

Pension Benefits Act

R.S.O. 1990, CHAPTER P.8

Consolidation Period: From December 8, 2010 to the [e-Laws currency date](#).

Last amendment: 2010, c. 26, Sched. 15.

PENSION BENEFITS GUARANTEE FUND

Guarantee Fund continued

82. (1) The Pension Benefits Guarantee Fund is continued under the name Pension Benefits Guarantee Fund in English and Fonds de garantie des prestations de retraite in French. R.S.O. 1990, c. P.8, s. 82 (1).

Administration

(2) The Superintendent is responsible for the administration of the Guarantee Fund including the investment of the assets of the Guarantee Fund. R.S.O. 1990, c. P.8, s. 82 (2); 1997, c. 28, s. 203.

Expenses

(3) The Superintendent may charge to the Guarantee Fund the reasonable expenses incurred by the Superintendent in the administration of the Guarantee Fund. R.S.O. 1990, c. P.8, s. 82 (3); 1997, c. 28, s. 203.

Funding of the Guarantee Fund

(3.1) The Guarantee Fund is to be funded by all employers required to make contributions under pension plans that provide defined benefits that are not exempt from the application of the Guarantee Fund by this Act or the regulations. 2009, c. 18, Sched. 24, s. 1 (1).

Same

(3.2) The amounts to be paid under subsection (3.1) by employers to the Guarantee Fund shall be determined in accordance with the prescribed rules. 2009, c. 18, Sched. 24, s. 1 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 82 is amended by adding the following subsection:

Matters to be considered in determining amount of funding

(3.3) In making regulations to prescribe rules for determining the amount to be paid by employers to the Guarantee Fund, the Lieutenant Governor in Council shall take into account the following:

1. The risk of claims against the Guarantee Fund and the estimated amount of potential claims to be paid by the Guarantee Fund.
2. That the amount standing to the credit of the Guarantee Fund should be sufficient for the purpose of paying claims without any additional amount provided by a loan or grant under subsection (4) or (5).
3. That the level of funding required from employers should be reasonably stable over the long term. 2009, c. 18, Sched. 24, s. 1 (2).

See: 2009, c. 18, Sched. 24, ss. 1 (2), 3 (2).

Loans to Guarantee Fund

(4) If at any time the amount standing to the credit of the Guarantee Fund is insufficient for the purpose of paying claims, the Lieutenant Governor in Council may authorize the Minister of Finance to make loans out of the Consolidated Revenue Fund to the Guarantee Fund on such terms and conditions as the Lieutenant Governor in Council directs. R.S.O. 1990, c. P.8, s. 82 (4); 2004, c. 31, Sched. 31, s. 5.

Grant to Guarantee Fund

(5) If at any time the amount standing to the credit of the Guarantee Fund is insufficient for the purpose of paying claims, the Lieutenant Governor in Council may authorize the Minister of Finance to make a grant, on such terms and conditions as the Lieutenant Governor in Council directs, to the Guarantee Fund out of money appropriated for that purpose by the Legislature. 2009, c. 18, Sched. 24, s. 1 (3); 2010, c. 1, Sched. 23, s. 8.

Loans and grants discretionary

(6) Nothing in this Act or the regulations requires the Lieutenant Governor in Council to authorize the Minister of Finance to make either a loan or a grant to the Guarantee Fund. 2009, c. 18, Sched. 24, s. 1 (3).

Liability of Guarantee Fund limited

(7) The total liability of the Guarantee Fund to guarantee pension benefits at any particular time is limited to the assets of the Guarantee Fund at that time, calculated after including any loan or grant that may have been made to the Guarantee Fund under subsection (4) or (5). 2009, c. 18, Sched. 24, s. 1 (3).

Guarantee Fund declaration

83. (1) Subject to section 89 (hearing and appeal), the Superintendent shall by order declare, in the circumstances mentioned in subsection (2), that the Guarantee Fund applies to a pension plan. 1997, c. 28, s. 204 (1).

Conditions precedent

- (2) The Superintendent shall make the declaration if,
- (a) the pension plan is registered under this Act or is registered in a designated jurisdiction to provide for the reciprocal application of this Act;

- (b) the pension plan provides defined benefits that are not exempt from the application of the Guarantee Fund by this Act or the regulations;
- (c) the pension plan is wound up in whole or in part; and

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (c) is amended by striking out “in whole or in part”. See: 2010, c. 9, ss. 72 (1), 80 (2).

- (d) the Superintendent is of the opinion, upon reasonable and probable grounds, that the funding requirements of this Act and the regulations cannot be satisfied. R.S.O. 1990, c. P.8, s. 83 (2); 1997, c. 28, s. 204 (2); 2010, c. 1, Sched. 23, s. 9; 2010, c. 9, s. 72 (2).

Guaranteed benefits

84. (1) If the Superintendent by order declares that the Guarantee Fund applies to a pension plan, the following are guaranteed by the Guarantee Fund, subject to the limitations and qualifications as are set out in this Act or are prescribed:

1. Any pension in respect of employment in Ontario.
2. Any deferred pension in respect of employment in Ontario to which a former member is entitled, if the former member’s employment or membership was terminated before the 1st day of January, 1988 and the former member was at least forty-five years of age and had at least ten years of continuous employment with the employer, or was a member of the pension plan for a continuous period of at least ten years, at the date of termination of employment.
3. A percentage of any defined pension benefits in respect of employment in Ontario to which a member or former member is entitled under section 36 or 37 (deferred pension), or both, if the member’s or former member’s employment or membership was terminated on or after the 1st day of January, 1988, equal to 20 per cent if the combination of the member’s or former member’s age plus years of employment or membership in the pension plan equals fifty, plus an additional $\frac{2}{3}$ of 1 per cent for each additional one-twelfth credit of age and employment or membership to a maximum of 100 per cent.

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 3 is amended by striking out “if the member’s or former member’s employment or membership was terminated” and substituting “if his or her employment or membership was terminated” and by striking out “the combination of the member’s or former member’s age” and substituting “the combination of his or her age”. See: 2010, c. 9, ss. 73 (1), 80 (2).

4. All additional voluntary contributions, and the interest thereon, made by members or former members while employed in Ontario.

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 4 is amended by striking out “made by members or former members” and substituting “made by members, former members or retired members”. See: 2010, c. 9, ss. 73 (2), 80 (2).

5. The minimum value of all required contributions made to the pension plan by a member or former member in respect of employment in Ontario plus interest.

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 5 is amended by striking out “by a member or former member” and substituting “by a member, former member or retired member”. See: 2010, c. 9, ss. 73 (3), 80 (2).

6. That part of a deferred pension guaranteed under this subsection to which a former spouse of a member or of a former member is entitled under a domestic contract or an order under the *Family Law Act*.

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 6 is repealed and the following substituted:

6. That part of a pension or deferred pension guaranteed under this subsection to which a former spouse of a member, former member or retired member is entitled under an order under the *Family Law Act*, a family arbitration award or a domestic contract.

See: 2010, c. 9, ss. 73 (4), 80 (2).

7. Any pension to which a survivor of a former member is entitled under subsection 48 (1) (death before commencement of payment). R.S.O. 1990, c. P.8, s. 84 (1); 1997, c. 28, s. 205; 1999, c. 6, s. 53 (20); 2005, c. 5, s. 56 (26).

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 7 is amended by striking out “of a former member” and substituting “of a former member or retired member”. See: 2010, c. 9, ss. 73 (5), 80 (2).

Bridging benefits

(2) For the purpose of this section, where a member or former member has at least ten years of continuous employment with the employer, a deferred pension or a pension benefit includes bridging benefits. R.S.O. 1990, c. P.8, s. 84 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (2) is amended by striking out “where a member or former member” and substituting “if a member, former member or retired member”. See: 2010, c. 9, ss. 73 (6), 80 (2).

Part year

[\(3\)](#) In determining the combination of age and membership or employment for subsection (1), one-twelfth credit shall be given for each full month of age and for each full month of continuous employment or membership as of the date of termination of employment. R.S.O. 1990, c. P.8, s. 84 (3).

Application

[\(3.1\)](#) This section applies if the effective date of the wind up of the pension plan is on or after April 1, 1987. 2010, c. 9, s. 73 (7).

Definition

[\(4\)](#) For the purpose of this section,

“pension benefits” includes any benefits or options elected under section 74 (combination of age and years of employment). R.S.O. 1990, c. P.8, s. 84 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (4) is repealed. See: 2010, c. 9, ss. 73 (8), 80 (2).

Payments not guaranteed

[85.](#) The following are not guaranteed by the Guarantee Fund:

1. The payment of a pension or pension benefit under a pension plan that has been established or maintained for less than three years at the date of wind up.

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 1 is repealed and the following substituted:

1. The payment of a pension or pension benefit under a pension plan that has been established or maintained for less than five years at the date of the wind up, if the date of the wind up is on or after the date on which the *Securing Pension Benefits Now and for the Future Act, 2010* received Royal Assent.

1.1 The payment of a pension or pension benefit under a pension plan that has been established or maintained for less than three years at the date of the wind up, if the date of the wind up is before the date on which the *Securing Pension Benefits Now and for the Future Act, 2010* received Royal Assent.

See: 2010, c. 24, ss. 38 (1), 49 (4).

2. Any increase to a pension or pension benefit or the value of a pension or pension benefit that became effective within three years before the date of wind up.

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 2 is repealed and the following substituted:

2. Any increase to a pension or pension benefit or increase to the value of a pension or pension benefit that became effective within five years before the date of the wind up, if the date of the wind up is on or after the date on which

the *Securing Pension Benefits Now and for the Future Act, 2010* received Royal Assent.

2.1 Any increase to a pension or pension benefit or increase to the value of a pension or pension benefit that became effective within three years before the date of the wind up, if the date of the wind up is before the date on which the *Securing Pension Benefits Now and for the Future Act, 2010* received Royal Assent.

See: 2010, c. 24, ss. 38 (1), 49 (4).

3. The amount of any pension or pension benefit, including any bridging supplement, in excess of \$1,000 per month or such greater amount as is prescribed by the regulations.
4. Pension benefits provided under a multi-employer pension plan.
 - 4.1 Pension benefits provided under a designated multi-jurisdictional pension plan in respect of employment outside Ontario or in respect of included employment as defined in subsection 2 (1) of the *Pension Benefits Standards Act, 1985* (Canada).
5. Pension benefits provided under a pension plan that provides defined benefits, if the obligation of the employer to contribute to the pension fund is limited to a fixed amount set out in a collective agreement.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 85 is amended by adding the following paragraph:

5.1 Pension benefits that are target benefits.

See: 2010, c. 24, ss. 38 (2), 49 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 85 is amended by adding the following paragraph:

5.2 Optional benefits.

See: 2010, c. 24, ss. 38 (3), 49 (4).

6. Pension benefits provided by prescribed pension plans or prescribed classes of pension plans. R.S.O. 1990, c. P.8, s. 85; 2010, c. 1, Sched. 23, s. 10.

Lien for payment out of Guarantee Fund

86. (1) Where money is paid out of the Guarantee Fund as a result of the wind up, in whole or in part, of a pension plan, the Superintendent has a lien and charge on the assets of the employer or employers who provided the pension plan. R.S.O. 1990, c. P.8, s. 86 (1); 1997, c. 28, s. 206.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out “in whole or in part”. See: 2010, c. 9, ss. 74, 80 (2).

Amount of lien

(2) The lien and charge is in an amount equal to the amount of the payment out of the Guarantee Fund plus interest thereon calculated at the rate and in the manner prescribed by the regulations. R.S.O. 1990, c. P.8, s. 86 (2).

Real property

(3) The lien and charge does not affect assets that are real property until a notice of the lien and charge that includes a description of the real property is registered in the proper land registry office, and the Superintendent may so register notice of the lien and charge. R.S.O. 1990, c. P.8, s. 86 (3); 1997, c. 28, s. 206.

Subrogation

(4) The Superintendent is subrogated to the rights of the administrator of a pension plan in respect of which the Superintendent authorizes payment from the Guarantee Fund in satisfaction of a pension, deferred pension, pension benefit or contribution guaranteed under section 84 (guaranteed benefits). R.S.O. 1990, c. P.8, s. 86 (4); 1997, c. 28, s. 206.