

Policy Bulletin #13 Contributions to Pension Plans

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The employer, administrator, fund holder and plan sponsor each have certain responsibilities defined in the *Employment Pension Plans Act* and *Regulation* (the Act and Regulation) regarding employee and employer contributions. This Bulletin has been prepared to outline those responsibilities. This bulletin has no legal authority. The Act and Regulation should be used to determine specific legislative requirements.

**Funding
Responsibilities in
Defined Benefit Plans**
s. 48 Act
s. 48 Reg

Defined benefit provisions must be funded in accordance with the tests set out in the Regulation. Employer required contributions, determined in accordance with these tests, are set out in the triennial actuarial report and/or cost certificate filed with the office of the Superintendent of Pensions.

In respect of current service, the employer must contribute on a monthly basis the current service normal cost as stated on the most recently filed cost certificate or actuarial report. There may be employee required contributions in respect of current service costs, but the employer is nonetheless responsible for the overall funding.

Where the defined benefit portion of the plan has an unfunded liability, the employer must contribute, on at least a monthly basis (or as a lump sum if desired), special payments sufficient to amortize the unfunded liability over a period not exceeding 15 years from the date the unfunded liability was established.

Where the defined benefit portion of the plan has a solvency deficiency, the employer must contribute, on at least a monthly basis (or as a lump sum if desired), special payments sufficient to amortize the solvency deficiency over a period not exceeding 5 years from the date the solvency deficiency was established.

An employer's responsibility for funding the benefits in a SMEPP or in a pension plan that is established and maintained pursuant to contributions required under a collective bargaining agreement is limited to the amount that the employer is contractually required to contribute to the Plan.

**Funding
Responsibilities in
Defined Contribution
Plans**
s. 48 Act

In respect of a defined contribution provision, the employer is responsible for making the contributions that are specified in the plan document.

Ultimate Recipient
s. 50(0.1) Act

The ultimate recipient, in relation to a pension plan, means:

- (a) the custodian, if the fund holder is a Board of Trustees or if the pension plan is individually trusteeed; or
- (b) if (a) does not apply, then the fund holder.

Permitted Fund Holders
s. 49 Act

Pension funds may be held by one, or any combination of the following:

- (a) an insurance company;
- (b) a corporate trust company;
- (c) three or more individual trustees, at least three of whom reside in Canada, and at least one of whom is not a significant shareholder;

**A fund holder of this nature must have a custodian*

- (d) a society under the Pension Fund Societies Act (Canada); or
- (e) a person pursuant to the Government Annuities Act (Canada).

**Remittance of
Contributions**
s. 50 Act

In the case of a SMEPP or a MUPP, contributions from participating employers (and employee contributions, if applicable) must be remitted to the administrator of the plan within 30 days after the month they relate to. The administrator shall then remit those funds to the ultimate recipient within 30 days after that.

In all other cases, employer and employee contributions (if applicable) must be remitted to the ultimate recipient.

Remittance Deadlines
(Non SMEPP or MUPP)
s. 49 Reg

All **employee** contributions, whether voluntary or required, must be remitted to the ultimate recipient within 30 days after they are received from the employee or deducted from the employee's pay.

All **employer** contributions must be remitted to the ultimate recipient within 30 days after the end of the month for which they are payable. This includes contributions related to current service costs **and** special payments related to unfunded liabilities and solvency deficiencies related to defined benefit provisions.

The exception is that where the employer contribution is related to profits of the employer under a defined contribution provision, the profit sharing portion of the contribution must be remitted within 90 days after the fiscal year end of the plan. The minimum required contributions in a profit-sharing pension plan must be remitted to the ultimate recipient within 30 days after the end of the month for which they were paid.

Where a triennial actuarial review is under way, the employer contributions that would normally be remitted to the ultimate recipient may be delayed until 30 days after the valuation report has been filed, pending the results of the review, but interest must be paid for the period of the delay.

Contributions or special payments that an employer is required to pay into a pension fund and has not yet remitted, accrue interest at the assumed rate for such period on a daily basis until the money is remitted.

**Contributions and
Remittance Deadlines
on Plan Termination**
s. 73 Act
s. 55, 63 Regs

Where a plan is being terminated in whole or in part, all outstanding contributions must be remitted to the ultimate recipient within 30 days after the effective date of the termination.

On the termination of any plan other than a SMEPP, MUPP, or a plan where contributions are limited by a collective bargaining agreement, any solvency deficiency existing on plan termination must be paid off, either immediately or by special payments made not less than monthly over five years, provided that the employer is not insolvent.

Where a MUPP is terminated or a participating employer withdraws from the MUPP and there is a solvency deficiency, the employers who are no longer participating in the plan shall continue to make payments into the plan fund to amortize the deficiency in relation to the liability in respect of the affected plan members of the respective employers. This requirement does not apply if the withdrawing employer establishes a successor pension plan and assumes responsibilities for the affected members.

Where a SMEPP, or a plan to which section 48(6) of the Act applies, terminates and there is a solvency deficiency, the benefits of plan members are reduced in accordance with section 55(5) of the Regulation.

**Notification of
Delinquent
contributions**
s. 50 Act

The ultimate recipient shall monitor remittances to the plan fund. In the event that contributions are not remitted to the ultimate recipient within 30 days from when they are expected, and there is no satisfactory explanation from the administrator, the ultimate recipient will report that fact to the Superintendent.

The administrator of a plan shall provide the ultimate recipient, within 30 days after the beginning the fiscal year of the plan, a summary of the contributions to be remitted in that fiscal year to enable the ultimate recipient to comply with the requirement to notify the Superintendent of a delinquent contribution.

It is acceptable if the actual contribution remitted to the ultimate recipient is within + / - 10% of the expected contribution. However, an explanation should be provided to the ultimate recipient if there is a temporary change that results in a contribution that is outside the + / - 10% range. Finally, the administrator must update the ultimate recipient with respect to the remittance schedule if any permanent changes in the amount of required contributions arise during a fiscal year.

To assist plan administrators, [Form 7 – Schedule of Expected Contributions](#) can be used to inform the ultimate recipient of the contributions expected over a fiscal year of the pension plan. Form 7 also provides additional information and instruction to Plan administrators.

Deemed Trust
s. 51, 52 Act

Where an employer receives or withholds money from an employee, the employer holds this money in trust for the employee until the employer pays the money into the pension fund.

The same deemed trust status also applies to required employer contributions to a pension fund that are **due** but not yet **paid** into the pension fund. In addition, where a pension plan is terminated in whole or in part, an employer is deemed to hold in trust, and is required to pay to the pension fund, the employer contributions **accrued** to the date of termination or winding-up, but not yet **due**.

Acceptable Contribution Formulas
s. 28 Act

Section 28(2) of the Act requires that contribution formulas must be acceptable to the Superintendent. The Superintendent assesses formulas using the following criteria:

1. Formulas for determining future service accrual must be uniform for all members of a given class in a pension plan. The establishment of a "floor benefit" does not violate this principle (e.g., providing a benefit of 1% of best earnings per year of service, but not less than \$300 per month).
2. A formula should not excessively weight the benefit towards a specific group (e.g., high earners, long service or older members). In respect of a defined contribution provision, for example, formulas where the rates increase by steps based on years of service are permitted, provided the intervals between steps and rates are uniform and not excessively weighted toward long service employees.

A formula where the steps are based solely on age would not be permitted. In respect of a defined benefit provision, a formula that provides the bulk of the benefit to high earners would be rejected: for example, .5% of earnings to the Canada Pension Plan's Year's Maximum Pensionable Earnings (YMPE) and 2% on the balance.

3. The formula for contributions to a plan containing only defined contribution provisions should be sufficient to ensure that a material amount accrues in the member's account. As required by the *Income Tax Act*, employer contributions each year must be at least 1% of the total pensionable earnings of all active members participating under the provision.
4. Under a defined contribution provision, employer contributions may be directly tied to member contributions either paid to the plan or paid to a group RRSP. Where the member contributes to the plan, the employer must contribute at least 1% of earnings in respect of each member. Additional employer contributions may then be tied to member contributions.

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