

# Regulatory Statement



<b>TITLE:</b>	<b>Registration of Amendments as Required Under the <i>Pension Benefits Standards Act</i></b>
<b>LEGISLATION:</b>	<b><i>Pension Benefits Standards Act</i> and Regulation</b>
<b>DATE:</b>	<b>February 25, 2021</b>
<b>DISTRIBUTION:</b>	<b>Pension Plan Administrators, Sponsors and Service Providers</b>

## PURPOSE

This Regulatory Statement establishes the Superintendent of Pension's (the "Superintendent") position on the registration of plan amendments under the [Pension Benefits Standards Act](#) (the "PBSA") and [Pension Benefits Standards Regulation](#) ("PBSR").

## BACKGROUND INFORMATION

The plan administrator is responsible for the compliance of amendments to the plan text document and supporting plan documents with the PBSA and PBSR.

The plan text document is the governing document of a pension plan and must be kept up to date. Changes to a plan text document are registered through the filing of an amendment and other required documents to the Superintendent. A plan administrator must not administer a pension plan to reflect an amendment unless:

- i. the application to register the amendment has been filed, and the administrator has not been notified that the Superintendent has refused to register the amendment; or
- ii. in the case where the amendment has been refused or revoked, the administrator submits a written notice to the Superintendent stating an intention to serve a notice of objection under [section 126\(1\)](#) of the PBSA.

Similarly, amendments to supporting plan document can only be administered in a manner than reflects the document once a certified copy has been filed to the Superintendent's office.

The Superintendent may refuse or revoke the registration of an amendment if the amendment does not comply with the pension legislation (review [section 22](#) of the Regulation for more information).

If you require assistance with the registration of amendments, please email BCFSa at [pensions@bcfsa.ca](mailto:pensions@bcfsa.ca).

## REGULATORY REQUIREMENTS

### PART 1:

#### AMENDMENT TO A PLAN TEXT DOCUMENT (ACT DIVISION 2 AND REGULATION PART 3)

Plan amendments must be filed with the Superintendent when the administrator makes changes to the provisions of the plan text document. The administrator is required to file an amendment within **60 days** after the date an amendment is made.

If the Superintendent requests additional information to register an amendment, the administrator must provide the information within **60 days** of the request or as specified by the Superintendent.

Applications for the registration of plan amendments should be sent to BCFSa at [pensions@bcfsa.ca](mailto:pensions@bcfsa.ca).

To register an amendment to a plan text document, the administrator must submit:

- A certified copy of the amendment;
- A completed<sup>1</sup> prescribed application form: [Application for Registration of an Amendment to a Pension Plan](#) (along with the attached Form 6, Administrator Statement of Compliance);
- An actuarial valuation report or actuarial certificate as per [section 45\(5\)](#) of the PBSR if the amendment materially impacts cost with respect to a benefit formula provision or creates an unfunded liability or a solvency deficiency<sup>2</sup>; and
- Any other records required by the Superintendent. For example, a sample of communication sent to members if an amendment relates to changes in contributions or benefits (sent 30 days before the effective date as per [section 40](#) of the Regulation).

If a section of the amendment does not comply with the PBSA or the Regulation, the Superintendent may sever part of the amendment as per [section 19](#) of the PBSA.

Upon receipt of all the required documents, the Superintendent will issue a Notice of Registration of Amendment to acknowledge the registration of the plan amendment. The issuance of a Notice of Registration does not imply an opinion by the Superintendent as to whether the amendment complies with the PBSA and/or PBSR.

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<sup>1</sup> A completed form means all the questions on the form are answered. If a question does not apply, please indicate that with N/A and do not leave it blank.

<sup>2</sup> Solvency deficiency is applicable to plans with defined benefits provision.

## RESTRICTIONS ON AMENDMENTS (ACT SECTION 20, REGULATION 22)

An amendment to the plan text document of a pension plan must not:

- Reduce a person's past benefits earned under a defined benefit provision as per [section 20](#) of the PBSA and [22 of the PBSR](#); or
- Reduce the solvency position of a defined benefit (DB) component below 0.85.

**Note:** A negotiated cost plan or a jointly sponsored plan and the plan text document of the plan does not contain a target benefit provision. However, with the written consent of the Superintendent, an amendment to the plan text document to reduce benefits is permitted if the circumstances of the plan requires reduced benefits.

A plan may also amend a plan text document to reduce benefits if the amendment is for the purpose of compliance with the *Income Tax Act*.

Review [section 20\(2\)](#) of the PBSA for more information on exceptions to benefits reduction for multi-employer negotiated cost plan and Target Benefits plans.

## PART 2:

### AMENDMENT OF SUPPORTING PLAN DOCUMENT (DIVISION 3, AND REGULATION SECTION 23)

If a supporting plan document—as described below—is amended, the plan administrator must file an amendment within **60 days** after the amendment is made. Please note that this applies to supporting plan documents that are required to be filed with the Superintendent such as collective agreement, annuity contracts, trust agreement and so on. Supporting plan document means a record referred to in [section 13 \(a\) \(ii\), \(iii\), \(iv\) or \(vi\)](#) of the Act.

The administrator must not administer a pension plan in a manner that reflects an amendment to a supporting document unless a certified copy of the amendment has been filed with the Superintendent.

Applications to amend supporting plan documents should be sent to BCFSa at [pensions@bcfsa.ca](mailto:pensions@bcfsa.ca).

To file an amendment to a supporting plan document, the administrator must submit:

- A certified copy of a record setting out the amendment;
- A completed prescribed application form: [Application for the Amendment of a Supporting Plan Document](#) (along with the attached Form 7 Administrator Statement of Compliance); and
- Any other records required by the Superintendent.

## DISCLOSURE REQUIREMENTS (ACT SECTION 37 AND REGULATION SECTION 40)

If the contributions a member is required to make to a pension plan are to be changed as a result of an amendment to the plan text document, the administrator of the plan (other than a jointly sponsored plan) must provide a notice of the change to members at least 30 days before the effective date of the change.

The notice must set out the amount by which the contributions are changing, the effective date and reason for the change.

## ADDITIONAL INFORMATION

If you have any questions, please contact the BCFSA at [pensions@bcfsa.ca](mailto:pensions@bcfsa.ca) or by phone at 604-660-3555.

As the BC Financial Services Authority, we issue Regulatory Statements outlining how entities must operate, or the form and content required by the Regulator for mandatory regulatory filings identified in the *Pension Benefits Standards Act* and Pension Benefits Standards Regulations, and other pertinent legislation. While the comments in a particular part of a Regulatory Statement 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, instructions, definitions, and positions contained in a Regulatory Statement generally apply as of the date on which it was published, unless otherwise specified.