

1973

## c 113 The Pension Benefits Amendment Act, 1973

Ontario

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## CHAPTER 113

## An Act to amend The Pension Benefits Act

*Assented to November 15th, 1973*  
*Session Prorogued March 5th, 1974*

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *d* of subsection 1 of section 1 of *The Pension Benefits Act*, being chapter 342 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:
 

s. 1 (1) (d),  
re-enacted

(d) "employer" means, in relation to an employee, any person or association from whom the employee receives his remuneration, and includes Her Majesty in right of Ontario, an agent of Her Majesty, a municipality as defined in *The Municipal Affairs Act*, and a metropolitan municipality and the local boards thereof.
 

R.S.O. 1970,  
c. 118
2. Clauses *c* and *e* of subsection 1 of section 10 of the said Act are repealed and the following substituted therefor:
 

s. 10 (1) (c, e),  
re-enacted

(c) to administer and enforce this Act, and to cancel pension plan certificates of registration issued in respect of any pension plans,
 
  - (i) that fail to meet the tests for solvency prescribed by the regulations, or
  - (ii) in respect of which the employer or the plan administrator has failed to comply with this Act or the regulations, or
  - (iii) that are not being administered according to a contractual provision required by this Act or the regulations;

. . . . .

(e) to assess and collect fees for the registration and annual supervision of pension plans; and

. . . . .

s. 11,  
amended

3. Section 11 of the said Act is amended by striking out "in addition to the fees and charges assessed under clause *e* of subsection 1 of section 10 and the fines imposed under section 29" in the second and third lines.

s. 21,  
amended

4. Section 21 of the said Act is amended by adding thereto the following subsection:

(11) Notwithstanding any provision of this section and any provision of a pension plan, where,

(a) any employee is entitled upon termination of his employment or upon termination of his membership in a pension plan to a deferred or immediate pension benefit; and

(b) on the date of termination of his employment or termination of his membership in a pension plan, his pension benefit credit is less than the value of his contributions made to the plan towards such pension benefit,

his pension benefit credit shall be increased to an amount not less than the said value of his contributions.

s. 22(1)(b),  
repealed

5. Clause *b* of subsection 1 of section 22 of the said Act is repealed.

ss. 23a, 23b, 23c,  
enacted

6. The said Act is amended by adding thereto the following sections:

Employee's  
payments  
held in  
trust

23a.—(1) Any sum received by an employer from an employee pursuant to an arrangement for the payment of such sum by the employer into a pension plan as the employee's contribution thereto shall be deemed to be held by the employer in trust for payment of the same after his receipt thereof into the pension plan as the employee's contribution thereto and the employer shall not appropriate or convert any part thereof to his own use or to any use not authorized by the trust.

Idem:  
payroll  
deductions

(2) For the purposes of subsection 1, any sum withheld by an employer, whether by payroll deduction or otherwise, from moneys payable to an employee shall be deemed to be a sum received by the employer from the employee.

Employer's  
contributions held  
in trust

(3) Any sum required to be paid into a pension plan by an employer as the employer's contribution to the plan shall, when due under the plan, be deemed to be held by the employer in trust for payment of the same into the plan in accordance with the plan and this Act and the regulations as the employer's

contribution and the employer shall not appropriate or convert any part of the amount required to be paid to the fund to his own use or to any use not authorized by the terms of the pension plan.

23b.—(1) Every employer shall provide to each employee who is eligible or required to become a member of a registered pension plan, with reference to the benefits available to him under the terms of the plan, <sup>Distribution of information to employees</sup>

- (a) a written explanation of the terms and conditions of the plan applicable to him;
- (b) a written explanation of the rights and duties of the employee; and
- (c) such other information as may be prescribed by the regulations,

on or before the date such employee is eligible or required to become a member.

(2) Before the 1st day of July, 1974, every employer shall have provided the explanation and information mentioned in subsection 1 including an explanation and information respecting any amendments made to the plan which affect the members of the plan to each member of the plan and to each eligible employee. <sup>Idem</sup>

(3) Within six months after a pension plan is established, every employer shall provide the explanation and information referred to in subsection 1 respecting the plan to each member of the plan and to each eligible employee. <sup>Idem</sup>

(4) Within six months after a pension plan is amended, the employer shall provide the explanation and information referred to in subsection 1 respecting the plan as amended to each member affected by the amendment and to each eligible employee. <sup>Idem</sup>

(5) Every employer shall provide an employee who, upon termination of employment or termination of membership in a pension plan, becomes entitled to an immediate or deferred pension benefit with a written statement showing the benefits to which he is entitled or to which he may become entitled. <sup>Idem</sup>

23c. A member of a registered pension plan or his agent authorized in writing may inspect and make extracts from the plan at the offices of the Commission at any time during business hours. <sup>Inspection of plan by members</sup>

7. The said Act is further amended by adding thereto the following section: <sup>s. 25a, enacted</sup>

Continuation  
of benefits  
under  
successor  
employer

25*a*.—(1) Where an employer who is bound by or is a party to a pension plan sells, assigns or otherwise disposes of all or part of his business or undertaking or all or part of the assets of his business or undertaking, and,

(*a*) in conjunction therewith, an employee of the employer becomes an employee of the person acquiring such business, undertaking or assets, in this section called the successor employer; and

(*b*) the successor employer does not assume responsibility for the accrued pension benefits of the employer's pension plan,

the employee referred to in clause *a* continues to be entitled to the benefits provided under the terms of the plan in respect of his service in Ontario or a designated province without further accrual.

Re-employ-  
ment deemed  
not a  
termination

(2) Where a transaction described in subsection 1 has taken place, irrespective of whether the successor employer has or has not assumed responsibility for the accrued pension benefits of the employer's pension plan, for the purposes of the employer's plan, the employment or membership in the employer's plan of an employee referred to in clause *a* of subsection 1 shall be deemed not to have been terminated by reason of the transaction.

Service  
deemed  
continuous

(3) Where a transaction described in subsection 1 has taken place, irrespective of whether the successor employer has or has not assumed responsibility for the accrued pension benefits of the employer's pension plan, for the purpose of,

(*a*) determining whether an employee is entitled to a deferred life annuity under a pension plan of the employer or successor employer; or

(*b*) determining completed service with respect to any eligibility condition of a successor employer's pension plan,

the service of the employee shall be deemed to include his service with both the employer and the successor employer without any break in service notwithstanding the change of employers referred to in clause *a* of subsection 1.

s. 29(4),  
repealed

8. Subsection 4 of section 29 of the said Act is repealed.

Commence-  
ment

9. This Act comes into force on the day it receives Royal Assent.

Short title

10. This Act may be cited as *The Pension Benefits Amendment Act, 1973*.