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Note: Due to legislative changes, references to "PCO" should now read "Superintendent."

The PCO considers that benefit formulae, whether in defined benefit or defined contribution plans, that are based exclusively on the age of plan members do not satisfy the requirement in subsection 11(1) of the *Pension Benefits Act* that benefit accrual be uniform. Nevertheless, the legislation gives the Superintendent discretion in subsection 11(4) to register a plan with a benefit formula which is not uniform, if the Superintendent is of the opinion that registration is justified in the circumstances of the pension plan and the members.

In exercising that discretion, the Superintendent will be guided by such factors as:

- a) whether the formula is fair, in the sense that it provide "value for money" for plan members;
- b) whether it is reasonable in the circumstances of the particular industry;
- c) whether full disclosure has been provided;
- d) whether there is substantial membership agreement with the formula by the affected plan members (and former members, if appropriate);
- e) whether the formula is prospective;
- f) other factors as seem appropriate in the circumstances.

Defined Benefit Plans

A descending age-related benefit formula in a defined benefit plan usually may be registered through the exercise of the Superintendent's discretion under subsection 11(4), as a reasonable exception to the basic requirement that benefits accrue in a uniform manner.

An ascending, or "back-loaded", age-related benefit formula usually will not be accepted for registration as reasonable exception under subsection 11(4).

Defined Contribution Plans

Usually, a defined contribution plan which has a benefit formula based on age may be registered if:

- a) the contributions made on behalf of an employee by the employer vary to provide increased accrual to employees who are older, or have greater age and service, or
- b) contributions increase according to age, or age and service.