

**BULLETIN NUMBER:** PEN-10-006

**TITLE:** REGISTRATION OF AMENDMENTS AS  
REQUIRED UNDER THE *PENSION  
BENEFITS STANDARDS ACT* (the “Act”)

**LEGISLATION:** *Pension Benefits Standards Act*

**DATE:** NOVEMBER 2010

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**Purpose:**

The purpose of this Bulletin is to advise plan sponsors, administrators and service providers of the Superintendent of Pensions’ (the “Superintendent”) position with respect to registration of plan amendments under the Act. Further, as required by the Act, it is the responsibility of the administrator to ensure that an amendment complies with the Act.

**Background:**

The Superintendent has recently requested a number of plans to make amendments to pension plan documents. These plan documents or amendments had previously been filed as required by the Act and the Superintendent had issued certificates of registration of the amendments to the administrators.

It is the Superintendent’s position that if, after a pension plan amendment is registered, the Superintendent forms the opinion that the amendment does not comply with the Act or the Pension Benefit Standards Regulation (the “Regulation”), the Superintendent may exercise her power under section 71 of the Act to require compliance or otherwise remedy the situation.

**Relevant sections of the Legislation:**

Section 14 of the Act requires that an administrator of a pension plan must apply for registration of a pension plan by filing an application for registration with the Superintendent. Such an application must be accompanied by the plan text and any other document that creates the plan or under which the plan is constituted. Section 15 and 16 of the Act sets forth the filing and registration process for amendments to pension plans, and administration in accordance with amendments.

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The Act provides that pension plan amendments must be filed with the Superintendent and that, unless the Superintendent is of the opinion that the amendment does not comply with the Act, the Superintendent must register the amendment and issue a notice of registration to the administrator.

**Discussion:**

The Act imposes a requirement upon the administrator to ensure that the amendment does not contain prohibited provisions. By signing and submitting the prescribed Form 1 with the amendment, the administrator is certifying that the filed amendment complies with the Act. The Superintendent may rely on such certification.

Sections 15, 16 and 71 of the Act contemplate scenarios where the Superintendent may come to the opinion that an amendment does not comply with the Act or Regulation, either prior to registration or after registration.

If the Superintendent decides that the amendment is non-compliant before she issues a notice of registration, she may refuse to register the amendment.

Where the Superintendent determines after registration that the plan document is non-compliant, she may exercise her powers under section 71 of the Act to direct compliance:

71(2) If, in the opinion of the Superintendent, a pension plan does not comply with this Act or the Regulations or is not being administered in accordance with this Act, the Regulation or the plan, the Superintendent may

- a) Direct the administrator, or employer or any person to
  - i. cease or refrain from committing the act or pursuing the course of conduct that constitutes the non-compliance, and
  - ii. perform such acts as in the opinion of the Superintendent are necessary to remedy the situation.

Registration of an amendment does not stop the Superintendent from exercising her powers under section 71 of the Act. The Superintendent may direct, where she deems necessary, for an amendment to a plan after she has issued a certificate of registration to the plan administrator.

Staff of the Office of the Superintendent of Pensions periodically issue information bulletins to provide technical interpretations and positions regarding certain provisions contained in the *Pension Benefits Standards Act* and Regulation. While the comments in a particular part of an information bulletin 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, an interpretation or position contained in an interpretation bulletin generally applies as of the date on which it was published, unless otherwise specified.