

BULLETIN NUMBER:	PENS- 09-009
TITLE:	A Guide for the Registration of a Pension Plan in British Columbia
LEGISLATION:	<i>Pension Benefits Standards Act</i>
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Purpose of the Guide

This guide is designed to assist plan administrators in completing the pension plan registration process by providing a profile of the roles and responsibilities of the key parties in the registration process, a step-by-step approach to the registration process, and key processing and contact information.

The guide is for information purposes only and does not replace the legal authority of either the [*Pension Benefits Standards Act, R.S.B.C., c.352*](#) (“PBSA”), or the [*Pension Benefits Standards Regulation*](#) (“Regulation”), or any policy directives, guidelines or bulletins issued by the Superintendent of Pensions (“Superintendent”). For more information about the specific legislative requirements to register a pension plan in British Columbia, please see the PBSA and Regulation.

Roles and Responsibilities

This section provides background information on the roles and responsibilities of the key parties in the registration process: the plan administrator, the fund holder, and the Superintendent. A profile of the main elements of the PBSA is also provided.

Plan Administrator

The plan administrator is the person or body responsible for the administration and oversight of a pension plan. Under the PBSA, a plan administrator can either be a board of trustees constituted to administer the plan or an employer. A board of trustees must be the plan administrator for a multi-employer plan. For more information on multi-employer plans, please see the following link:

<http://www.fic.gov.bc.ca/responsibilities/pension/info/multi.htm>

The plan administrator's role is to ensure that the plan is being administered in compliance with both the PBSA and the plan's own terms and conditions. The administrator is ultimately responsible for all actions related to the pension plan, including: ensuring that money is being contributed into the pension fund, that proper asset allocation decisions are being made, and that payouts are being distributed to all qualified plan members or beneficiaries.

The administrator has a fiduciary duty to act in the best financial interests of plan members.

Fund Holder

Under the PBSA, the fund holder of a pension plan is normally an insurance company, a trust company or a board of trustees.

The fund holder is responsible for receiving and holding contributions from the employer and, where required or permitted, the employees. These assets are held separate and apart from the assets of the employer. Should the employer cease operations due to insolvency or bankruptcy, pension plan assets held by the fund holder do not form part of the estate of the employer and cannot be used to pay creditors of the employer.

The fund holder is also required to report to the Superintendent when contributions are remitted late, or if they are not remitted at all.

As an agent of for the plan, the fund holder has the same fiduciary duty as the plan administrator.

The Superintendent of Pensions

The Superintendent is the chief administrative officer responsible for the administration and enforcement of the PBSA.

Pension Benefits Standards Act ("PBSA")

The PBSA governs employment pension plans that have members in British Columbia. The PBSA sets minimum standards for British Columbia pension plans, and is designed to provide a framework for the funding and solvency of pension plans. These minimum standards apply in areas such as eligibility, vesting, portability, survivor benefits, employer contributions, and disclosure to members. The PBSA also includes requirements for plan terminations and the transfer of member benefits.

The PBSA provides a regulatory framework for the financial management of pension plans. Four important elements of this framework are:

- The fund holder;
- Rules for the investment of a plan's assets;

- Funding and solvency standards; and
- Audit requirements.

The PBSA also requires that defined benefit plans must be periodically reviewed by an actuary. Please see the section “Type of Plan” below for a discussion on defined benefit plans.

The Registration Process

Please note that under section 8 (2) of the PBSA, it is the plan administrator’s responsibility to ensure that the pension plan and the plan’s contractual obligations comply with the PBSA and the Regulation.

The registration process consists of the following four steps:

- Step 1: Deciding on the type of plan;
- Step 2: Reviewing the pension plan requirements under the PBSA;
- Step 3: Completing the [Application for Registration](#) and [Certification](#) forms; and
- Step 4: Submitting the Application and required or additional supporting documents and the appropriate fee.

Step 1: Deciding on the Type of Plan

The plan administrator’s first step is to decide which type of pension plan best suits the needs of the employer and the employees. There are two basic types of pension plans: defined benefit plans and defined contribution plans. Defined contribution pension plans are also referred to as money purchase plans.

Defined Benefit Plans

A defined benefit plan (“DB Plan”) provides benefits based on a formula setting out how the member’s monthly pension will be calculated at retirement. Using this formula, it is possible to determine the amount of a pension a plan member has earned at any point in time up to and including retirement. Depending on the specific formula, the calculation of benefits will take into consideration factors such as years of continuous service and the member’s age at retirement and, if the formula is based on members’ salaries, pensionable earnings. A DB Plan may be fully funded by the employer, or there may be required member contributions. The employer must fund at least 50% of the cost of accrued benefits if the members contribute. The employer must file an actuarial valuation when the plan is established, and regular valuations every three years thereafter. The valuations set out the cost of providing benefits under the DB

plan. These valuations must be performed by an actuary, and they must show whether the plan meets the minimum funding and solvency tests set out for DB plans in the PBSA.

Defined Contribution Plans

A defined contribution plan sets out an employer contribution rate and, if the plan is contributory, an employee contribution rate. The pension earned cannot be determined until retirement, at which time a pension is purchased from a financial institution in the form of an annuity, Life Income Fund, or Defined Contribution Retired Income Account (if the plan permits), using the contributions and investment earnings credited to a member.

The level of the benefit is determined solely by the individual's account available at retirement to make the purchase and the prevailing market rate of interest at that time.

Step 2: Reviewing the Pension Plan Requirements

The required elements for a BC-registered pension plan are defined under sections 23 and 24 of the PBSA.

A pension plan for members and former members and their spouses, designated beneficiaries and estates **must** provide for the:

- Administration and maintenance of the plan;
- Means of paying the administration expenses;
- Conditions for membership in the plan;
- Benefits and entitlements on
 - the termination of membership;
 - the death of a member or a former member;
 - pension commencement;
 - the termination of the plan;
- Deadline for choosing any plan option and the consequences of not meeting that deadline;
- Means of calculating interest, gains and losses in the manner prescribed in the *Act* and Regulation and applied to contributions at the prescribed rates and times;
- Treatment of surplus assets during the continuation of the plan (if the plan is a DB plan);

- Determination of benefits, member and employer contributions and the allocation of contributions using formulas that comply with the criteria prescribed in the *Act* and Regulation; and
- Method for conversion of optional ancillary contributions to optional ancillary benefits upon retirement, termination of membership, pension commencement, pre-retirement death and winding up of the plan.

The plan **cannot** provide for or permit any of the following:

- Different rates or amounts of contributions by the members based on differences in sex;
- Different pensions, annuities or benefits based on differences in sex;
- Different options as to pensions, annuities or benefits based on differences in sex; or
- The inclusion in or exclusion from membership in the pension plan of an employee on the basis of the sex of the employee.

Plan administrators should be aware that if any special circumstances exist with respect to their pension plan, they must make a specific application in writing to the Superintendent for consideration and acceptance of their special circumstances. If the Superintendent agrees that special circumstances exist, approval of these conditions will be noted when the plan is registered.

Step 3: Completing the Application for Registration and Certification Forms

In order to be considered for registration, a pension plan administrator must complete an [Application for Registration](#) form and a [Certification](#) form.

This **Application for Registration** form is required under section 14 of the PBSA and is available for downloading at the Financial Institutions Commission's website at:

<http://www.fic.gov.bc.ca/pdf/Pensions/apli-reg.pdf>

If you are experiencing difficulties downloading the form, helpful hints can be found at:

<http://www.fic.gov.bc.ca/fillpdfform.htm>

The **Application for Registration** form consists of four distinct sections:

- **Section 1: Plan Identification Information.** In this section, the plan administrator is required to provide detailed profile information for the plan, including: the legal name of the plan; the division name (if applicable); whether the plan has been split from another registered plan (and, if so, the province in which the original plan was registered); Canada Revenue Agency registration number information; whether or not the plan is administered by the employer or by a Board of Trustees (if the plan is administered by a Board of Trustees – the names and certain profile information for them); the name and profile information for the day-to-day administrator of the plan; the location of books and records; the name and profile information of the fund holder for the plan; and the names and profile information for the plan consultant and plan actuary.
- **Section 2: Plan Details.** Required information in this section includes: the effective date of the plan; plan fiscal year end; main activity of the business; number of employees; and type of organization (public or private sector).
- **Section 3: Membership.** Required information in this section includes: active members by province (male and female distribution); number of federal employees (if applicable); and, a general profile of the former members.
- **Section 4: Fees.** This section provides the means of calculating the appropriate fee for the registration of the plan. The fee must be included with the application.

Plan administrators are also required to complete the **Certification** form (Schedule 2, Form 1 of the Regulation). This form certifies that the application for registration, restated plan texts or plan amendments comply with the PBSA and Regulation. In cases where the pension plan covers members in other Canadian jurisdictions, the administrator will also be required to certify that the application complies with the applicable laws and regulations in those other jurisdictions. The **Certification** form must accompany the **Application for Registration** form.

Please note that the completed **Application for Registration** and **Certification** forms must be filed with the Superintendent of Pensions no later than **60 days** after the establishment of the pension plan.

The **Application for Registration** and **Certification** forms must be accompanied with copies of the required supporting documents (see below) and the appropriate application fee. Incomplete forms, applications with missing supporting documents, or packages received without the appropriate fee will be returned for corrective action.

Step 4: Attaching the Required and Additional Supporting Documents

Required Supporting Documents

Please note that the following supporting documents must be included with the **Application for Registration** and **Certification** forms:

- A copy, certified to be a true copy, of the pension plan text;
- Any document that creates the plan or under which the plan is constituted;
- Any trust deed or agreement related to the plan;
- Any policies or contracts with insurance companies;
- Any bylaws or resolutions relating to the plan;
- Any agreement relating to the investment of the pension fund of the plan;
- The explanation or plan summary provided to members (Sections 9, 10 of the Regulation);
- Sample of the Annual Members Statement provided to the plan members (section 11 of the Regulation);
- If the plan a DB plan, a copy of the actuarial valuation report prepared according to the standard defined under subsection 9 (3) (b) of the PBSA;
- Any other prescribed document required at the discretion of the Superintendent;
and
- A cheque payable to the Minister of Finance to cover the prescribed application fee.

Additional Supporting Documents

Although not required to be submitted with an Application for Registration under the PBSA, the plan administrator is required to prepare a Statement of Investment Policies and Procedures ("SIPP"). The Superintendent may request that this document be submitted at any time.

SIPP requirements are defined under Section 38 (3) of the Regulation. It is important to note that the SIPP must be in place prior to registration and must include an explanation of the relationship between the policies and procedures and these key factors:

- Categories of investments and loans, including derivatives, options and futures;

- Diversification of the investment portfolio;
- Asset mix and rate of return expectations;
- Liquidity of investments;
- The lending of cash or securities;
- The retention or delegation of voting rights acquired through investments;
- The method of, and the basis for, the valuation of investments that are not regularly traded at a public exchange; and
- Certain related party transactions, if permitted under the Regulation.

The required and additional supporting documents must be accompanied by the appropriate fee.

Processing

By law, if all the required documents have been submitted with the application by the pension plan's administrator and the appropriate fee is paid, the Superintendent must register the plan filed for registration and issue a Certificate of Registration for the plan, unless the Superintendent is of the opinion that the plan does not comply with the Act or Regulation.

The Superintendent strives to register a plan within 150 days of receipt of a complete Application for Registration.

Deficiencies

If the Superintendent identifies deficiencies, and the deficiencies are not corrected, the Superintendent may either refuse to register the plan or take other regulatory action available to him.

If the Superintendent refuses to register a plan, the administrator may request that the Superintendent reconsider the refusal. If the Superintendent still refuses to register the plan, the plan administrator may appeal the Superintendent's decision to the Financial Services Tribunal.

Staff of the Office of the Superintendent of Pensions periodically issue information bulletins to provide technical interpretations and positions regarding certain provisions contained in the *Pension Benefits Standards Act* and Regulation. While the comments in a particular part of an information bulletin may relate to provisions of the law in force at the time they were made, these comments are not a substitute for the law. The reader should consider the comments in light of the relevant provisions of the law in force at the time, taking into account the effect of any relevant amendments to those provisions or relevant court decisions occurring after the date on which the comments were made. Subject to the above, an interpretation or position contained in an information bulletin generally applies as of the date on which it was published, unless otherwise specified.