



SECTION: Wind Up

INDEX NO.: W100-803

TITLE: Original and Successor Pension Plans - Section 81 Does Not Preclude Wind Up of Original Plan - PBA ss. 68, 69, 73, 74, 81

APPROVED BY: Superintendent of Financial Services

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EFFECTIVE DATE: June 12, 2015

REPLACES: W100-802

This policy replaces W100-802 (Original and Successor Pension 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. All pension policies can be accessed from the **Pensions** section of the website through the **Pension Policies** link.*

Q1: I am the employer of ABC Company with a defined benefit pension plan for the employees of ABC. Effective January 1, 2015, the ABC Pension Plan was amended to add a defined contribution provision. All defined benefit accruals ceased as at December 31, 2014. Members of ABC Pension Plan began to accrue benefits on a defined contribution basis from January 1, 2015 onwards. Can I wind up the defined benefit provision of ABC Pension Plan?

A1: No. The wind up of the defined benefit provision of ABC Pension Plan is not permitted since a pension plan cannot be wound up in part if the effective date of the partial wind up is on or after July 1, 2012 and this is one plan with two different benefit provisions.

Q2: If an employer that already has a pension plan for its employees establishes a successor pension plan and stops making contributions to the original pension plan, can the employer wind up the original pension plan?

A2: If the original and successor plans are two separate plans, then the employer can wind up the original pension plan. In the application to the Superintendent to wind up the original pension plan, the administrator of the original pension plan would be required to demonstrate that the original and successor pension plans are two separate plans. In this regard, we would expect the administrator to provide submissions with respect to the plan and funding documentation including the relevant board resolutions. The Superintendent would make a determination based on the supporting evidence received and may request additional information from the plan administrator, where appropriate.

It is important to note that section 81 of the PBA deems the original pension plan not to be wound up and the successor pension plan to be a continuation of the original plan. In addition, the benefits under the original pension plan in respect of employment before the establishment of the successor pension plan are deemed to be benefits under the successor pension plan, regardless of whether the original pension plan's assets and liabilities were actually transferred to the successor pension plan.

One result of the above is that the successor pension plan must recognize the period of service in the original pension plan for purposes of determining the eligibility for benefit entitlement in the successor pension plan. Similarly, in winding up the original plan, the Superintendent would also require that the original pension plan recognize the total service accrued under both the original and the successor pension plans as service for purposes of determining the eligibility for benefit entitlement on the wind up of the original pension plan.