



# Employer Update

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## *Policy Interpretation Change:*

## Plan Membership and Re-employment in Unclassified/Contract Positions

OPTrust has revised its policy interpretation and administrative rules regarding mandatory Plan membership and contributions for former members in certain situations. The change affects former OPTrust members who continue to have a pension entitlement in the Plan and who are re-employed in unclassified, contract or casual positions.

### **Once a member...**

In the past, OPTrust's practice was to require these members to re-join the Plan. In these cases, the employer was required to deduct and remit contributions for the entire period of unclassified employment, including any missed mandatory contributions.

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## **Federal Budget Raises Pension Age Limit to 71**

The 2007 federal budget has changed the pension age limit under the *Income Tax Act* to 71, up from the previous limit of age 69. This change is retroactive to January 1, 2007.

The change allows members to continue working and contributing to a registered pension plan – and earning additional pension credit – up to the end of the year in which they reach age 71.

The change also delays the cut-off for RRSP contributions – and for converting RRSPs to RRIFs or annuities – to the end of the year in which the account holder turns 71.

### **OPTrust termination deadline**

The amended regulation under the *Income Tax Act* requires members to start receiving their pension payments by December 31 of the year in which they reach age 71.

As a result, OPTrust members who choose to work past age 65 must stop their pension contributions **no later than November 30** of the year in which they reach age 71. This is necessary for OPTrust to initiate the member's pension payments before the December 31 deadline.



This practice, which was sometimes referred to as “once a member, always a member,” applied in cases where:

- the former member was re-employed before his/her termination options were processed, or
- the former member had not elected his/her termination option or had chosen a deferred pension.

## Not necessarily always a member

Following a review of the Plan text, the *Pension Benefits Act* and its regulations, OPTrust no longer requires the mandatory re-enrolment of these former members on their re-employment in an unclassified position – provided there has been a *bona fide* termination of the member’s previous employment. The participating employer is responsible for determining if there has been a *bona fide* termination of employment (e.g., there is a loss of seniority and/or service, or payment of severance, termination and/or vacation entitlements).

The following scenarios help illustrate how the new administrative rules will be applied

### ■ Scenario 1

*The member terminates employment, transfers his/her entitlement out of the Plan and later returns to an unclassified position.*

**Pension status:** In this case, OPTrust always took the view that this former member should be treated as a new unclassified employee. As a result, **Plan membership and contributions are not mandatory**. In this scenario, as an unclassified employee, the individual has the option of joining the plan and buying back credit for any eligible non-contributory service, under the Plan’s normal rules.

### ■ Scenario 2

*A member terminates employment, chooses a deferred pension option (or does not elect a termination option) and later returns to an unclassified position.*

**Pension status:** In this scenario, OPTrust previously took the view that Plan membership was mandatory. Under the new rules, because it is clear that there was a *bona fide* termination, **Plan membership and contributions are not mandatory**. Here again, the unclassified employee has the option of joining the plan and may buy back any eligible non-contributory service.

### ■ Scenario 3

*A member terminates classified employment and immediately starts work in an unclassified position.*

**Pension status:** This is another scenario in which OPTrust previously required the member to continue mandatory membership and contributions. Under the new interpretation, **if the employer determines that there has been a bona fide termination, Plan membership and contributions are not mandatory**. In this scenario, once OPTrust receives the signed *Termination of Membership-Application For Entitlement* (OPTrust 1012) form, we will provide the former member with termination options for the previous period of Plan membership. As in the previous scenarios, the unclassified employee has the option of re-joining the plan and may apply to buy back any eligible non-contributory service.

### ■ Scenario 4

*An employee in an unclassified position opts to join the Plan, and later starts another contract after the first contract expires.*

**Pension status:** In this scenario, OPTrust previously required the member to continue Plan membership and contributions. Under the new interpretation:

- **If there is no bona fide termination of employment, continued Plan membership and contributions ARE mandatory.** For example, if the employee and employer extend the term of the prior contract by revising the expiry date, there is no termination of employment, and contributions continue to be mandatory.

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- ***If there is a bona fide termination of employment, continued Plan membership and contributions ARE NOT mandatory.*** This would apply if there genuinely is a new contract (e.g., the new contract is for a different position, or there is a break in employment.) As in scenario 3, once OPTrust receives the signed *Termination of Membership-Application For Entitlement* (OPTrust 1012) form, we will provide the former member with termination options for their previous period of membership. Again, as an unclassified employee, the former member has the option of re-joining the plan.

## OPSEU Pension Trust **EmployerUpdate**

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