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SECTION:	Benefits
INDEX NO.:	B100-251
TITLE:	Amendments for Benefit Improvements – Notice and Funding - PBA s. 26
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	Summer 1995 – PCO Bulletin 6/2
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REPLACES:	B100-250

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This policy replaces B100-250 (Improvement of Benefits in Ongoing Plans) 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](http://www.fSCO.gov.on.ca). All pension policies can be accessed from the **Pensions** section of the website through the **Pension Policies** link.*

1. An amendment that provides benefit improvements for only specified person(s) or a class or classes of members or former members of a pension plan may be considered an adverse amendment within the meaning of section 26(1) of the PBA.
2. Pursuant to section 26(1) of the PBA, the administrator shall be required to transmit written notice of an adverse amendment to such persons as the Superintendent may specify. Generally, the Superintendent will expect that notice of an adverse amendment that provides benefit improvements to only some members will be given to all members, or in the case of an adverse amendment which benefits only some former members, to all "specified former members".
3. "Specified former members" means, in the case of an adverse amendment which benefits only some former members who are in receipt of a pension, all former members who are in receipt of a pension, and in the case of an adverse amendment which benefits only some former members who are entitled to a deferred pension, all former members who are entitled to a deferred pension.
4. Subject to paragraph 5 below, improvements can be provided to specified persons if the employer pays the cost of the improvements in a lump sum, at the higher of a solvency basis or an ongoing basis.

5. Paragraph 4 above does not apply with respect to any portion of the cost of the improvements that is not an eligible contribution in accordance with section 147.2(2) of the *Income Tax Act* (Canada).
6. The Superintendent considers the issue of notice separately for each adverse amendment. In accordance with section 26(4) of the PBA, the Superintendent need not require the transmittal of notices under section 26(1) of the PBA or by order may dispense with the notice required by section 26(3), or both,
  - (a) if the Superintendent is of the opinion that the amendment is of a technical nature or will not substantially affect the pension benefits, rights or obligations of a member or former member or will not adversely affect any person entitled to payments from the pension fund;
  - (b) if the amendment has been agreed to by a trade union that represents the members; or
  - (c) if the amendment is in respect of a multi-employer pension plan established pursuant to a collective agreement or a trust agreement.