

Streamlining FSCO

February 10, 2010



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Preparing a surplus related application for filing with the Ontario Superintendent of Financial Services Commission of Ontario ("FSCO") is a long and costly process. Historical reviews of plan documents, some of which may be difficult or impossible to locate, locating former members who have been lost sight of years ago, comprehensive notices to members, newspaper advertisements, negotiating a surplus sharing agreement, court applications, putting together the actual application with the requisite actuarial reports - all of these ponderous steps take months and can take years.

Hence, applicants, and any plan members who stand to benefit from a surplus sharing agreement, after the application is at last filed with the Superintendent, are dismayed when they experience a further delay of months and sometimes years while the application wends its torturous way through the regulatory processes.

The regulatory delays by no means all rest at the feet of the staff of FSCO who are undoubtedly over burdened. Applicants do not always file complete materials and they are not always quickly responsive to staff enquiries.

FSCO's Consultation Paper entitled "Proposed Solutions, Service Goals and Process for Reviewing Defined Benefit Pension Applications" released in January, evidences an appreciation of the frustration experienced by employees and plan members affected by the application. It contains proposals to streamline the review of applications, with timelines for FSCO review and responses, and commitments to more meetings and telephone conferences to resolve issues that could otherwise require lengthy correspondence.

After a consultation period which ends February 10, FSCO will develop and publish new processes for reviewing applications, and create service goals. FSCO's Consultation Paper is welcome, and we look forward to new service standards.

This article is intended for general information purposes only and should not be relied upon as legal advice.

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