

## Office of the Superintendent - Pension Commission

### Update #22 Commutation of Small Pension Benefit Credits

*Revised January 2009*

**Reference:** *The Pension Benefits Act, Sections: 21(1)- 21(3), 23(3), Regulation (81/99) Sections 18, 18.1, 18.2 and 18.4*

Effective April 30, 1999, an amendment to Regulation 188/87 R under The Pension Benefits Act of Manitoba allows individuals with small amounts of pension benefit credits held by financial institutions in Locked-in RRSPs, LIRAs, LIFs and LRIFs to be commuted and paid to the individual in a lump sum subject to certain requirements.

#### LEGISLATION

**Section 18.4 reads as follows:**

##### **When commutation of benefits is permitted**

18.4(1) Despite subsections 21(1), (2) and (3) (requirements re deferred life annuities) of the Act, and sections 18 (transfer of deferred life annuity) and 18.1 to 18.2 (retirement benefit plans) of this Regulation, and subject to section 23 (joint pensions) of the Act, a financial institution may allow the pension benefit credit of a member or former member in a retirement benefit plan referred to in sections 18 to 18.2 of this Regulation issued by the institution to be commuted where the member or former member

- a. makes an application to the institution to have the credit commuted; and
- b. provides evidence satisfactory to the institution that the proposed commutation is permitted under subsection (2).

##### **When pension benefit credits may be commuted**

18.4(2) The pension benefit credit of a member or former member in a retirement benefit plan may be commuted only if the credit, when combined with the total amount of pension benefit credits in all other retirement benefit plans of the member or former member under sections 18 to 18.2 is an amount that, when compounded annually at a rate of 6% per year for each year by which the age of the member or former member, as of December 31 of the year in which the application is filed, precedes his or her 65th birthday, is less than 40% of the YMPE in the year in which the application is filed.

["YMPE" means the Year's Maximum Pensionable Earnings as defined in the Canada Pension Plan.]

#### REQUIREMENTS

A financial institution may allow the commutation of these benefits only where certain requirements are met.

(a) The member or former member and their spouse or common-law partner, must jointly agree in writing, by completing a form entitled "Pension Waiver Form", to the payment of the pension benefit credit in a manner which does not provide survivor benefits, but is instead a lump sum payment to the member or former member.

Attached is the "[Pension Waiver Form](#)" which must be completed by the plan member or former plan member and their spouse or common-law partner. The completed Pension Waiver Form should form a part of the application that is made to the financial institution.

(b) The member or former member must make application to their financial institution, in a form satisfactory to the financial institution, to have the credit commuted.

(c) The current value of all locked-in pension credits or funds held under any other Locked-in RRSPs, LIRAs, LIFs or LRIFs owned by the member or former member as of the date of application, must be combined with the pension benefit credit being held by the financial institution, for purposes of determining if the credit is commutable.

(d) The member or former member and the financial institution must then determine if the total amount of pension credits held in all the Locked-in RRSPs, LIRAs, LIFs and LRIFs of the member or former member under sections 18 to 18.2 of the regulation, is an amount that is commutable as it is less than the prescribed amount.

### **Prescribed Amount**

If the total amount of locked-in pension credits or funds in all Locked-In RRSPs, LIRAs, LIFs or LRIFs owned by the member or former member, when combined and compounded annually at a rate of 6% per year for each year by which the age of the member or former member, as of December 31 of the year in which the application is filed with the financial institution precedes their 65th birthday, is less than 40% of the YMPE in the year in which the application is filed, the funds may be commuted and paid out as a lump sum.

***NOTE: The YMPE for 2009 is \$46,300, and 40% of the YMPE is \$18,520.***

### **EXAMPLES**

The following are examples of the calculations relating to the commutation of small pensions. These calculations are based on the application being made in 2009.

The prescribed amount referred to in the examples represents the minimum amount required in order to produce an amount equal to 40% of the 2009 YMPE. An amount equal to or greater than the prescribed amount is not commutable, while an amount less than the prescribed amount is commutable.

### **Example 1**

- Age at December 31, 2009 = 40
- Current Value of LIRA with financial institution #1 = \$5,000.00
- Current Value of LIRA with financial institution #2 = \$5,000.00
- Total Value of all LIRAs = **\$10,000.00** (\$5,000.00+\$5,000.00)

- Method of Determining the Prescribed Amount is:  
65-40 = 25 years, 1.06 interest compounded for  
25 years = 4.291874  
40% of the YMPE = \$18,520.00,  $\$18,520.00 / 4.291874 = \$4,315.13$

- Prescribed amount at age 40 = \$4,315.13

*Since the total value of the LIRAs of \$10,000.00 is greater than the prescribed amount of \$4,315.13, the LIRA funds are not commutable.*

### **Example 2**

- Age at December 31, 2009 = 55
- Current Value of LIRA = \$4,000.00
- Current Value of LIF = \$4,000.00
- Total Value of LIRA and LIF = **\$8,000.00** (\$4,000.00 + \$4,000.00)

- Method of Determining the Prescribed Amount is:  
65-55 = 10 years, 1.06 interest compounded for 10 years = 1.790849  
40% of the YMPE = \$18,520.00,  $\$18,520.00 / 1.790849 = \$10,341.46$

- Prescribed amount at age 55 = \$10,341.46

*Since the total value of the LIRA and LIF of \$8,000.00 is less than the prescribed amount of \$10,341.46, the LIRA and LIF funds are commutable.*

**NOTE:** If the member or former member is 65 or older, the total amount of locked-in pension credits or funds in all Locked-In RRSPs, LIRAs, LIFs or LRIFs owned by the member or former member must be less than 40% of the YMPE in the year in which the application is filed.

\*See Table of Interest Factors for Calculating Amounts Eligible for Unlocking in LIRAs, LIFs and LRIFs under Section 18.4 of the Regulation

## **PROCESS**

The form and content of both the application and the evidence provided by the member or former member under section 18.4 of the regulation are to be determined by the financial institution. In developing this documentation the financial institution should give consideration to the following:

1. The financial institution must take certain steps to obtain satisfactory evidence regarding the nature and amount of any other Locked-in RRSPs, LIRAs, LIFs and LRIFs owned by the member or former member, as of the date of his or her application.

2. In the event another party may have an interest in the pension benefit credits of the member or former member

i. such as a former spouse or common-law partner who might be entitled to a division of that person's benefits under Section 31(2) of The Pension Benefits Act (i.e. a court order or written agreement regarding the disposition of family assets exists as of the date of the application for commutation is made), or

ii. a Garnishing Order has been served to the financial institution under The Garnishment Act to enforce a maintenance order or agreement by garnishing the pension benefit credits of the member or former member

the financial institution must take the necessary steps to determine and settle the interests of such other parties as may be required by legislation prior to allowing a commutation under section 18.4.

Where funds are paid from a Locked-in RRSP, LIRA, LIF or LRIF contrary to the requirements of the Act or regulation, the financial institution continues to be liable for a pension benefit credit equal in value to the pension benefit credit that would have been provided had the commutation not occurred according to Sections 18, 18.1 and 18.2 of the regulations.

Given the liability referenced above, financial institutions should seek professional assistance in preparing the related documentation in order to ensure that its obligations under this legislation are addressed.

*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.*