

## Pension Commission

### Update #15 LIRA/LIF/LRIF Administrative Requirements

Revised August 2004

**Reference:** *Pension Benefits Act, Section 21(13), 23, 24, 31(2) - (8), Regulation, Sections 18, 18.1(3), 18.1(10), 18.1(15)(e)(f)(g)(h)(i)(n), 18.1(16), 18.2, 18.2(6), 18.2(7), 24, 27.*

In 1992, the Manitoba Pension Commission introduced a revised Regulation for the purpose of expanding portability and retirement options to the Locked-In Retirement Account (LIRA) and Life Income Fund (LIF). The Locked-In Retirement Income Fund (LRIF) was introduced through an amendment to the regulation, which came into force on August 14, 1998.

Over the past few years, a number of issues have arisen concerning the administration of LIRAs, LIFs and LRIFs. Each topic below is followed by points, which clarify related issues, and expands upon provisions that must be followed when dealing with LIFs, LIRAs or LRIFs.

#### Beneficiary Requirements

- Upon a member or former member's death, prior to the purchase of a life annuity, the surviving spouse or common-law partner is automatically the primary beneficiary, unless the spouse or partner has received or is entitled to receive a division of benefits due to the break-up of the marriage or common-law relationship. As the primary beneficiary under the Act, the surviving spouse or partner of a member or former member takes priority over any other designated beneficiary. LIRA funds payable to a surviving spouse or partner are locked-in, whereas LIF and LRIF funds are available in a lump sum.
- Upon the death, prior to the purchase of a life annuity, of the owner of a LIRA, LIF or LRIF who is a former or surviving spouse or partner of a member or former member, the balance in the fund may be paid to the designated beneficiary, or estate, in a lump sum. If the owner of a LIRA whose funds originate from a division of assets or death benefits remarries or enters into a common-law relationship, the spouse or partner is not automatically entitled to survivor benefits.

#### Written Notice When Transferring Funds

- When transferring funds to a LIRA, LIF or LRIF, the plan administrator or the financial institution, as the case may be, is required to provide clear written advice to the financial institution that is to receive the funds. Such advice should indicate that the funds to be transferred are locked-in and must be administered accordingly, and the transferor should be satisfied that the receiving institution has acknowledged the nature of the locked-in funds, prior to releasing the funds. It is the responsibility of the party transferring the funds to determine the form the written advice and acknowledgement will take. At a minimum, such advice should include the source of the funds, reference to the funds being locked-in, and the jurisdiction under which the funds are locked-in.

## Transferring Funds Between Institutions

- When locked-in monies are transferred from a pension plan to a LIRA, LIF or LRIF, only companies listed on the Superintendent's List of Financial Institutions are eligible to hold locked-in pension funds.

## Break-Up of the Marriage or Common-Law Relationship

- Where there is either a court order under *The Family Property Act* or written agreement regarding a division of family assets, the pension benefit credits or payments due that are subject to an equal division are those that accrued,

-in the case of a common-law relationship, from the first day of the period in which the parties cohabited with each other in conjugal relationship and which continued until they became common-law partners,

-or in the the case of marriage, from the date of marriage or, if there was a period in which the parties cohabited with each other in a conjugal relationship and which continued until they were married, from the first day of that period,

until the date that the parties began living separate and apart.

For spouses who began living separate and apart before June 30, 2004, the pension benefit credit or payments due subject to division are those from the date of marriage.

- The administrator of the pension plan, under which the pension benefits were earned, must be contacted in order that the spouse's or partner's share of the pension can be calculated.
- In the event that the plan administrator cannot be located, or is unable to calculate the spouse's or common-law partner's share of the pension, the parties may wish to retain an actuary at their own expense to calculate the spouse's or partner's share in the manner prescribed by the Act and Regulation. Otherwise, the spouse's or partner's share of the pension is assumed to be 50% of the present value of the LIRA, LIF or LRIF fund.

## Pension Waiver Form Requirements Under LIFs or LRIFs

- The member or former member and their spouse or common-law partner must both complete a "[Pension Waiver Form](#)" allowing the member to choose an alternative form of pension payment to the Joint and Two-thirds pension required by the Act. The plan administrator, or financial institution administering the LIRA, is responsible for ensuring the waiver is executed prior to the funds being released.
- A Pension Waiver Form is also required when funds are transferred from a LIF or LRIF to purchase a life annuity on behalf of a member or former member. It is the responsibility of the financial institution administering the LIF or LRIF to ensure the waiver is executed in the event the annuity being purchased provides for no survivor benefits to the spouse or common-law partner or lesser survivor benefits than the required Joint and Two-thirds.

- Some financial institutions may request that a copy of the executed Pension Waiver Form accompany any transfer documents for members or former members purchasing a LIF, LRIF or Life Annuity.

#### **Minimum Calculation Under LIFs or LRIFs**

- Institutions may use the spouse's or common-law partner's age, or any method permissible by Canada Revenue Agency.
- In the case of the LIF, if the use of a spouse's or partner's age results in a minimum value greater than the maximum, then the owner's or purchaser's age must be used.

#### **Maximum Calculation Under LIFs**

- For the LIF maximum, institutions may only use owner's or purchaser's age.

*This update has no legal authority. The Pension Benefits Act of Manitoba and The Pension Benefits Regulation, 188/87 R amended should be used to determine specific requirements.*