New Requirements for Grow-In, Opting Out of Grow-In and Partial Wind Up

The amendments to the Pension Benefits Act (PBA) eliminating partial wind ups and identifying a broader range of circumstances that will trigger grow-in benefits to be paid to eligible members of pension plans that provide defined benefits were proclaimed into force July 1, 2012. The PBA also identifies circumstances that will not trigger grow-in benefits to be paid.

The amendments to the PBA allowing employers and members of Jointly Sponsored Pension Plans (JSPPs) and administrators of multi-employer pension plans (MEPPs) to opt out of providing grow-in benefits to their members were also proclaimed into force July 1, 2012.

Regulation 178/12 (the Regulation) made under the PBA also came into effect on July 1, 2012. The Regulation identifies an additional circumstance that will trigger grow-in benefits to be paid to eligible members. The Regulation also sets out the mechanics of the opting out process for those JSPPs and MEPPs that decide to opt out of providing grow-in benefits to their members.

New Requirements for Grow-in

Under the PBA, eligible members become entitled to grow-in to certain benefits (referred to as "grow-in benefits"), such as an unreduced early retirement pension, even though their employment is terminated before they have met the eligibility requirements to qualify for the benefits. To be eligible, members must be employed in Ontario and their combination of age plus years of continuous employment or membership in the plan must equal at least 55 on the relevant date.

If an individual ceases to be a member of the plan as a result of the employer's termination of his or her employment, the relevant date is the effective date of termination. If an individual ceases to be a member of the plan as a result of the wind up of the plan, the relevant date is the effective date of the wind up.

For example, a plan may provide that a member is entitled to begin receiving an unreduced pension when he or she reaches 60 years of age. If a member's membership is terminated when he or she is 48 and at the date of termination the member has 10 years of continuous employment or membership in the plan, the member would be eligible to begin receiving an unreduced pension when he or she is 60. This is because the member's age plus years of continuous employment or membership in the plan is equal to at least 55 on the effective date of termination. The pension the member will receive will be based on the benefits he or she earned as at the effective date of wind up or termination.

Circumstances triggering payment of Grow-in

Before July 1, 2012, grow-in benefits were available to eligible members of pension plans that provided defined benefits only when they ceased to be members of their plans on the wind up of the plans. As of July 1, 2012, grow-in benefits are available to eligible members in a broader set of circumstances (referred to in the PBA as "activating events").

The following circumstances are identified in the PBA and Regulation as activating events that will trigger grow-in benefits to be paid to eligible members:

1. the wind up of a pension plan, if the effective date of the wind up is on or after April 1, 1987;
2. the employer's termination of the member's employment, if the effective date of the termination is on or after July 1, 2012; and
3. the member resigns before the termination date specified in a written notice of termination of employment given to him or her by the employer.

Circumstances not triggering payment of Grow-in

If the member's employment was terminated as a result of wilful misconduct, disobedience or wilful neglect of duty by the member that is not trivial and has not been condoned by the employer, such termination of employment is not considered to be an activating event. In that circumstance, a member will not be entitled to grow-in benefits.

The Regulation identifies other circumstances that are not considered to be activating events and where members will not be entitled to grow-in benefits. They are:

1. where the member is a construction employee within the meaning of Ontario Regulation 285/01(Exemptions, Special Rules and Establishment of Minimum Wage) made under the Employment Standards Act, 2000; and
2. where the member is on temporary lay-off within the meaning of subsection 56(2) of the Employment Standards Act, 2000.

Questions and answers on new grow-in rules

Opting out of grow-in – JSPPs and MEPPs

Section 74.1 of the PBA permits JSPPs and MEPPs to opt out of providing grow-in benefits to their members. The election to opt out must be exercised by:

1. the employers (or any persons or entities who make contributions on behalf of the employers or who represent employers) and the members (or the representatives of the members) of a jointly-sponsored pension plan (JSPPs), in the case of a JSPP; and
2. the administrator of a multi-employer pension plan (MEPP), in the case of a MEPP.

The election to opt out must be made within a prescribed period and satisfy certain requirements.

Please refer to the special posting of June 5, 2012, which explains in detail the period for making the election and the requirements that must be satisfied for opting out.

Questions and answers on opting out of the new grow-in rules

Elimination of Partial Wind Ups

As of July 1, 2012, partial wind ups of pension plans are eliminated. Any plan whose effective date of wind up is on or after July 1, 2012 may not be wound up in part.

For a partial wind up with an effective date prior to July 1, 2012, the rules that were in effect for wind ups prior to July 1, 2012 continue to apply (except that the administrator is not required to purchase life annuities for members, former members, retired members or other persons entitled to benefits under the plan in order to distribute the assets in connection with the partial wind up – see subsection 77.2 of the PBA). Eligible members who are affected by the partial wind up will continue to be entitled to be paid grow-in benefits.

Questions and answers on the elimination of partial wind up and transitional issues

Questions and Answers on the New Grow-in Rules under Section 74 of the Pension Benefits Act

Q1. What is "grow-in"?

A1. As of July 1, 2012, a pension plan member is entitled to grow-in to certain benefits (referred to as "grow-in benefits") if his or her pension plan provides defined benefits, and he or she ceases to be a member because his or her employment is terminated (subject to some limited exceptions) or the plan is wound up. This right entitles the eligible plan member to receive the pension beginning on the date on which the member would have been entitled to an enhanced or unreduced pension under the pension plan, if his or her employment or membership had continued to that date.

To be eligible for grow-in benefits:

- the member must be employed in Ontario at the time of wind up or termination of employment;
- the member's age plus years of continuous employment or membership in the plan at the effective date of wind up or the effective date of termination must equal at least fifty five (55); and
- the member must not be a member of a Jointly-Sponsored Pension Plan (JSPP) or a Multi-Employer Pension Plan (MEPP) that has opted out of providing grow-in benefits.

To be eligible to grow-in to bridging benefits under the plan the member must have at least ten years of continuous employment with the employer or have been a member of the plan for at least ten years.

Please note that the legislation limits the rights of a plan member who is a construction employee within the meaning of Ontario Regulation 285/01 made under the Employment Standards Act, 2000 to receive grow-in benefits.

Please also note that if a member is entitled to grow-in benefits, the dollar amount of the benefits the member will receive are based on the benefits that have been earned (or accrued) up to the relevant date.

For example, a plan may provide that a member is entitled to begin receiving an unreduced pension when he or she reaches 60 years of age. The plan also offers a bridging benefit payable from age 60 to age 65. If a member's membership is terminated when he or she is 48 and at the date of termination the member has 10 years of continuous employment or membership in the plan, the member would be eligible to begin receiving an unreduced pension when he or she is 60. This is because the member's age plus years of continuous employment or membership in the plan is equal to at least 55 on the effective date of termination. The pension the member will receive will be based on the benefits he or she earned as at the effective date of wind up or termination and would also include the bridging benefit offered under the pension plan because the member has 10 years of continuous employment with the employer or has been a member of the plan for 10 years. -06/12

Q2. How are the new grow-in provisions different from those in effect before July 1, 2012?

A2. Prior to July 1, 2012, eligible members of a pension plan that provided defined benefits were entitled to receive grow-in benefits only when they ceased to be members of their pension plans on the wind up of the plans. As of July 1, 2012, eligible members will be entitled to grow-in benefits in a broader set of circumstances (referred to in the new grow-in provisions as "activating events"). -06/12

Q3. What circumstances trigger payment of grow-in benefits?

A3. As of July 1, 2012, the legislation identifies the following as "activating events" that will trigger the payment of grow-in benefits:

- the wind up of the pension plan;
- the employer's termination of the member's employment without cause, if the effective date of termination is on or after July 1, 2012; and
- the member resigns before the termination date specified in a written notice of termination of employment given to him or her by the employer. -06/12

Q4. What circumstances will not trigger the payment of grow-in benefits?

A4. The legislation excludes the following circumstances from being "activating events":

- termination of the member's employment, if it is a result of willful misconduct, disobedience, or willful neglect of duty by the member that is not trivial, and has not been condoned by the employer;
- the member is only on temporarily lay-off (as defined in subsection 56(2) of the Employment Standards Act, 2000); and
- termination of a member, if the member is a "construction employee" (as defined in Regulation 285/01 made under the Employment Standards Act, 2000).

In these circumstances members will not be entitled to be paid grow-in benefits. -06/12

Q5. I received notice that my employment with XYZ Inc. will be terminated on September 30, 2012. I got a job offer in another province and intend to resign from XYZ Inc. on July 15, 2012. Will I still be entitled to grow in benefits?

A5. Yes, you are still entitled to grow-in benefits if you resign before the termination date specified in the written notice of termination of employment given to you by your employer. -06/12

Q6. My employment was terminated on June 30, 2012 and the pension plan is not being wound up. Am I entitled to grow-in benefits?

A6. No. Since your employment was terminated before July 1, 2012, and there was no full or partial wind up of the pension plan, you are not entitled to grow-in benefits. -06/12

Q7. I am employed in Ontario and my pension plan is registered with British Columbia. My employment was terminated on July 1, 2012. Am I entitled to grow-in benefits?

A7. You are entitled to grow-in benefits if:

- your age, plus years of continuous employment or membership in the plan total at least 55 on your termination date; **and**
- you do not fall into one of the circumstances that are excluded from grow-in. -06/12

Opting Out of Grow-in

Q8. Can a pension plan elect to opt out of providing grow-in benefits under section 74 (grow-in for members) of the Pension Benefits Act?

A8. Only Jointly Sponsored Pension Plans (JSPPs) and Multi-Employer Pension Plans (MEPPs) can be excluded from the operation of section 74 of the Pension Benefits Act (PBA).

For a JSPP, the election may be made by the employers (or any persons or entities who make contributions on behalf of the employers or who represent the employers) and the members (or representatives of the members). For a MEPP, the plan administrator (Board of Trustees) may make the election. The effective date of the election must be on or after July 1, 2012 and it cannot be earlier than the date on which the election is filed with the Superintendent. -06/12

Q9. Once the decision to opt out of providing grow-in is made and an election has been filed with the Superintendent, can the election be rescinded?

A9. Yes, the election to opt out may be rescinded any time after it is filed with the Superintendent. The rescission takes effect when notice of the rescission is filed with the Superintendent or on a later date specified in the notice. -06/12

Q10. Is there a deadline for making the election to opt out of grow-in?

A10. Yes. A pension plan that is already a Jointly Sponsored Pension Plan (JSPP) or Multi-Employer Pension Plan (MEPP) on July 1, 2012 had until July 1, 2013 to make and file the election to opt out of grow-in.

A pension plan that becomes either a JSPP or a MEPP after July 1, 2012 has one year after the date it becomes a JSPP or a MEPP to make and file the election to opt out of grow-in. -08/2014

Q11. How should the election to opt out of grow-in be made?

A11. The notice of election to opt out of grow-in may be included in a letter to the Superintendent or FSCO. For a Jointly Sponsored Pension Plan (JSPP), the notice of election must be signed by an individual who is authorized to sign the election on behalf of the employers (or any persons or entities who make contributions on behalf of the employers or who represent the employers) and members (or representatives of the members) of the JSPP. For a Multi-Employer Pension Plan (MEPP), the notice of election must be signed by the administrator of the MEPP, or an individual who is authorized to sign the election on behalf of the administrator of the MEPP.

The signed notice of election must be filed with the Superintendent of the Financial Services at:

Attn: Pension Division
Financial Services Commission of Ontario
5160 Yonge Street
P.O. Box 85, 4th Floor
Toronto ON M2N 6L9 -06/12

Q12. What information must be included in the notice of election?

A12. The notice of election must include the following:

- the name of the pension plan;
- the plan's registration number;
- a statement that an election is being made to exclude the pension plan (include its full name and registration number) and its members from the operation of section 74 of the PBA;
- the name and address of the plan administrator;
- the name, address and contact information of a representative of the administrator who is able to respond to questions from FSCO relating to the election; and
- the effective date of the election to opt out of providing grow-in benefits. (Note that the effective date of the election cannot be before the date it is filed with the Superintendent.)

For a Jointly Sponsored Pension Plan (JSPP), the notice of election must also include a confirmation that the decision to exclude the plan and its members from the operation of section 74 of the PBA was made by the employers (or any persons or entities who make contributions on behalf of employers or who represent the employers) and members (or representatives of the members) of the JSPP.

For a Multi-Employer Pension Plan (MEPP), the notice of election must also include a confirmation that the decision to exclude the plan and its members from the operation of section 74 of the PBA was made by the plan administrator, or an individual who is authorized to sign the election on behalf of the administrator. -06/12

Q13. I am the administrator of a Multi-Employer Pension Plan (MEPP) that is registered in British Columbia and that has Ontario plan members. Can I elect to opt out of grow-in under Section 74 of the PBA?

A13. Yes, you can elect to opt-out of grow-in by filing the notice of election with the Superintendent of Pensions of British Columbia. Note that you must send a copy of the signed notice of election with the Superintendent of the Financial Services at:

Attn: Pension Division
Financial Services Commission of Ontario
5160 Yonge Street
P.O. Box 85, 4th Floor
Toronto ON M2N 6L9 -06/12

Q14. Can the effective date of the election be before July 1, 2012?

A14. No. The provision that permits a JSPP or MEPP to be excluded from the operation of section 74 only comes into effect on July 1, 2012. Therefore, the effective date of the election cannot be before July 1, 2012. -06/12

Q15. Can the effective date of the election be before the date the election is filed with the Superintendent?

A15. No. The effective date of the notice of election cannot be before the date the election is filed with the Superintendent. However, the notice of election can specify an effective date that is after the date the notice is filed with the Superintendent. If the effective date of the notice of election is before the date it is filed and received by the Superintendent, the election will not be valid. A new notice of election will need to be filed and it will need to have a valid effective date. -06/12

Q16. Does a plan administrator have to notify plan members, the union and its pension advisory committee (if applicable) that it has elected to opt out of providing grow-in?

A16. Yes. Plan members, individuals who are eligible or required to join the plan, trade unions and pension advisory committees where they have been established by members and former members under section 24 of the PBA, must be given notice of the election and the effective date of the election.

Written notice must be given to:

- plan members employed in Ontario in the first annual statement that is transmitted to members after the election is filed with the Superintendent;
- a trade union that represents members employed in Ontario and to the pension advisory committee, if any, established under section 24 of the PBA, within 90 days, after the election is filed with the Superintendent;
- each person who, on or after the effective date of the election, is eligible or required to become a plan member and is employed in Ontario within 60 days prior to the date on which the person will become eligible or is required to become a member. Where the person is eligible to become a member of the plan upon commencing employment, notice must be provided within sixty days after the person commences employment. In all cases the notice is to be included in the information to be provided to the person under subsection 25(1) of the PBA. -06/12

Q17. Our pension plan does not want to opt out of providing grow-in benefits. Do we need to file anything with the Superintendent?

A17. If your pension plan is a Jointly Sponsored Pension Plan (JSPP) or a Multi-Employer Pension Plan (MEPP), and a decision is made not to opt out of providing grow-in, you do not need to file anything with the Superintendent. A notice of election only needs to be filed with the Superintendent if your JSPP or MEPP decides to opt out of grow-in. -06/12

Q18. How do I know if my pension plan is a Multi-Employer Pension Plan (MEPP) or a Jointly-Sponsored Pension Plan (JSPP)?

A18. Please check with your plan administrator, to find out whether your pension plan is a JSPP or MEPP. Alternatively, you may also find this information in your employee booklet, your annual statement, or in other documents that were provided to you by the plan administrator when you joined the pension plan. You can also check FSCO's website for Pension Plan Access Information. -06/12

Q19. Who do I contact to find out if my pension plan has elected to opt out of providing grow-in benefits?

A19. If your pension plan is a Jointly-Sponsored Pension Plan (JSPP) or a Multi-Employer Pension Plan (MEPP), and has elected to opt out of providing grow-in benefits, if you are employed in Ontario you will receive a notice of the election and the effective date of the election in the first annual statement that is transmitted to you after the election is filed with the Superintendent. Your union and/or pension advisory committee (if any) will receive notice of the election and the effective date of the election as well within 90 days after the election is filed.

You may also contact your plan administrator for this information. -06/12

Opting out of the new grow-in provisions by JSPPs and MEPPs

Updated as at March 2014

Changes to Section 74 of the Pension Benefits Act

In 2010, section 74 of the Pension Benefits Act (PBA) was amended such that, subject to certain limited exceptions, grow-in benefits must be provided to every member whose employment is terminated by the employer. This applies if the effective date of the termination is on or after July 1, 2012. The amendment was proclaimed in force effective on July 1, 2012.

In conjunction with the amended section 74, section 74.1 of the PBA was also proclaimed in force effective July 1, 2012. This provision permits employers (or any persons or entities who make contributions on behalf of the employers or who represent the employers) and the members (or the representatives of the members) of jointly sponsored pension plans (JSPPs) and administrators of multi-employer pension plans (MEPPs) to elect to exclude their pension plans and their members from the operation of section 74 of the PBA, i.e. to opt out of providing grow-in benefits to their members.

Changes to General Regulation 909

Regulation 178/12 amended the General Regulation 909 under the PBA (the Regulation) to include the mechanics of the opting out process. Among other things, the Regulation sets out deadlines for the making and filing of an election under section 74.1 of the PBA. The Regulation provides that for a pension plan that was a JSPP or a MEPP on July 1, 2012, the deadline for making and filing an election was July 1, 2013.

As at July 1, 2013, eight of the ten JSPPs registered with FSCO have opted out of providing grow-in benefits to their members. Similarly, as at July 1, 2013, of the 76 MEPPs registered with FSCO providing defined benefits, 52 elected to opt out of providing grow-in benefits to their members. The 24 MEPPs that did not file an election with the Superintendent as at July 1, 2013 may no longer elect to opt out of providing grow-in benefits to their members.

The Regulation also provides that a pension plan that becomes a JSPP or a MEPP after July 1, 2012 has one year after the date on which the administrator files a statement certifying that the pension plan satisfies the criteria to be a JSPP in the case of a JSPP, or one year after the date the pension plan is registered as or is amended to become a MEPP in the case of a MEPP, to make and file an election under section 74.1 of the PBA, to opt out of providing grow-in benefits to its members. Therefore, those JSPPs and MEPPs that became JSPPs or MEPPs after July 1, 2012 that wish to elect to opt out of providing grow-in benefits to their members and who satisfy the requirements in the Regulation in connection with the election, must make and file their elections with the Superintendent within the prescribed time set out above. However, until such time as the election to opt out is filed with the Superintendent, they must provide grow-in benefits to eligible members in accordance with section 74 of the PBA.

Election

The election to be filed with the Superintendent may be contained in a letter to the Superintendent and must include the following information:

- The name and registration number of the pension plan;

- A statement that an election is being made to exclude the pension plan (insert full name and registration number) and its members from the operation of section 74 of the PBA.
- The name and contact information of the administrator and the name and contact information of a representative of the administrator who is able to respond to questions from FSCO relating to the election; and
- The effective date of the election – this date cannot be earlier than the date on which the election is filed.

In the case of a JSPP, the election must also include a confirmation that the decision to exclude the plan and its members from the operation of section 74 of the PBA was made by the employers (or any persons or entities who make contributions on behalf of the employers or who represent the employers) and the members (or representatives of the members) of the JSPP.

In addition, the election must be signed by an individual authorized to sign the election on behalf of the employers (or any persons or entities who make contributions on behalf of the employers or who represent the employers) and the members (or representatives of the members) of the JSPP.

In the case of a MEPP, the election must also include a confirmation that the decision to exclude the plan and its members from the operation of section 74 of the PBA was made by the administrator of the plan. In addition, the election must be signed by the administrator of the MEPP or an individual authorized to sign the election on behalf of the administrator of the MEPP.

Providing Notice of Election to Affected Persons

The plan administrator must provide notice of the election of the plan to opt out of providing grow-in, as well as the effective date of the election, to members, unions and any advisory committee as required under section 30.2(6) of the Regulation. For more information on this, see FAQs on Opting out of grow-in (Question 16). Within 60 days of providing this notice, the administrator must certify to the Superintendent that each required notice was given and the date it was given.

JSPPs and MEPPs not registered with FSCO

Plan administrators of those JSPPs and MEPPS that are registered in other jurisdictions and have Ontario members may also elect to opt out of providing grow-in benefits to their Ontario members. As in the case of JSPPs and MEPPs registered with FSCO, the deadline for making and filing an election under section 74.1(1) or 74.1(2) for pension plans with Ontario members that are registered in other jurisdictions that were JSPPs or MEPPs on July 1, 2012, was July 1, 2013. As at July 1, 2013, nine such MEPPs opted out of providing grow-in benefits to their members.

An administrator of a JSPP or MEPP that became or becomes a JSPP or a MEPP after July 1, 2012 has one year after the date on which the administrator files a statement certifying that the pension plan satisfies the criteria to be a JSPP in the case of a JSPP, or one year after the date the pension plan is registered as or is amended to become a MEPP in the case of a MEPP, to make and file and election to opt out of providing grow-in to its Ontario members. Administrators of such plans may file their elections with the pension plan's province of registration with a copy to FSCO. Until such time as the election to opt out is filed with the plan's province of registration (with a copy to FSCO), such a pension plan must provide any grow-in benefits to eligible members in accordance with section 74 of the PBA.

The notices that are filed must include the information listed above under the heading "Election". In the case of the JSPP, the election must be signed by an individual authorized to sign the election on behalf of the employers (or any persons or entities who make contributions on behalf of the employers or who represent the employers) and the members (or representatives of the members) of the JSPP.

In the case of a MEPP, the election must be signed by the administrator of the MEPP or an individual authorized to sign the election on behalf of the administrator of the MEPP.

MEPPs and JSPPs that do not opt out of providing grow-in

If a JSPP or a MEPP does not make and file an election within the deadline set out in the Regulation, it may no longer do so. Such a pension plan must provide grow-in benefits to eligible Ontario members. This applies whether the pension plan is registered in Ontario or in another jurisdiction.

FSCO Contact Information

Financial Services Commission of Ontario
5160 Yonge Street
P.O. Box 85
Toronto, Ontario M2N 6L9
(416) 250-7250
1-800-668-0128

More information can be found under Questions and Answers on the New Grow-in Rules under Section 74 of the Pension Benefits Act.

Full and Partial Wind Ups - Frequently Asked Questions

Q1. I understand that partial wind ups have been eliminated. What does this mean and when did this take effect?

A1. The Pension Benefits Act (PBA) was amended July 1, 2012 to eliminate any partial wind up with an effective date that is on or after July 1, 2012. A plan may still be wound up in part, if the effective date of the partial wind up is prior to July 1, 2012. The effective date of the partial wind up may be determined after July 1, 2012. The transition rules concerning partial wind ups can be found in sections 77.1 to 77.10 of the PBA. - 07/2016

Q2. What is grow-in, and how does it affect the rights of members affected by a wind up (full or partial)?

A2. Under section 74 of the Pension Benefits Act (PBA), a pension plan member is entitled to grow-in to certain benefits (referred to as 'grow-in benefits') if his or her pension plan provides defined benefits and he or she ceases to be a member in certain circumstances, including on the wind up of a pension plan. This includes plan members affected by a full wind up, or a partial wind up with an effective date prior to July 1, 2012.

Not all pension plans provide for enhanced or unreduced pensions prior to the normal retirement date under the pension plan. For those that do, grow-in rights entitle the eligible plan member to receive an enhanced or unreduced pension beginning on the date on which the member would have been entitled to such a pension if his or her employment or membership had continued to that date.

For a member to be eligible for grow-in benefits on plan wind up:

- he/she must be employed in Ontario at the time of wind up;
- his/her age plus years of continuous employment or membership in the pension plan at the effective date of wind up must equal at least fifty five (55); and
- he/she must not be a member of a Jointly-Sponsored Pension Plan (JSPP) or a Multi-Employer Pension Plan (MEPP) that has opted out of providing grow-in benefits.

For more information on grow-in benefits, please refer to Questions and Answers on the New Grow-in Rules under Section 74 of the Pension Benefits Act. - 07/2016

Q3. On a partial wind up, does the Pension Benefits Act (PBA) require the plan administrator to purchase life annuities for members in the partial wind up group who are receiving pension payments or who chose or are deemed to have chosen an immediate or deferred pension?

A3. No. Effective July 1, 2012, the Pension Benefits Act (PBA) does not require the pension plan administrator to purchase annuities for members in the partial wind up group who are receiving pension payments or who chose or are deemed to have chosen an immediate or deferred pension as part of a partial wind up.

However, the plan administrator may still purchase annuities in conjunction with the partial wind up if it determines it is prudent to do so.

Please also note, eligible members affected by a partial wind up retain the right to require the transfer of the commuted value of their pension benefit to an insurance company for the purchase of a life annuity under section 42(1)(c) of the PBA. In this case, the administrator is required to purchase annuities for such members. The amount of the annuity purchased in these circumstances would be that which can be purchased from the insurer with the commuted value, not necessarily the amount defined under the pension plan. - 07/2016

Q4. What happens to the pension benefits if the plan administrator does not choose to purchase life annuities for members in the partial wind up group who are receiving pension payments or who chose or are deemed to have chosen an immediate or deferred pension?

A4. If the plan administrator does not purchase life annuities for members affected by the partial wind up who elected or are deemed to have elected a pension or a deferred pension, the liabilities and supporting assets for this group will be transferred to the on-going portion of the pension plan. Affected members already in receipt of pension payments prior to the transfer will continue to receive pension payments from the pension fund. Affected members with a deferred pension will also receive pension payments from the pension fund when they retire.

Administrators who transfer the liabilities and supporting assets for a partial wind up group to the ongoing portion of the plan, should refer to FSCO's policy on Distribution of Benefits on Partial Wind Up Where Immediate or Deferred Pensions are Not Purchased, for more information. - 07/2016

Q5. Will affected members remain entitled to any surplus related to the partial wind up if the immediate or deferred pensions are transferred to the on-going portion of the plan?

A5. Yes. If any surplus is to be paid to the members affected by the partial wind up, all affected members including retired and former members will be entitled to a portion of that surplus, regardless of what options they have chosen in respect of their pension benefits. - 07/2016

Q6. Must annuities be purchased for pension plan members affected by a full wind up?

A6. Yes. Since the pension plan will not be continuing on a full wind up of the plan, a plan administrator must purchase life annuities for retired members and for members entitled to a deferred pension who have not elected to transfer the value of the pension out of the plan. - 03/2010

Q7. I was in a partial plan wind up and chose to leave my pension in the plan. Will I be entitled to any ad hoc increases or other retired members' benefits provided by the company?

A7. Any entitlement to an ad hoc pension increase or other retired members' benefits is at the discretion of the company. - 03/2010

Q8. I administer a pension plan that is being wound up. The plan has an active member affected by the wind up who has requested section 42(1) portability rights under section 73(2) of the Pension Benefits Act (PBA). The member is past the normal retirement age and is entitled to receive an immediate pension. Is my plan required to provide this member with portability rights under section 73(2)? Would the answer be the same for a partial wind up?

A8. Yes. In a wind up situation, section 73(2) of the Pension Benefits Act (PBA) provides that all members, regardless of age, are entitled to section 42(1) portability rights except those actually in receipt of a pension on the effective date of the wind up. The answer would be the same for a partial wind up situation. - 07/2016

More information:

Want to view a link in a new window?
Right-click the link and select "open in new window"

FSCO Policies on Wind Up of a Pension Plan