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# Instruction Guide

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**Subject:** Application for Registration of a Pension Plan

**Date:** April 2007

## Introduction

Pension plans providing benefits to employees in “included employment”<sup>1</sup> are subject to the *Pension Benefits Standards Act, 1985* (PBSA). This Instruction Guide will assist administrators of pension plans in completing form *OSFI 48 (03/2006) – Application for Registration of a Pension Plan* (Application). **The Application must be submitted to the Office of the Superintendent of Financial Institutions (OSFI) within 60 days after the pension plan is established.**

The Instruction Guide does not replace the PBSA, the *Pension Benefits Standards Regulations, 1985* (PBSR), the Directives of the Superintendent, or any Guidelines that OSFI has issued or may issue regarding the administration of pension plans subject to the PBSA.

A copy of the pension legislation, Directives and Guidelines can be found on OSFI’s Web site at [http://www.osfi-bsif.gc.ca/osfi/index\\_e.aspx?ArticleID=216](http://www.osfi-bsif.gc.ca/osfi/index_e.aspx?ArticleID=216).

## Filing an Application

To be considered for registration, the Application must be complete and must be accompanied by the required documentation as detailed in Line 022 of the Application. The review of the Application will not begin until all required documentation is received by OSFI. An incomplete Application may be treated by OSFI as a withdrawn application if, within 60 days after receiving written notification by OSFI of the missing documentation, the application has not been completed. The Canada Revenue Agency will be notified by OSFI of this withdrawn status.

## Jurisdiction of Registration

Some pension plans cover both employees in “included employment” and employees who are subject to provincial pension legislation. These plans are known as multi-jurisdictional pension plans (MJPP). In an MJPP, the PBSA does not apply to benefits in respect of members who are subject to the provincial pension legislation of a designated

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<sup>1</sup> The PBSA defines “included employment” and Line 018 of this Guide provides further explanation of this.

province.<sup>2</sup> There is no provincial pension legislation in force in Prince Edward Island so benefits for non included employment plan members residing in that province would not be exempt from the application of the PBSA.

To eliminate the need to register a pension plan with each designated province under whose jurisdiction employees fall, the federal Minister of Finance has entered into reciprocal agreements with most provincial pension authorities authorizing OSFI to administer the province's pension legislation on their behalf for those members subject to that province's jurisdiction. According to these agreements, pension plans are to be registered where the plurality of members resides, or if the plurality is in "included employment", the pension plan would be registered federally.

There currently is not a reciprocal agreement with Newfoundland and Labrador and the agreement with Quebec only covers members who are employed in the Northwest Territories, Nunavut or Yukon. If the pension plan covers employees subject to the jurisdiction of Newfoundland and Labrador or Quebec, an application for registration must also be filed with these provinces.

If OSFI receives an Application and determines that the pension plan should be registered with another jurisdiction, OSFI will inform the pension plan administrator and all documents received by OSFI will be transferred to the appropriate jurisdiction.

This Instruction Guide applies only to the federal Application.

### **Registration Fee**

OSFI will invoice the appropriate registration fee owing upon approval of the Application (based on plan membership as of the date of the Application). The current fee schedule is available from the OSFI Web site at [http://www.osfi-bsif.gc.ca/app/DocRepository/1/eng/guides/application/fee\\_schedule\\_pensions\\_e.pdf](http://www.osfi-bsif.gc.ca/app/DocRepository/1/eng/guides/application/fee_schedule_pensions_e.pdf).

**DO NOT SEND THE REGISTRATION FEE** with the completed Application.

### **OSFI Registration Process**

Unless a pension plan has been excluded or employment exempted by Regulation, a pension plan that has been established for employees employed in "included employment" is subject to the requirements of the PBSA whether or not it has been registered.

The PBSA provides that the Superintendent shall register a pension plan if all the required documents have been filed by the pension plan's administrator, including a declaration of compliance. A complete list of the documents to be filed is included in the Application form.

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<sup>2</sup> Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, British Columbia, Saskatchewan, Alberta and Newfoundland and Labrador are designated provinces.

OSFI will register a pension plan established for different groups of employees or for different employers who contribute different amounts in accordance with an agreement, by-law or statute, as long as the minimum funding requirements of the PBSA are applied to the pension plan as a whole. However, if a pension plan is established as an “umbrella plan” for a number of separate pension plans, each with their own minimum funding requirements, OSFI will require separate registration of each of the pension plans.

OSFI is not required to review a pension plan for compliance at the time of registration but rather may use its powers to bring it into compliance after registration. However, if OSFI reviews the pension plan and finds areas of non-compliance, the Superintendent will notify the pension plan administrator of the particulars of the non-compliance with the PBSA.

If the Superintendent refuses to register a pension plan, the administrator of that plan may ask the Superintendent to reconsider the refusal and, if the Superintendent still refuses to register, may appeal the refusal to register to the Federal Court.

### **Subsequent Changes to Information**

Any changes to the information provided on this form must be submitted to OSFI in writing.

### **Further Information**

For further information, visit our web site at <http://www.osfi-bsif.gc.ca> or contact us at: Office of the Superintendent of Financial Institutions 255 Albert Street Ottawa, Ontario K1A 0H2 Telephone: 613-990-7633 Fax: 613-990-7394.

## OSFI 48 - Application for Registration of a Pension Plan (Application)

If the space provided on the Application is insufficient, additional information may be attached.

### Line 001

The name of the pension plan as defined in the pension plan documents. This official plan name must be used in all supporting plan documents such as the trust agreement or insurance contract and the Declaration of Compliance.

Subsection 14(1) of the PBSA requires that all employees of a class for which a pension plan is established must be eligible to participate in the plan. The plan text for all pension plans (including pension plans with one or a few members) must include the eligibility criteria and the criteria must be related to employment. For example, a pension plan established for the president of XYZ Company would satisfy this requirement; whereas a pension plan established for Jane Smith of XYZ Company would not. Similarly, a pension plan for senior executives of ABC Company would be acceptable; while a pension plan for designated senior executives would not. If the pension plan is established for a specific person in a position and may not necessarily be offered to the next person in that position, the name of the person along with the title of the position may be included in the eligibility criteria for the pension plan.

The name of the pension plan should reflect the class of employees eligible to join the pension plan.

### Line 002

Indicate the type of pension plan: defined benefit, defined contribution (money purchase) or a combination plan. A combination plan is one with both defined benefit and defined contribution components. Under the PBSA, a pension plan with any defined benefit provisions is considered a defined benefit pension plan.

### Line 005

A multi-employer pension plan (MEPP) is defined in the PBSA and means a pension plan for two or more employers who contribute to the plan pursuant to an agreement, by-law or statute, where the pension plan provides pension benefits for periods of employment with any or all of the employers, but does not include a pension plan where more than 95% of the active plan members work for any one of the employers or affiliated employers (“affiliated” as defined by the *Canada Business Corporation Act*).

## **Line 006**

The plan administrator is the body legally responsible for administering the pension plan as specified by Section 7 of the PBSA. Generally, in the case of a single employer pension plan, it is the employer.

In an MEPP established under one or more collective agreements, the plan administrator is a board of trustees or similar body constituted in accordance with the pension plan text or collective agreement. In the case of any other MEPP, the plan administrator is a pension committee constituted in accordance with the plan and section 7.1 of the PBSA.

If a single employer pension plan is collectively bargained and the terms of the agreement provide for a board of trustees (or similar), the plan administrator is the board of trustees.

Please indicate the corporate or business name of the employer.

In addition to providing the plan administrator contact e-mail address, OSFI encourages all plan administrators and consultants to subscribe to the e-mail notification service available through OSFI's Web site. This will ensure that they receive prompt notice of the availability of newsletters and periodic information updates.

## **Line 008**

If the tasks associated with the day-to-day administration of the pension plan have been assigned to a third party, the name and address of the third party should be indicated here. A third-party administrator is not to be confused with the plan administrator, who is the body legally responsible for the pension plan's administration, as defined in the PBSA and as entered on Line 006.

## **Line 009**

All pension plans other than fully insured plans (where all benefits are provided by annuities - no invested assets) must file annual Certified Financial Statements (OSFI Form 60) and, depending on how the pension fund assets are invested, some pension plans must also file an Auditor's Report of the pension fund.

If all pension funds are held by one insurance company (in any type of account) or if all pension funds are held in the pooled funds of one trust company, an auditor's report is not required. An auditor's report is also not required if pension funds are held by one trust company but outside the pooled funds and the plan has fewer than 100 members and less than \$5 million in total plan assets. Any other scenario (including a plan established under the *Pension Fund Societies Act*) requires the filing of an annual auditor's report of the pension fund.

## Line 010

The name of the pension fund custodian(s), the policy or account numbers, and a contact person are to be entered on these lines. In cases where the custodian has more than one branch office, please specify the city of the branch office next to the company name.

Please note that plan administrators are required by subsection 9.1(1) of the PBSA to notify, in writing, the holder or custodian of the pension fund of all amounts that are to be remitted to the pension fund and the expected date of the remittance.

Plan administrators and custodians are also required by subsection 9.1(2) to notify OSFI immediately if the payment is not remitted within 30 days of the expected date of remittance.

## Line 012

If the pension plan is being transferred from provincial jurisdiction to federal jurisdiction, a federal Application must be completed to capture the appropriate data and inform plan administrators of the federal requirements for plans registered under the PBSA. OSFI will not invoice for the Application Fee if the plan being transferred to federal jurisdiction was previously registered with a province.

## Line 014

According to the *Income Tax Act*, a designated plan is a defined benefit pension plan in which more than 50% of the pension credits are for specified active members. Specified active members are active members of the plan who are connected with an employer or who earn more than 2 ½ times the Year's Maximum Pensionable Earnings (YMPE).

A connected person is generally one who:

- owns, directly or indirectly, 10% or more of the issued shares of any class of the capital stock of the employer or a related corporation;
- does not deal at arm's length with the employer (see section 251 of the *Income Tax Act* for details); or
- is a specified shareholder of the employer by reason of paragraph (d) of the definition of specified shareholder in subsection 248(1) of the *Income Tax Act*.

For a complete definition of a connected person, see subsection 8500(3) of the *Income Tax Regulations*.

## Line 015

Subsection 10(6) of the PBSA states that every pension plan that is filed for registration must provide for the use of surplus during the continuation of the plan and on its termination. Only pension plans with a defined benefit component can accumulate a surplus as prescribed by the PBSR.

## **Line 017**

Subsection 28(1) of the PBSA requires that each member of the pension plan and each employee who is eligible to join, and that person's spouse, be given a written explanation of the terms of the pension plan within 6 months after the establishment of the pension plan.

## **Line 018**

“Included employment” is employment in connection with any work, undertaking or business that is subject to the legislative authority of the Government of Canada. Subsection 4(5) PBSA and the section 28 of the PBSR exempt certain employment from the application of the PBSA.

The following activities are included in the definition of “included employment” regardless of the geographic location of the employees:

- any undertaking or business in connection with navigation and shipping, both inland and maritime;
- ferries between provinces (interprovincial) or between a province and the U.S (international);
- interprovincial or international rail transportation;
- air transportation;
- interprovincial or international road transportation;
- communications, including radio, television, telegraph and telephone companies;
- banks;
- any undertaking declared by the Parliament of Canada to be for the general advantage of Canada or two or more of the provinces. This includes atomic energy, uranium mining and grain elevators, flour, feed or seed mills west of the Lakehead;
- employment in the Northwest Territories, Yukon or Nunavut;
- any undertaking or business outside the exclusive legislative authority of provincial legislatures. This includes native affairs where employment is related to public undertakings such as municipal government, hospitals and educational facilities in all provinces and territories but does not include private undertakings by natives within the legislative authority of a province.

## **Line 020**

See Jurisdiction of Registration section of this Guide. If any members of the plan are not in included employment, the members under provincial jurisdiction must be indicated in column 4 of the membership chart in Line 021.

## **Line 021**

“Members” are defined as those employees who have joined the pension plan and have not retired or ceased membership. Members therefore include those employees whose membership was interrupted because of lay-off, suspension, disability or leave of absence, whether or not contributions are being made to the pension plan on their behalf.

Members are to be reported by geographic location of employment in columns 1 and 2. As the pension plan may also cover employees who are not in included employment, this chart must also indicate those under provincial jurisdiction (if applicable) and those in included employment. The total, column (5), must include all members, both in included employment and under provincial jurisdiction.

An example of a pension plan with members who fall under one or more provincial jurisdictions as well as members who fall under federal jurisdiction would be a pension plan that includes bank employees (included employment) and trust company employees (jurisdiction determined by province of employment). Columns (1) and (2) would include all members in the pension plan, column (3) would include only those members who work for the bank and column (4) would include only the members who work for the trust company. Column (5) would include all members of the pension plan.

Please refer to the explanation for Line 018 of this Guide and subsection 4(4) of the PBSA for the definition of included employment.

## **Line 022**

All documents must be certified copies of the originals.

If the pension plan is established pursuant to a collective agreement or if any aspects of the pension plan are collectively bargained, all sections of that collective agreement pertaining to the pension plan must be submitted with the Application.



## **Declaration of Compliance**

The Declaration of Compliance must be signed by an authorized officer of the plan administrator (See Line 006). The “name of pension plan” must be the name used on Line 001 of the Application.

The Declaration includes a reference to the pension plan’s Statement of Investment Policies and Procedures. Further information on preparing this Statement is available on the OSFI Web site at [http://www.osfi-bsif.gc.ca/app/DocRepository/1/eng/pension/guidance/penivst\\_e.pdf](http://www.osfi-bsif.gc.ca/app/DocRepository/1/eng/pension/guidance/penivst_e.pdf).

If the pension plan is a defined contribution plan that allows member investment choices, please also review the information on Capital Accumulation Plans available on the Canadian Association of Pension Supervisory Authorities Web site at <http://www.capsa-acor.org/capsa-newhome.nsf/4a5938dfa169be3285256c1a00752c5d?OpenView>.

## **OSFI Periodic Filing Requirements**

This section is provided for information purposes only and the documents referred to in the chart do not have to be filed with the Application for Registration.