



IMPROVING ONTARIO'S PENSION SYSTEM:

ONTARIO EXPERT COMMISSION ON PENSIONS'
TERMS OF REFERENCE

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WORKING TO MAKE THE ONTARIO PENSION SYSTEM BETTER

There are more than 7,500 pension plans registered in Ontario and more than 2 million Ontario pension plan members. Fifty-one percent of the plans are defined benefit pension plans with 83% of the members (Statistics Canada, January 1, 2005). Pension plans are important to the members and their families, to the pensioners and to the employers. The Ontario Government is working to maintain and improve the pension system, and to encourage pension plans in Ontario.

The Ontario Government is launching a public consultation process to modernize Ontario's pension legislation. This review will result in recommendations for the future development of the defined benefit pension system in Ontario.

Many aspects of the pension environment have been changing: for example historically low long-term interest rates, increasing life expectancy, and regulatory and legal decisions. The government is taking action and continues to listen to stakeholder concerns about the implications of these and other changes.

MANDATE

To ensure a thorough and independent review, the Minister of Finance is establishing an Expert Commission that will review Ontario's *Pension Benefits Act* (PBA) and report back to the Minister in summer 2008.

The Ontario PBA has not been substantially changed since 1986. It currently sets out rules for membership, benefits, funding, disclosure and governance for pension plans. During its review, the Commission will specifically examine:

- the funding of defined benefit pension plans in Ontario
- the rules relating to pension deficits and surpluses
- other issues relating to the security, viability and sustainability of the pension system in Ontario.

The Commission will also make recommendations regarding the financing of and benefits provided by the Pension Benefits Guarantee Fund. The Fund provides basic pension benefit protection in the event a pension plan is wound up without assets sufficient to cover liabilities (see Terms of Reference at the end of this Annex).

As well, the Commission will examine the lessons learned in other jurisdictions and propose reforms to ensure that Ontario's PBA is well positioned to meet the needs of Ontarians in the 21st century.

RATIONALE

The government has taken steps to foster a more dynamic and competitive economy, by investing in key priorities such as health care, education and infrastructure. It has also modernized laws and regulations affecting business affairs, tax compliance and securities transactions. These measures have made Ontario a better place to work and invest.

Consistent with this approach, Ontario is also committed to reviewing its pension legislation to ensure that it is more responsive to the changing needs of plan sponsors, plan members and pensioners. A modern pension system will ensure Ontario remains a competitive place to do business while ensuring plan members and pensioners have pension plans they can count on.

Recent studies have focused on the funding challenges of defined benefit plans and the need to review current funding requirements. This is a global issue and many other jurisdictions, including the United States and Great Britain, have recently taken action on pension reform.

In Canada, the federal government, Quebec, Alberta, Manitoba and New Brunswick are consulting, or have recently completed consultations, on aspects of their respective pension legislation. The Commission will study these initiatives as it reviews the defined benefit pension environment and develops its own consultation process.

As part of the review, the Commission will give special attention to the Ontario Pension Benefits Guarantee Fund, which is unique in Canada. It was established by the Ontario Government in 1980 to protect basic pension benefits in the event a pension plan is wound up with insufficient assets to provide promised benefits. The Fund is governed by the PBA and its regulations. It is funded through assessments paid by employer sponsors of defined benefit pension plans and is administered by the Superintendent of Financial Services. The Pension Benefits Guarantee Fund guarantees payment of basic pension benefits accrued in respect of service in Ontario when an underfunded pension plan is wound up in whole or in part, and the legislated funding requirements cannot be satisfied. Changes in the pension environment have also affected claims to the Fund.

REVIEW PROCESS

The Expert Commission will consult broadly with the pension community and the public on issues and opportunities for pension reform. To ensure greater public access, the Commission will hold public meetings in major centres across Ontario and solicit input from stakeholders and the general public by way of written submissions and the Internet. It will also engage in thorough research to complement public consultations.

The Commission will be chaired by an independent and neutral individual, who will draw on the expert advice of a representative panel of advisors: pension experts selected to represent the various pension stakeholder groups, such as labour, management, plan sponsors, plan members and pensioners. The panel of advisors will be balanced among these groups.

The review will begin in November 2006, with a final report and recommendations going to the Minister in the Summer of 2008.

The mandate and timeline of the Expert Commission will allow for a thorough review of the principles, factors and issues set out in the Terms of Reference. A thoughtful, open public review process will lead to a balanced set of recommendations that will benefit all stakeholders and ensure that Ontario has a modern pension system for the future.

TERMS OF REFERENCE OF THE EXPERT COMMISSION ON PENSIONS

MANDATE

The Government of Ontario is establishing an Expert Commission to examine the legislation that governs the funding of defined benefit pension plans in Ontario, the rules relating to pension deficits and surpluses, and other issues relating to the security, viability and sustainability of the pension system in Ontario. The Minister of Finance will appoint a Chair of the Commission and an expert and representative Advisory Panel to assist the Chair in his or her deliberations.

The Chair of the Commission will be authorized with the assistance of the Advisory Panel, to prepare a report to the Minister of Finance that will be guided by the following key principles, take into account the following factors and make recommendations on the following issues:

GUIDING PRINCIPLES

The Expert Commission should observe the following principles to guide the process:

- the importance of maintaining and encouraging the system of defined benefit pension plans in Ontario
- the importance of maintaining the affordability of defined benefit pension plans for both members and sponsors
- the importance of pension plans in supporting a competitive economy
- the need to safeguard the security of pension benefits
- the need to balance the rights and obligations of employers, plan members and pensioners
- the impact of demographics and the changing nature of the workforce on the provision of employment pensions.

FACTORS TO CONSIDER

The Expert Commission should consider the following factors in its deliberations:

- the need to encourage the appropriate funding of pension plans and acknowledge the connection between surplus and funding
- recent case law and its implications for employers, plan members and pensioners
- the need to avoid costly litigation regarding pension surplus issues
- the desirability of facilitating negotiations between employers, plan members and pensioners, and balancing their interests in the surplus withdrawal process
- the risks and obligations assumed by employers, plan members and pensioners in defined benefit pension plans
- developments in other Canadian jurisdictions and the harmonization of pension laws in Canada
- that recommendations should be practical, affordable and implementable.

ISSUES TO BE ADDRESSED IN THE REPORT

PENSION PLAN FUNDING:

1. the adequacy of regulatory tools, existing reporting rules and timing of required actuarial valuations
2. the rules governing the payment of going concern unfunded liabilities and solvency deficiencies
3. the effect of indexation and other non-pre-funded benefits on a plan's funded status
4. the impact of funding rules on the Pension Benefits Guarantee Fund
5. the funding of multi-employer pension plans

PENSION PLAN SURPLUS:

6. surplus rights and deficit obligations
7. surplus distribution from defined benefit pension plans on full and partial wind up, and from continuing plans
8. reductions or suspensions of contributions (contribution holidays) to defined benefit pension plans

PENSION BENEFITS GUARANTEE FUND:

9. coverage, assessments and allocations from the Fund
10. its role in providing security of pension benefits to plan members and its continuing viability

PENSION PLAN WIND UPS:

11. benefits added by law
12. the determination of a partial plan wind up
13. plan wind ups when an employer is in deficit
14. unlocated beneficiaries

PENSION PLAN SPLITS AND MERGERS:

15. the allocation of plan surpluses and deficits following mergers and divestments
16. pension asset transfers involving groups of employees

GENERAL:

17. pensions as an important policy instrument that support workforce attachment and foster an entrepreneurial economy
18. any other matters relevant to enhancing the viability of defined benefit pension plans in Ontario.

THE PROCEEDINGS OF THE EXPERT COMMISSION

The Chair of the Expert Commission shall, as part of his or her review, engage in public meetings or hearings and solicit written input from a wide range of interested stakeholders or their representatives on issues affecting the reform of Ontario's regulatory pension framework.

The Chair of the Expert Commission will meet on a regular basis with the Advisory Panel. The Chair may obtain paid advice from actuarial, legal and financial experts, and may commission research papers, as required. The Chair will have staff to assist with the consultation process, coordinate research projects, assist in the drafting of recommendations and perform other required duties.

If requested by the Chair of the Expert Commission, the Deputy Minister of Finance and the Superintendent of the Financial Services Commission of Ontario will assist the Chair and the Advisory Panel in carrying out their duties and functions.

TERM OF THE CHAIR AND ADVISORY PANEL

The Chair and the Advisory Panel will conduct this review from the fall of 2006 to the summer of 2008.

DELIVERABLES

The Chair will provide:

- regular updates to the Minister of Finance
- a Final Report to the Minister due Summer 2008 or such later date as the Minister may approve.