



SECTION: Funding of Plans
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- PBA, 1987 s. 23, s. 56 - s. 58, O. Reg. 708/87 s. 56
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Note: Due to legislative changes, references to s. 23, 56, 57 and 58 of the PBA, 1987 should now read s. 22, 55, 56 and 57 of the PBA, 1990. See also B100-250, B100-251 and B100-400.

Collection of Contribution Monies and Delinquencies - MEPPs

Employer and employee contributions to the pension fund must be paid when due and according to the prescribed manner as set out in section 56 of the *Pension Benefits Act*, 1987 (the "PBA") and applicable sections of the Regulation dealing with funding of pension plans. Administrators of multi-employer plans should also refer to the appropriate section of Regulation 909 (*editor's note: section 60 of Reg 909*) which deals with notices of default in the case of such plans.

When a contribution to the pension fund is not paid when due, the Administrator or the Administrator and agent are required to provide written notice to the Superintendent pursuant to section 57 of the PBA, 1987. Written notice must be received by the Superintendent within 60 days after the date on which the Administrator or the agent first became aware of the failure to pay the contribution (or 120 days at the latest if a multi-employer plan).

The Administrator's responsibility in this matter does not end with giving the above notice. Section 58 of the PBA, 1987 deems the employer to hold in trust for the employees and plan beneficiaries any monies that accrue to a pension fund that have not been paid to the pension fund.

Furthermore, section 58 provides for a lien and charge on the assets of the employer:

- (5) The Administrator of the pension plan has a lien and charge on the assets of the employer in an amount equal to the amounts deemed to be held in trust under subsections (1), (3) and (4).

It is the view of staff that an Administrator, observing the duties of care and prudence imposed by section 23 of the PBA, 1987, must identify promptly and pursue the delinquent employer to collect overdue monies together with any outstanding interest that has been lost as the result of the delay in payment. This applies to single and multi-employer pension plans. In cases where the Administrator is the employer, it is essential that the employer:

- 1) recognize its obligation to the pension plan imposed by the PBA, 1987;
- 2) notify the Superintendent of delinquency within the prescribed time limits; and
- 3) remit outstanding monies to the pension fund without delay.

Administrators and their agents should continually monitor and ensure payments are made to the pension fund properly and on a timely basis.