

Policy Bulletin #5

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Roles and Responsibilities of the Plan Administrator

The *Employment Pension Plans Act* (the Act) defines who the administrator of a pension plan is for the purposes of the Act and *Employment Pension Plans Regulation* (the Regulation). It further outlines certain responsibilities and liabilities of that administrator. This Bulletin identifies who the administrator is under the Act and describes the role and responsibilities of that administrator.

This bulletin is a revision of a previous bulletin. This bulletin has no legal authority. The Act and Regulation should be used to determine specific legislative requirements.

Legislative Requirements

Who is the Administrator?

Sections 1(1)(b), 10, 11 and 12 of the Act define the administrator as

- (i) in the case of a multi-employer pension plan, the board of trustees that has been constituted to administer the plan;
- (ii) in the case of a multi-unit plan, the board of trustees that has been constituted to administer the plan or the employer designated as the administrator by all the participating employers; or
- (iii) in the case of a single employer plan, the employer;
- (iv) in the case of a single employer plan that exists pursuant to a collective agreement between the employer and a trade union the employer, unless a board of trustees has been constituted to administer the plan in which case the board becomes the administrator; or
- (v) where an administrator has been appointed under section 78(1) or (2) of the Act, that person.

Section 12.1 permits the Superintendent to appoint an administrator temporarily for an ongoing plan. For further

information consult [Policy Bulletin #28, Appointment of a Temporary Plan Administrator](#). An administrator appointed by the Superintendent has all the roles and responsibilities of any administrator under the Act.

General Responsibilities of Administrators The administrator of a pension plan is responsible for ensuring that:

- (i) the plan is administered in accordance with the terms of the plan and the requirements of the Act;
- (ii) all filing and disclosure requirements under the Act are met;
- (iii) plan provisions include and are consistent with the required contractual provisions in the Act;
- (iv) investments conform to the requirements of the Act;
- (v) a statement of investment policies and procedures is developed and maintained¹;
- (vi) where a plan is to be terminated, the termination and winding up are done in accordance with the Act; and
- (vii) if the plan contains a Defined Benefit provision, the plan is reviewed in accordance with the Regulation and the results of the review are set out in the form of an actuarial valuation report and a cost certificate.

The Act places the plan administrator in a fiduciary role in relation to plan members, former members and others entitled to benefits from the plan. This means that, with respect to the plan, the administrator must always act in the interests of and for the benefit of all the plan members and others entitled to benefits from the plan. In a single-employer non-negotiated plan, the employer is the administrator; nonetheless, when acting as the administrator of the plan, the employer must act in the interests of plan members, former members and other beneficiaries.

Filing Requirements

In most cases, some or all of the administrative responsibilities noted in (i) through (vii) are delegated to a third party such as a

¹ Not required for self-directed DC plans, but the administrator must provide the member with sufficient investment options and enough information about the options to enable the member to make informed choices.

consultant, insurance company or trust company. However, the administrator as defined by the Act remains ultimately responsible for ensuring that these requirements are met.

Please note that the requirements set out below no longer apply to Plans for Connected Individuals. PCIs are not required to file any documents with the Superintendent, but the administrator must ensure that the plan is operated in compliance with the Act. See [Policy Bulletin #16, Plans for Connected Individuals](#), for further information on filing requirements for PCIs.

PLAN REGISTRATION

Plans for Specified Individuals who are not connected persons must meet all the filing requirements of the Act.

Documents related to the registration of a pension plan must be filed with the Superintendent within 60 days after the establishment of the plan. These documents include an application for registration and filing fee accompanied by:

- a certified copy of the plan text;
- the funding agreement;
- a copy of the employee booklet; and
- where there is a defined benefit provision, a copy of the actuarial valuation and cost certificate.

A plan may not be administered (i.e. receive contributions and credit service) unless it has been filed for registration. Once the application for registration and accompanying documents have been filed, the plan may be administered unless the Superintendent has issued a notice of refusal to register. If the plan complies with the Act, the Superintendent will register the plan and issue a Certificate of Registration.

PLAN AMENDMENT

Amendments to a pension plan or funding agreement must be filed with within 60 days after the amendment is made. (Please see the "Disclosure Requirements" section below for additional

requirements to be met in the case of an adverse amendment.) A plan may not be administered in accordance with the amendment unless the amendment has been filed for registration. Once the amendment has been filed the plan may be administered in accordance with the amendment unless the Superintendent issues a notice of refusal to register. If the amendment complies with the Act, the Superintendent will issue a Certificate of Amendment.

Where the plan has a defined benefit provision and the amendment affects the cost associated with that provision, the amendment will not be registered unless accompanied by an interim cost certificate or a statement from the actuary as to the impact of the amendment on plan solvency and funding. Notwithstanding this requirement, the Superintendent may require that a full valuation be filed within 60 days after he serves that notice.

CHANGES RELATED TO THE ADMINISTRATOR

Where there is a change in the name or address of the administrator, the Superintendent is to be notified, in writing, within 60 days after the change takes place. The Superintendent should also be notified if there is a change in consultant or third party administrator.

Where there is a change in fund holder, a certified copy of the new funding agreement must be filed with the Superintendent. Funds may not be moved to the new fund holder without the prior written consent of the Superintendent indicating approval of the new funding agreement.

ANNUAL INFORMATION RETURN

Each year the administrator must file an Annual Information Return to maintain the plan's registered status. The return, along with the filing fee, must be filed within 180 days after the fiscal year end of the plan. The filing of this return also maintains the registration of the pension plan under the federal *Income Tax Act* (the tax Act). Superintendent of Pensions collects the federally required data and passes it on to the Canada Revenue Agency, thus eliminating the need for the administrator to file two returns, one with the province and one with the federal government. Please note that there is a late filing penalty under BOTH the Act and the tax Act.

ACTUARIAL VALUATION AND COST CERTIFICATE

Plans containing a defined benefit provision must ensure that an actuarial valuation is performed at least once every three years. A copy of the valuation report and a cost certificate must be filed with the Superintendent within 180 days after the review date (270 days for specified multi-employer plans or multi-unit plans). The review date is the plan fiscal year end unless the plan specifically defines it as some other date. With the enactment of the Employment Pension Plans Amendment Act as of March 1, 2000, it became mandatory to file a cost certificate as well as a valuation report, even if the information in the cost certificate is contained in the report. If valuations are performed more frequently they must also be filed with the Superintendent if they are to be acted upon. Funding must always be in accordance with the most recently filed actuarial valuation and cost certificate.

AUDITED FINANCIAL STATEMENTS

Defined benefit plans with over \$3 million in assets, or defined contribution plans with over \$1 million in employer-invested assets must file an audited **fund** financial statement within 180 days after the fiscal year end of the Plan. Specified Multi-Employer Pension Plans must file an audited **plan** financial statement within the same timeframe. The distinction between the two types of statements is set out in the Handbook of the Canadian Institute of Chartered Accountants, Section 4100.

CUSTODIAN AGREEMENTS

Plans whose fund holder is a group of individual trustees are required to file custodian agreements with the Superintendent. A custodian agreement, between a Board of Trustees and the financial institution that is holding the funds for the Board, delegates custodial functions to the financial institution.

PAYING AGENT AGREEMENTS

The administrator of any pension plan for which there exists an agreement between the plan administrator and the fund holder that gives the responsibility for making actual pension payments to the

employer or the Board of Trustees (as opposed to the fund holder) must file a copy of that agreement with the Superintendent.

TRANSFER AGREEMENT

Where two or more plan sponsors enter into an agreement which allows for the transfer of monies and benefits from one plan to another on behalf of pension plan members who move from one employer to another, the administrator must file a copy of the agreement within 60 days of its being entered into. The administrator is responsible for ensuring that nothing in the agreement conflicts with the Act.

PLAN TERMINATION

The Superintendent must be notified at least 60 days before a plan is to be terminated, or if the decision is to terminate the plan in less than 60 days, immediately after the decision is made. Within 60 days after the effective date of termination, the administrator must provide the Superintendent with a termination report and final Annual Information Return (and filing fee). No funds may be released from the plan until these items have been filed and the Superintendent has consented to the release of assets. The administrator remains responsible for all transactions until the assets have been fully disbursed and a notice of cancellation of registration has been issued. For information on requirements in the case of a terminating pension plan, see [Policy Bulletin #6 - Termination of a Pension Plan](#).

PAYMENTS OUT OF THE PLAN

Except for the payment of benefits to members, former members and beneficiaries (on termination, retirement or death), no payments can be made, nor can funds be moved from an ongoing plan, without the prior written consent of the Superintendent. As well, Section 28.1 of the Regulation allows employers to be reimbursed for plan related expenses from the plan fund if the plan document contains a provision permitting this, and if plan expenses are normally to be paid from the plan fund. If any other form of payment is contemplated, the administrator must submit a request in writing for the Superintendent's consent.

Requirements for

EMPLOYEE CONTRIBUTIONS

**Remittance of
Contributions and
Payment of Benefits**

All contributions, whether voluntary or required, received from a member or deducted from a member's earnings must be remitted to the pension fund within 30 days after receipt or deduction, as the case may be.

EMPLOYER CONTRIBUTIONS

With the exception noted below, all employer contributions related to a defined contribution provision must be remitted to the pension fund within 30 days after the end of the month for which they are payable. In the case of defined contribution provisions where the employer contribution is related to profits of the employer, the profit sharing portion of the contribution must be remitted within 90 days after the fiscal year end of the plan. The minimum required contributions in a profit-sharing pension plan, like all other regular employer contributions to defined contribution provisions, must be remitted to the pension fund within 30 days after the end of the month for which they were paid.

In the case of employer contributions under defined benefit provisions of specified multi-employer plans or multi-unit plans, contributions must be remitted to the administrator 30 days after the end of the month for which those contributions are payable. The administrator must then remit those contributions to the custodian within 30 days after they are received.

All other employer contributions related to a defined benefit provision must be remitted to the fund monthly, within 30 days after the end of each month. This includes contributions related to current service costs and special payments related to unfunded liabilities and solvency deficiencies. Where a triennial actuarial review is under way, the contributions in respect of the first year after the review date may be delayed until the earlier of 30 days after the valuation is filed with the Superintendent, and 30 days after the end of the second quarter following the review date, (30 days after the end of the third quarter in the case of a Specified Multi-Employer Plan) pending the results of the review, but interest must be paid at the assumed rate for the period of the delay. Where a plan is being terminated in whole or in part, all outstanding contributions must be remitted to the pension fund within 30 days after the effective date of the termination.

Disclosure

BENEFIT PAYMENTS

Requirements

Cash refunds and transfer payments must be made within 60 days of the administrator receiving all the documents necessary to effect the transaction.

EMPLOYEE BOOKLET

The plan administrator must provide each employee with a written explanation of the plan at least 30 days prior to the member being eligible to join the plan or, in the case of an immediately compulsory plan, on or before the date the employee commences employment. The administrator of a specified multi-employer plan must provide this information to a new member with the first annual statement, or within 30 days of receiving a request from the member, whichever occurs first. In the case of a newly established plan, the booklet must be provided to all members within 120 days of the registration of the plan.

PLAN AMENDMENT

Where a plan amendment affects benefits or contributions, the administrator must provide an explanation of the amendment to members within 90 days after the registration of the amendment.

The administrator of a specified multi-employer plan, where the amendment does not have adverse effects, must provide this explanation with the next annual statement to the member or within 30 days of a request for the explanation, if earlier.

There is a requirement for earlier notification if the amendment has adverse effect on anyone's benefit entitlements. The plan administrator must provide to each plan member an explanation of the adverse plan amendment. The administrator must provide the explanation within 45 days prior to the effective date of the amendment. An administrator is not required to file the amendment for registration under the Act at the same time; however, they may do so if they desire. Please refer to [Policy Bulletin #29 - Notification of Adverse Amendments](#) for info.

STATEMENTS TO MEMBERS

Each year, within 180 days after the fiscal year end of the plan, the administrator must provide each active and suspended member²

² In a plan that permits members to suspend membership while still employed by the employer, those employees whose

with a statement outlining benefit accruals during the year and confirming other pertinent information. See section 14 of the Regulation for specific listing of required information.

Where a member terminates membership or retires, a statement must be provided to the member within 60 days after the termination of membership or 90 days after receiving a completed application for commencement of pension, respectively. For the required contents of the statement please refer to sections 15 and 16 of the Regulation, and in the case of a specified multi-employer plan, section 17 of the Regulation.

In the case of a death benefit, the surviving pension partner, beneficiary or estate must be provided with a statement within 90 days of the administrator receiving proof of death. Required information to be provided is listed in section 19 of the Employment Pension Plans Regulation.

An inactive member may request an update of the termination statement. This must be provided within 90 days of the written request. The administrator is not required to honour such a request from a member more than once in each 12-month period.

In a marriage breakdown situation, the administrator must supply a statement upon the request of either or both pension partners stating the member's total entitlement in the pension plan, including additional voluntary or optional contributions, the date the member began to participate in the plan, and if the member no longer participates, the date membership terminated. For further information about administrators' responsibilities in marriage breakdown situations, please see [Policy Bulletin #3 - Division and Distribution of Pension Benefits on Marriage Breakdown](#).

OPTION TO UNLOCK 50% OF PENSION

Those pension plans that allow terminating employees to transfer

membership is suspended

funds directly to a Life Income Fund, annuity, or which offer defined contribution plan members the option of a transfer within the plan to a DC RIA (see [Policy Bulletin #30 - Defined Contribution Retirement Income Accounts](#)) must inform the terminating member of his right to unlock half of the value of his pension upon transfer. For further information please see [Policy Bulletin #34 – 50% Unlocking](#).

ADDITIONAL INFORMATION

Persons entitled to benefits may ask to review the plan text, plan amendments, funding agreements, audited financial statements (if applicable), transfer agreements under section 23 of the Act and other plan-related documents. See section 15(4) of the Act and section 25 of the Regulation for a complete listing. They may also request an explanation of how their benefit was calculated. The administrator must comply with these requests within 30 days of receiving the written request.

Participating Employees under a SMEPP or MUPP may also request copies of the documents noted above. A reasonable fee may be charged for providing the copies.

NOTICE OF TERMINATION OF PLAN

Plan members must be notified at least 60 days before a plan is to be terminated, or if the decision is to terminate the plan in less than 60 days, immediately after the decision is made.

The administrator must provide members with the appropriate benefit statements (termination statement if the member is not yet eligible to retire, or retirement statement if he is) no later than 60 days after the Superintendent approves the termination report. Where benefits are reduced an explanation of the reduction must be included and if there are surplus assets an explanation of how the surplus will be used.

SURPLUS OR EXCESS ASSET WITHDRAWALS

Where the plan sponsor is entitled, according to the plan

documents, to withdraw surplus or excess assets³ and is seeking a withdrawal from the plan (whether the plan is ongoing or terminating), the administrator must issue a notice containing information acceptable to the Superintendent. The notice of the intended withdrawal must be sent to members and former members, at least 30 days prior to the employer making the final request for withdrawal of funds to the Superintendent. Where the plan sponsor wishes to withdraw funds by obtaining the consent of plan members, former members and other beneficiaries, the notification requesting consent of those persons must be sent between 90 and 180 days before submitting the final request for withdrawal.

Greater detail on the rules related to withdrawal of surplus or excess assets, including the contents of the notification to members, is set out in the [Policy Bulletin #4 - Removal of Funds from Pension Plans](#).

Retention of Records

One of the chief fiduciary responsibilities of the administrator is maintaining proper records of members and others entitled to benefits, and of the funds flowing into and out of the pension plan fund. Besides the general requirement that the administrator act in a proper fiduciary manner, the section 16 of the Act requires an administrator, or a participating employer of a multi-employer or multi-unit plan, or an insurance company if the pension is provided through an insurance company, to retain records for a minimum period.

In the case of records affecting a person who received a benefit, the records must be kept at least 3 years after the benefit was paid, or where it is a continuing benefit, 3 years after the last payment. If the obligation for paying the benefit was transferred to an insurance company (where an immediate or deferred annuity was purchased, for example) the records must be retained for 3 years after the benefit obligation was transferred to the insurance company.

In the case of records not directly dealing with an individual's entitlements, the records must be retained until at least 3 years after they cease to be operative, or until such later time as they are no longer required to meet the Act's disclosure requirements. Such records include:

³ Surplus" referring to assets in excess of actuarial liabilities at plan termination; "excess" referring to assets in excess of actuarial liabilities in an ongoing plan

- the plan text,
- any document concerning the conditions of a person's employment that contains provisions relating to the pension plan,
- trust deeds or agreements,
- insurance contracts,
- by-laws or resolutions relating to the plan,
- the 3 most recent Annual Information Returns and audited financial statements filed by the plan,
- the 2 most recent cost certificates,
- employee booklets or other information designed for employees - those currently in force as well as those that were previously in force, for as long as there are members or former members still entitled to benefits in respect of that past time period,
- wind-up reports except for the parts that disclose benefits of individuals, and
- the current statement of investment policies and procedures or a summary of it.

Administrators of defined contribution plans are not required to maintain historical records of regular account statements provided to the member.

The plan administrator, as defined in the Act, is responsible for ensuring that a pension plan is administered and remains in compliance with the Act and Regulation. While most of the duties of the administrator may be delegated to a third party, the administrator ultimately remains responsible for any issues that arise. Notwithstanding this fact, plan administrators are reminded that their third party service providers must be supplied with copies of all relevant plan documents.

Summary

To assist plan administrators, the office of the Superintendent of

Pensions has issued several publications on specific topics. These include Policy Bulletins, Updates, and Forms. In addition, there are brochures designed to help employees understand their rights and options under the Act.

The office of the Superintendent of Pensions also regularly publishes lists of acknowledged carriers of LIRA, and LIF contracts for purposes of transferring locked-in funds. Copies of most of the publications are available on the Alberta Finance Website (see below) on the Internet.

Copies of publications may also be requested from the office of the Superintendent of Pensions. As well, the Superintendent's staff is available to answer administrators' questions on compliance issues and to assist administrators in understanding Act requirements.

For more information, contact:

Superintendent of Pensions
Alberta Finance
Room 402, 9515 - 107 Street
Edmonton, AB T5K 2C3

Telephone: (780) 427-8322
Fax: (780) 422-4283
Internet: www.finance.alberta.ca

For toll-free dialling within Alberta, call 310-0000 and then dial 780-427-8322.