
- any Statements of Investment Policies and Procedures filed with FSCO.

As of July 1, 2012, the following plan records set out in section 45(2) of the Regulation must be provided by an administrator by mail or electronically upon written request by a member:

- current plan provisions including any amendments;
- most recent actuarial reports filed under sections 3, 4, 13 or 14 of the Regulation;
- most recent financial statements filed (audited or unaudited);
- most recent Actuarial Information Summary filed;
- most recent Annual Information Return filed;
- most recent Investment Information Summary filed; and
- most recent Statement of Investment Policies and Procedures.

Persons not related to the pension plan who wish to obtain pension plan documents must follow the request process set out under Ontario's [Freedom of Information and Protection of Privacy Act](#).

### **MEMBERS' ANNUAL STATEMENTS (Section 27 of the PBA, section 40 of the Regulation)**

Section 27 of the PBA specifies that an administrator must provide a written Annual Statement to members, containing information about the plan, the member's pension benefits and any ancillary benefits. In addition to the PBA requirements, this statement may also include specific plan details.

The Annual Statement advises the member of the value of the pension benefit accrued in a defined benefit plan, or in the case of a defined contribution plan, the total contributions (plus earned interest) made on the member's behalf. The administrator must provide the Annual Statement to members within six months of the plan's fiscal year end.

Section 40 of the Regulation describes the information that must be included in all Annual Statements.

#### **All Pension Plans**

Regardless of whether the plan is a defined benefit or a defined contribution type, the Annual Statement must contain at least the following information:

- plan legal name and registration number;
- member's name and birth date;
- statement reporting period;
- date the member joined the plan;
- statement that the benefit entitlement has vested;
- date the member was employed by the employer (unless the plan is a multi-employer pension plan (MEPP));
- member's normal retirement date under the plan;
- earliest date an actuarially unreduced pension would be payable to the member;
- if applicable, name of the member's spouse;
- if applicable, name of the designated beneficiary of pre-retirement death benefits;
- description of any death benefits payable under the plan other than those required by the PBA, and the designated beneficiary's name;
- amount of required member contributions, if any, made during the reporting period;
- total amount of required member contributions, if any, made since joining the plan, plus earned interest/investment income;
- any additional member voluntary contributions made during the reporting period;
- total amount of member additional voluntary contributions, if any, made since joining the plan, plus earned interest/investment income;
- where applicable, a statement that special payments are being made to liquidate any liability;

- details of surplus and entitlement to surplus in the continuing plan and on wind up; and
- any plan amendments affecting the member during the statement period, where the member was not previously informed.

### **Defined Contribution Plans**

The Annual Statement must disclose the following additional information to members of defined contribution plans:

- amount of employer contributions allocated to the member during the reporting period; and
- total amount of employer contributions, plus earned interest/investment income, allocated to the member since plan membership started.

### **Defined Benefit Plans**

The Annual Statement must disclose the following additional information to members of defined benefit plans:

- number of years of employment (for pension calculation purposes) to the end of the reporting period;
- annual pension amount payable at the normal retirement date determined to the end of the reporting period;
- if applicable, the member's salary level used to determine the pension benefit;
- if applicable, any special payments the sponsor is making to liquidate a going concern unfunded liability or solvency deficiency;
- whether there will be any reduction based on a Canada Pension Plan/Quebec Pension Plan/Old Age Security offset;
- the transfer ratio of the plan reported on the two most recently filed actuarial reports; and
- an explanation of the transfer ratio and how it impacts the funding level of members' benefits.

### **Defined Benefit/Defined Contribution Combination Plans**

If a plan provides defined benefit and defined contribution benefits, the Annual Statement must meet both the defined benefit and the defined contribution disclosure requirements.

### **Multi-Employer Pension Plans (MEPPs)**

The Annual Statement must contain further information for members of a multi-employer pension plan providing defined benefits (where maximum amount of employer contributions is limited by a collective agreement):

- a statement that member benefits are not covered by the Pension Benefits Guarantee Fund; and
- if the plan is in a deficit position at wind up, a statement that pension benefits may be reduced.

### **Jointly Sponsored Pension Plans (JSPPs)**

If the plan is a jointly sponsored defined benefit plan and has filed a valuation report with a solvency deficiency that meets the criteria set out in the Regulation, the Annual Statement must also include a statement that:

- member benefits are not covered by the Pension Benefits Guarantee Fund;
- if the plan is in a deficit position at wind up, pension benefits may be reduced;
- contribution rates for an employer and for members could change depending on funded status of the plan on a going concern basis;
- sets out contribution rates for the employer and for members for the previous year and the year after the Annual Statement date; and

- if most recent valuation report for the plan has a solvency deficiency that meets the criteria set out in the Regulation, a statement that additional contributions to eliminate that solvency funding shortfall are not being made by the employer or members.

### **MEMBERS' TERMINATION STATEMENTS (Section 28 of the PBA, sections 41, 43, 44 of the Regulation)**

Members, and any other person who as a result of the termination becomes entitled to a payment under the plan, are entitled to receive individual written statements of benefits on termination of employment or membership, in accordance with section 28 of the PBA. The administrator must issue the Personalized Termination Statement containing certain prescribed information, within 30 days of being advised of the termination.

### **Termination Statements - Member Terminates Employment for Reasons other than Retirement (Section 41 of the Regulation)**

At employment termination, the former member is entitled to a deferred pension, and may be entitled to an immediate pension. The administrator must provide the Termination Statement within thirty days following the member's termination of employment or membership, or if notice is not provided to the administrator in advance, within thirty days after the administrator's receipt of such notice. At least the following information provided in the member's Annual Statement must be included in the Termination Statement:

- plan legal name and registration number;
- former member's name and birth date;
- date the former member joined the plan;
- statement that the benefit entitlement has vested;
- date the former member was employed by the employer (unless the plan is a multi-employer pension plan (MEPP));
- number of years of employment credited under the plan for calculating the pension benefit;
- former member's normal retirement date under the plan;
- if applicable, name of the former member's spouse;
- if applicable, name of the designated pre-retirement death benefits beneficiary;
- description of any death benefits payable under the plan other than those required by the PBA, and the designated beneficiary's name;
- amount of pension benefits and ancillary benefits the former member is entitled to, any options, including the early, normal and postponed retirement dates applicable to those benefits, and if applicable, any options resulting from grow-in/bridging benefits under section 74 of the PBA;
- if applicable, a statement that the former member is entitled or not entitled to grow-in/bridging benefits, under section 74 of the PBA and the reason (for example, termination due to willful misconduct, disobedience or willful neglect of duty);
- if applicable, the formula used to integrate the pension with the Canada Pension Plan/Quebec Pension Plan/Old Age Security and the resulting pension reduction or increase;
- any bridging benefit or special allowance the member is entitled to and the date on which the benefit ceases to be paid;
- any benefits payable in event of member's death, both before and after pension benefit payments start;
- any plan provisions that provide for inflation protection;
- transfer value of the deferred pension and ancillary benefits;
- if the plan is not fully funded, the portion of the transfer value that may be transferred initially and how the balance will be paid;
- portability options under section 42 of the PBA (for terminated members entitled to an immediate pension, portability options will be consistent with the plan terms);

- time periods for selecting portability options;
- any cash refund amounts, any related options available and the time period for selecting the option;
- effect of the refund if any, on the former member's pension or deferred pension; and
- any options available, and the time period to select one, relating to the transfer of any additional voluntary contribution, excess amount, and/or any Superintendent consent based refund.

#### **Termination Statements – Small Pension Amounts (Section 41(1.1) of the Regulation)**

If the plan provides for the unlocking of small amounts under section 50 of the PBA and the former member or retired member is paid the commuted value of their benefit, the administrator is required to provide the former or retired member with a Termination Statement. The Termination Statement must be provided within 30 days following the former or retired member's termination of employment or membership, or if prior notice is not provided to the administrator, within 30 days after the administrator receives notice of the termination.

The Termination Statement must include at least the following:

- plan legal name and registration number;
- former or retired member's name and birth date;
- date former or retired member joined the plan;
- years of employment or membership credited under the plan for calculating the pension benefit;
- amount of the former or retired member's pension benefits and ancillary benefits vested under the plan;
- portability options under section 50(3) of the PBA;
- time period for selecting portability options; and
- amount of any cash refunds, the options available and the time period for selecting any available option.

#### **Termination Statements - Member Dies before Retirement (Section 43 of the Regulation)**

If a member or former member dies before pension payments begin, the administrator must issue a Death/Survivor Benefits Statement to the spouse, beneficiary or legal representative within 30 days after notification of death. This person has 90 days to make an election regarding any pre-retirement death benefit (a lump sum payment, pay the commuted value into a registered retirement savings arrangement or an immediate or deferred pension). The administrator must respond within 60 days of receiving the election form.

The Death/Survivor Benefits Statement must include at least the following:

- plan legal name and registration number;
- amount and method of benefit payment;
- if applicable, the basis for pension indexation;
- in a defined benefit plan, if applicable, any refund amount payable to the member, for contributions plus interest made after January 1, 1987 that exceed one-half of the commuted value of the pension;
- if applicable, the pension amount resulting from additional voluntary contributions;
- where the death benefit is payable to a spouse, the spouse's options (choice of a lump sum payment, payment into a registered retirement savings arrangement, or payment of an immediate or deferred pension (equal to the commuted value of the deferred pension); and
- period within which the spouse must select an option.

### **Termination Statements - Member Retires (section 44 of the Regulation)**

The administrator must issue a Retirement Termination Statement at least 60 days before a member's normal retirement date or the date on which the member has elected to retire. If adequate notice of the retirement was not received, the administrator must provide the retirement termination statement within 30 days following receipt of a completed pension application.

The Retirement Termination Statement must include at least the following:

- plan legal name and registration number;
- retired member's name and birth date;
- date retired member joined the plan;
- years of employment or membership credited under the plan to calculate used to calculate the pension;
- if applicable, name of the member's spouse;
- date pension benefit payments begin;
- monthly pension amount;
- any pension reduction or increase due to early or postponed retirement;
- any pension amount purchased with additional voluntary contributions;
- any pension amount purchased with contributions transferred from another plan;
- effect of any integration with government pensions (Canada Pension Plan/Quebec Pension Plan/Old Age Security);
- any bridging benefits or special allowances and the date they will cease;
- any indexation provisions;
- any benefit payable in the event of the retired member's death and the beneficiary's name; and
- any other refunds to which the retired member may be entitled.

### **Termination Statements - Member Dies After Retirement (Section 43 of the Regulation)**

In accordance with section 44 of the PBA, if a retired member has a spouse on the date that the first pension payment is due, the pension must be a joint and survivor pension unless the entitlement is waived in accordance with section 46 of the PBA. Unless a joint and survivor pension is waived, a Survivor Benefits Statement must be provided to the surviving spouse within 30 days after notification of death.

The Death/Survivor Benefits Statement must include at least the following:

- plan legal name and registration number;
- amount and method of benefit payment;
- if applicable, the basis for pension indexation; and
- if applicable, the pension amount resulting from additional voluntary contributions.

If there is no spouse on the date that the first pension payment is due and benefits under the plan are payable to a beneficiary or the estate of the retired member, the Survivor Benefits Statement must be provided to the beneficiary or the legal representative within 30 days after notification of death. For additional information refer to [Policy S500-300 \(Joint and Survivor Requirement and Waiver\)](#) and [Policy S500-305 \(Entitlement to Spousal Joint and Survivor Benefit\)](#).

## **PLAN RECORD RETENTION**

Neither the PBA nor Regulation currently prescribes the retention period for pension records. Because pension plans have long term time horizons, the records related to a pension plan and fund should be managed and retained for a long period of time. [FSCO Policy A300-200 \(Management and Retention of Pension Plan Records by the Administrator\)](#) discusses the administrator's long term commitments and responsibilities in the management of pension plan records, and provides guidance for prudent records management and retention practices. FSCO recommends administrators establish a written, formal, and comprehensive records management and retention policy.