



Policy Bulletin #28

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Appointment of a Temporary Plan Administrator

Effective August 10, 2006, the *Employment Pension Plans Act* (the Act) and the *Employment Pension Plans Regulation* (the Regulation) are amended to give the Superintendent of Pensions (the Superintendent) the authority to replace an administrator of a pension plan if the Superintendent deems the replacement necessary to ensure the sustained viability of that pension plan.

This Bulletin has no legal authority. The Act and Regulation should be used to determine specific legislative requirements.

Legislative Requirements Act and Regulation

The authority of the Superintendent to appoint a temporary administrator of a pension plan is provided by section 12.1 of the Act and section 5.1 of the Regulations.

Conditions for the Appointment of a Temporary Administrator

The conditions for which the Superintendent may appoint a temporary administrator for any pension plan are:

- the current plan administrator is insolvent, or is unable/unwilling to perform the duties required of an administrator;
- the plan does not have an administrator and/or the current administrator cannot be located; or
- the current administrator substantially fails to perform diligently his duties under the Act or in accordance with the provisions of the pension plan.

AND

- the security of the plan is jeopardized or compromised significantly; or

- the appointment is in the best interests of the members and other persons entitled to benefits in the plan.

Process for the Appointment

If a pension plan has an administrator, the Superintendent will notify that administrator, in writing, of the intent to temporarily appoint another person to administer the pension plan. Notification of the appointment of a temporary administrator will be provided to the current administrator 30 days prior to that appointment.

Within 30 days after being served with the notification described above, the current plan administrator may make written representation to the Superintendent regarding the appointment.

Notwithstanding these deadlines, if the Superintendent considers that the plan is in imminent danger of serious damage to its standing, the Superintendent may shorten or negate the deadlines.

Powers of the Temporary Administrator

The temporary administrator is afforded all of the rights and powers normally associated with a plan administrator. This includes the ability to amend the plan, where necessary, as well as the right to undertake any other action that is deemed appropriate to ameliorate the situation facing the pension plan.

However, the Superintendent may restrict the powers, duties, or functions that the administrator would otherwise have under the Act or impose terms or conditions on that appointment.

Payment of Fees

All administration expenses, including the costs of the temporary administrator and the appointment thereto, are to be paid in accordance with the current plan provisions.

For further information please contact:

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