



SECTION:	Benefits
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TITLE:	Pregnancy, Parental and Emergency Leave
APPROVED BY:	Superintendent of Financial Services
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REPLACES:	B100-200, B100-202, B100-204, B100-205

This policy replaces B100-200 (Pregnancy and Parental Leave), B100-202 (Pregnancy and Parental Leave – Employee Contributions), B100-204 (Pregnancy and Parental Leave Governed By The *Employment Standards Amendment Act*) and B100-205 (Pregnancy and Parental Leave Cannot Be Conditional) 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.*

Section 51 of the *Employment Standards Act, 2000*, S.O. 2000, c. 41 (ESA) sets out requirements in situations where a member of a pension plan is absent from employment as a result of pregnancy, parental or emergency leave, as defined under the ESA.

For pension plans where members are not required to make contributions under the plan, the effect of the ESA requirements is that a member who takes such leave continues to participate in and accrue benefits under the pension plan throughout the term of the leave, and the employer's contributions respecting the member must continue to be made during that time, unless the member elects in writing not to participate in the pension plan for the term of the leave.

For pension plans where members are required to make contributions under the plan, the effect of the ESA requirements is that a member who takes such leave continues to participate in and accrue benefits under the pension plan throughout the term of the leave, and the employer's contributions respecting the member must continue to be made during that time, unless the member gives the employer written notice that the member does not intend to pay his or her contributions related to the term of the leave or elects in writing not to participate in the pension plan for the term of the leave.

Where a member of a contributory plan does not elect to stop making contributions to the plan during pregnancy, parental or emergency leave, the manner in which the member's contributions are to be made should be set out in the plan text. This could include periodic payments during the leave, a lump sum payment or some other arrangement that the plan sponsor wishes to implement.

The plan administrator should provide sufficient information for members to make informed decisions about pregnancy, parental or emergency leave. This information might include scenarios which clearly illustrate the possible results of continuing or not continuing to participate in the plan during the term of the leave. The administrator should also provide information about the method for making contributions during the leave.

The employer's obligation to continue making contributions respecting the member cannot be made conditional on the member returning to work after the leave. The continuation of employer contributions is an unconditional right.

The requirements respecting pregnancy, parental and emergency leave are set out in Part XIV (sections 45 to 53) of the ESA. Plan administrators and others involved in the management of employee benefits should familiarize themselves with the general requirements of the ESA. Enquiries regarding these specific requirements should be directed to the Employment Practices Branch, Ministry of Labour, 9th Floor, 400 University Avenue, Toronto ON M7A 1T7, telephone (416) 326-2450 or fax (416) 314-7061.

Where the provisions of a pension plan are inconsistent with the pregnancy, parental and emergency leave provisions of the ESA, the plan should be amended to conform with the ESA requirements. In all cases, however, the ESA requirements will apply whether or not the plan is so amended.