



Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION: Trustee

INDEX NO.: T900-300

TITLE: Responsibilities of Fund Trustee - Transfer of Assets Between Plans
- PBA, 1990 ss. 22(8)

PUBLISHED: Bulletin 4/1 (August 1993)

EFFECTIVE DATE: When Published

REVISED DATE: February, 1994

Taken from the "Your Questions Answered" column published in the PCO Bulletin. Please see the disclaimer at the beginning of the directory.

When a plan administrator instructs the pension fund trustee to transfer assets from the pension plan to another registered pension plan, should the administrator provide the trustee with documents which support the transfer? Is the trustee responsible for determining whether the transfer is consistent with the provisions of the pension plan and in compliance with the PBA before complying with the administrator's instruction?

The trustee of a pension fund has certain fiduciary responsibilities under trust and common law. As an agent of the plan administrator, a trustee is subject to certain standards that apply to the administrator (subsection 22(8) of the PBA). Accordingly, a trustee should not make a payment out of a pension fund unless the payment is consistent with the plan documents, the PBA, Regulation 909 and any applicable Commission policy. Where the Superintendent's written consent must be obtained prior to making a payment out of the fund, the administrator should provide the trustee with a copy of the Superintendent's letter.

A trustee is also responsible for monitoring payments into the fund (please refer to the reminder to report non-compliance in the March 1993 issue of the *PCO Bulletin*, page 11, O. Reg. 909, ss. 76(16)). In view of the responsibilities placed on the trustee, a trustee should not be expected to administer the fund without having access to relevant plan documents. The plan administrator and other agents of the administrator should ensure that copies of the pension plan documents, financial statements, actuarial reports and any other documents that are relevant to the administration of the fund are provided to the trustee.