



SECTION: Information - General

INDEX NO.: I100-003

TITLE: Publication of Decisions made under the *Pension Benefits Act*, R.S.O. 1990, c. P.8

APPROVED BY: The Superintendent of Financial Services

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Under the former Pension Commission of Ontario (the “PCO”), it was the PCO’s practice to publish decisions and notices issued in respect of:

- (a) applications on which the Commission made first instance decisions;
- (b) hearings before panels of the Commission;
- (c) certain notices, orders and appointments of administrators by the Superintendent of Pensions; and
- (d) certain enforcement activities taken under the *Pension Benefits Act*, R.S.O. 1990, c. P.8 (the “PBA”).

Other more routine decisions of the Superintendent of Pensions, such as the registration of a plan or the approval of a wind up report, were not published.

The *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 established the Financial Services Commission of Ontario (“FSCO”) as the replacement for the PCO, and amended the PBA such that effective July 1, 1998, first instance decisions or proposed decisions under the PBA are made by the Superintendent of Financial Services (the “Superintendent”). The Financial Services Tribunal (the “FST”) holds hearings regarding decisions or proposed decisions of the Superintendent. FSCO intends to continue the practice of publishing significant decisions made by the Superintendent and the FST under the PBA.

This policy sets out the types of decisions which will be published. The categories of information to be routinely published by FSCO in respect of decisions or proposed decisions made under the PBA are:

- (1) Final decisions of the Superintendent on all matters where a Notice of Proposal has been issued, including final decisions on many matters that were not routinely published by the PCO;
- (2) Final decisions of the Superintendent on certain matters where a Notice of Proposal is not required, including final decisions on significant matters such as the allocation of assets from the Pension Benefits Guarantee Fund and the appointment of administrators;

- (3) Requests for hearings before the FST regarding decisions or proposed decisions of the Superintendent, and key dates related to such hearings;
- (4) Decisions of the FST, including interim rulings; and
- (5) Charges laid under the PBA, after the first appearance before the courts, and the outcome of prosecutions.

The types of decisions and information to be routinely published by FSCO in respect of decisions made under the PBA are listed in the appendix to this policy. As was the practice under the PCO, the Superintendent's decisions with respect to routine matters, such as the approval of a wind up report, will not be published by FSCO.

Appendix

Information to be Published - Category (1):

Decisions of the Superintendent on all matters where a Notice of Proposal has been issued

Decision by the Superintendent to:	Applicable section(s) of the PBA
refuse to register a pension plan	18(1)(a), 89(1)
revoke the registration of a pension plan that does not comply with the PBA and regulation	18(1)(b), 89(1)
revoke the registration of a pension plan that is not being administered in accordance with the PBA and regulation	18(1)(c), 89(1)
refuse to register an amendment to a pension plan	18(1)(d), 89(1)
revoke the registration of an amendment that does not comply with the PBA and regulation	18(1)(e), 89(1)
refuse to approve an equivalent basis to those criteria specified in ss. 31(3) or 31(4) for part-time employees as a condition precedent to membership in a pension plan where the Superintendent is of the opinion that the basis is not equivalent	31(5), 89(4)
order or refuse to order the administrator to accept an employee as a member of a class of employees	33(1), 89(3)
refuse to approve a payment under s. 42(1) (transfer of commuted value) that does not meet the prescribed requirements	42(7), 89(4)
approve, where the Superintendent imposes terms or conditions, a payment under s. 42(1) that does not meet the prescribed requirements	42(8), 89(4)
order or refuse to order a person to whom payment was made under s. 42(1) to repay the amount in certain circumstances	42(9), 89(2)(a)
refuse to approve a purchase under s. 43(1) (purchase of pension from insurance company) that does not meet the prescribed requirements	43(3), 89(4)
approve, where the Superintendent imposes terms or conditions, a purchase under s. 43(1) that does not meet the prescribed requirements	43(4), 89(4)
order or refuse to order a person to whom payment was made under s. 43(1) to repay the amount in certain circumstances	43(5), 89(2)(b)
refuse to consent to a refund of contributions to a member or former member	63(7) & (8), 89(4)

Decision by the Superintendent to:	Applicable section(s) of the PBA
order the wind up of a pension plan	69(1), 89(5)
refuse to approve a payment out of the pension fund of a plan being wound up, before the Superintendent has approved the wind up report	70(3), 89(4)
refuse to approve a wind up report	70(5), 89(4)
consent or refuse to consent to payment of surplus to the employer out of a continuing plan	78(1), 79(1), 89(3.1)
consent or refuse to consent to an employer's application for surplus in a wound up plan	78(1), 79(3), 89(3.1)
consent or refuse to consent to a refund of employer overpayments	78(4), 89(3.2)
refuse to consent to a transfer of assets from one pension fund to another on the sale or disposition of the employer's business or assets	80(4) & (5), 89(4)
order or refuse to order the transferee to return to the pension fund assets transferred without the prior consent of the Superintendent under s. 80(4)	80(6), 89(2)(c)
refuse to consent to a transfer of assets from one pension fund to a successor plan's fund	81(4) & (5), 89(4)
order or refuse to order the transferee to return to the pension fund assets transferred without the prior consent of the Superintendent under s. 81(4)	81(6), 89(2)(d)
refuse to consent to a transfer of assets from one pension fund to another in circumstances where ss. 42, 80 or 81(1) to (7) do not apply	81(8), 89(4)
make or refuse to make an order declaring that the PBGF applies to a pension plan	83(1), 89(2)(d.1)
order or refuse to order an administrator or any other person to take or refrain from taking any action in respect of a pension plan or fund in certain circumstances	87(1), 89(2)(e)
order or refuse to order an administrator to prepare a new valuation report and/or specify assumptions and methods to be used in certain circumstances	88, 89(2)(f)

Information to be Published - Category (2):

Final decisions of the Superintendent on certain matters where Notice of Proposal is not required

Decision by the Superintendent to:	Applicable section(s) of the PBA
require a plan administrator to transmit notice of an “adverse” amendment	26(1)
make an order dispensing with notice of an “adverse” amendment by an administrator under s. 26(3)	26(4)
appoint an administrator where a plan does not have one	71(1)
act as administrator where a plan does not have one	71(1)
allocate assets from the PBGF	Regulation 909, s. 34(7)
any other individual decision the Superintendent wishes to publish	

Information to be Published - Category (3):

Requests for hearings before the FST regarding decisions or proposed decisions of the Superintendent, and key dates related to such reviews

Information regarding:	Applicable section(s) of the PBA
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Information to be Published - Category (4):

Decisions of the FST, including interim rulings

Information regarding:	Applicable section(s) of the PBA
decisions of the FST, including interim rulings	89

**Information to be Published - Category (5):
Charges laid under the PBA, and the outcome of prosecutions**

Information regarding:	Applicable section(s) of the PBA
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convictions and penalties resulting from charges laid under the PBA, including the results of appeals of such convictions	110