

# Regulatory Statement



<b>REGULATORY STATEMENT NUMBER</b>	<b>PENS 20-006</b>
<b>TITLE:</b>	<b>Plan Termination Requirements and Checklist</b>
<b>LEGISLATION:</b>	<b><i>Pensions Benefits Standards Act</i> and Regulation</b>
<b>DATE:</b>	<b>December 22, 2020</b>
<b>DISTRIBUTION:</b>	<b>Pension Plan Administrators and Plan Sponsor</b>

## PURPOSE

This document is prepared to provide information to assist with the termination and winding up of a pension plan registered in British Columbia (BC).

## BACKGROUND INFORMATION

Pension plans registered in British Columbia may be terminated voluntarily by an authorized person or by the direction of the superintendent if the plan documents do not comply with the pension legislation or the administrator does not comply with directions for compliance issued by the superintendent.

This Regulatory Statement checklist will guide administrators by providing information required for the termination of a plan. All section references are to the [Pension Benefits Standards Act](#) (the "Act") and [Pension Benefits Standards Regulation](#) (the "Regulation") unless otherwise indicated. Please note that this checklist is not a legal document and should be used as a guide.

BCFSA encourages plan administrators to refer to the Act and the Regulation for more information on terminating a pension plan registered in BC.

If you require assistance with the plan termination and wind-up process, please write to us at [pensions@bcfsa.ca](mailto:pensions@bcfsa.ca).

## REGULATORY REQUIREMENTS

### PART 1: TERMINATION REQUIREMENTS

In order to determine if termination has occurred, please refer to Part 10 of the *Act* and sections 39, 44(4) to 44(7) and Part 10 of the Regulation. The termination of a registered pension plan usually results from a decision of the sponsor of the plan.

<b>ACT &amp; REGULATION</b>		<b>REQUIREMENTS</b>
<b>Act 97</b>	<b>Notice of Termination</b>	<p>A written notice must be provided to the superintendent, each plan member, beneficiary and each union whose members will be affected.</p> <p>The notice must include the intended effective date of the termination. It must be filed immediately after the election to terminate or <b>60 days</b> before the intended effective date of the termination.</p>
<b>Act 100</b>	<b>Contributions</b>	<p>Each participating employer must remit all amounts required to be contributed to the plan within <b>30 days</b> after the effective date of termination.</p> <p>Such contributions include amounts due from participating employer to the plan but remain unpaid at the effective date of the termination and amounts that have accrued to the effective date of the termination but are not yet due.</p>
<b>Act 101</b>	<b>Solvency Deficiency (for defined benefits plans)</b>	<p>If a pension plan, other than a negotiated cost plan, a jointly sponsored plan or a pension plan of which the plan text document contains a target benefit provision, has a solvency deficiency on the effective date of the termination of the plan, the participating employers must eliminate the solvency deficiency, and the administrator must continue to file information returns until the solvency deficiency has been eliminated.</p> <p>A participating employer that is not insolvent on the effective date of the termination of such a defined benefit (“DB”) plan must eliminate the solvency deficiency by making series of equal payments at least monthly, which must be sufficient to amortize the solvency deficiency within <b>5 years</b> after the effective date of the termination of the plan. An insolvent employer must, on becoming insolvent, make a payment to eliminate the solvency deficiency.</p>

<b>Act 103</b>	<b>Payment of pensions and benefits</b>	The assets of the pension plan must not be applied towards the provision of any benefits after the effective date of the termination of the plan unless the superintendent provides notice that the termination report filed in relation to the plan is acceptable or provides written consent. Only payments of a pension or any other benefit entitlement that arose before the effective date of the pension plan's termination may be paid from the plan.
<b>Act 106 Reg. 135</b>	<b>Allocation if assets are insufficient (for benefit formula plans)</b>	When assets of the DB component of a plan are insufficient at termination, the allocation to each person entitled to receive benefit must be an amount equal to their contribution accounts, <b>plus</b> the commuted value ("CV") of that person's benefit multiplied by the solvency ratio of the DB component, both calculated as at the effective date of the plan termination.  Allocation of assets of a target benefit component must be the balance of any transferred contribution account and voluntary contribution account plus an amount that is equal to the product of the CV and the target benefit funded ratio as set out in the termination report.
<b>Act 107</b>	<b>Surplus Asset on wind-up (for benefit formula plans)</b>	The plan text document of a pension plan which contains a benefit formula provision must provide for the allocation of any surplus on the winding-up of the plan.
<b>Reg. 39</b>	<b>Termination Statement</b>	Termination statements to members must be sent within <b>30 days</b> after the superintendent provides consent to the termination.

## **PART 2: FILINGS AND REPORTS REQUIRED FOR TERMINATION**

Below is a list of required filings and reports for termination of pension plans registered in BC. The superintendent may request additional information to ensure that the plan's termination and winding-up comply with the *Act* and the Regulation.

The AIR and termination report should both be prepared as at the effective date of the plan termination

### **REQUIRED FILINGS**

<b>Reg. 44</b>	<b>Annual Information Returns (AIR)</b>	If a pension plan is terminated, an annual information return must be filed for the plan, along with payment of the fee: <ul style="list-style-type: none"> <li>- Plans with benefit formula: <b>120 days</b> after the effective date of termination</li> </ul>
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- Plans without benefit formula: **60 days** after the effective date of termination.
- Plans terminated with a shortfall: **60 days** after each anniversary of the effective date of the termination of the plan until the solvency deficiency is eliminated

All APR filing is completed through pensions APR [e-filing systems](#).

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**Act 102 Termination Report  
Reg.  
133**

A termination report must be filed:

- Plans with benefit formula: **120 days** after the effective date of termination
- Plans without benefit formula: **60 days** after the effective date of termination
- If the plan termination is due to insolvency: **120 days** of the insolvency of the participating employer.

The termination report must set out the following:

- the nature of the benefits to be provided
- the assets and liabilities of the plan
- the intended allocation and distribution of the assets of the plan

Plan administrators must file any other record required by the superintendent and receive an acceptance letter from the superintendent before the distribution of assets.

All benefit formula plan termination reports are completed through pensions AIS [e-filing systems](#).

All DC plans are required to submit termination reports by emailing them to [pensions@bcfsa.ca](mailto:pensions@bcfsa.ca).

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**SUPPORTING DOCUMENTS**

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**Act 97 Confirmation of  
member notice**

A sample of the notice sent out to notify members of the decision to terminate the plan.

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**Act 109 Expense of  
termination and  
winding-up**

If an administrator has been appointed under section 108 of the *Act*, a breakdown of expenses for the plan termination and wind up (it should include an estimate of expenses to the date of completion of the wind up).

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## TERMINATION CHECKLIST

The checklist below is to assist in completing the termination of a pension plan registered in BC.

The superintendent may request additional information to ensure that the plan's termination and winding-up comply with this *Act* and the Regulations.

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### REQUIRED DOCUMENTS/FILINGS

Notice of termination to the Superintendent	<input type="checkbox"/>
Termination report (including summary of assets and liabilities)	<input type="checkbox"/>
Final Annual Information Returns (AIR) filing: Termination AIR	<input type="checkbox"/>
AIR filing fees	<input type="checkbox"/>

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### SUPPORTING DOCUMENT

Confirmation of member communication: written notice to terminate the plan (sample of communication sent to members)	<input type="checkbox"/>
Expense for professional services (for plan administrators appointed by the superintendent)	<input type="checkbox"/>

## ADDITIONAL INFORMATION

If you have any questions, please contact the Office of the Superintendent of Pensions at [pensions@bcfsa.ca](mailto:pensions@bcfsa.ca) or by phone at 604-660-3555.

As the BC Financial Services Authority, we issue Regulatory Statements outlining how entities must operate, or the form and content required by the Regulator for mandatory regulatory filings identified in the *Financial Institutions Act* and *Credit Union Incorporation Act*, Regulations, and other pertinent legislation. While the comments in a particular part of a Regulatory Statement 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, instructions, definitions, and positions contained in a Regulatory Statement generally apply as of the date on which it was published, unless otherwise specified.