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SECTION: Amendments

INDEX NO.: A400-900

TITLE: Surplus Withdrawal Amendments  
- PBA s. 79

APPROVED BY: Superintendent of Financial Services

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*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.*

**I have received conflicting advice about the nature of amendments which are required to deal with surplus withdrawal in an ongoing plan and on plan wind up (sections 79(2) and (4)). I am advised the language should be general. What is FSCO seeking?**

Every pension plan registered under the PBA should contain provisions that deal with surplus withdrawal from a continuing plan and from a plan at wind up. These provisions must be included in the plan text no later than December 31, 1997.

Effective January 1, 1998, any pension plan that does not specifically provide for surplus withdrawal while the plan continues in existence shall be construed to prohibit the withdrawal of surplus money[s] accrued on and after January 1, 1987.

Effective on the same date, any pension plan that does not provide for payment of surplus money[s] on the wind up of the pension plan shall be construed to require that surplus money[s] accrued on and after January 1, 1987 shall be distributed proportionately on the wind up of the pension plan among plan beneficiaries at the date of wind up.

Employers who amend their plan to identify the treatment of surplus in each of the relevant circumstances should ensure that the amendment is in compliance with the terms of all filed documents that pertain to the pension plan.