



SECTION:	Wind Up
INDEX NO.:	W100-802
TITLE:	Original and Successor Pension Plans - PBA ss. 69.1, 81(1), 81(2) and 81(3)
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO website (April 2013)
EFFECTIVE DATE:	July 1, 2012 [No longer applicable - replaced by W100-803 – June 2015]
REPLACES:	W100-801

This policy replaces W100-801 (Successor Plan Does Not Preclude Wind Up of Original Plan) 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. All pension policies can be accessed from the **Pensions** section of the website through the **Pension Policies** link.*

If an employer that already has a pension plan for its employees establishes a successor plan and stops making contributions to the original plan, can the employer wind up the original plan?

No. In this situation, the employer cannot wind up the original plan. Section 81(1) of the PBA prevents the employer from doing so. It states that if the employer establishes a successor to an existing pension plan, and the employer stops making contributions to the original plan, then:

- the original plan is deemed not to be wound up; and
- the (successor) new pension plan is deemed to be a continuation of the original pension plan.

Since the original plan and the new plan are deemed to be one plan, in order for the original plan to be wound up, there would have to be a partial windup of the plan. However, section 69.1 of the PBA states that a pension plan cannot be partially wound up, if the effective date of the wind up is on or after July 1, 2012.

It is also important to note that sections 81(2) and (3) provide that benefits under the original pension plan relating to employment before the new pension plan was established are deemed to be benefits under the new pension plan, regardless of whether the original plan's assets and liabilities were actually transferred to the new plan.