

## Office of the Superintendent - Pension Commission

### Policy Bulletin #3

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### One-time 50% Transfer (Unlocking) Prescribed Registered Retirement Income Funds

**Reference:** The Pension Benefits Act Section 21.4, and the Pension Benefits Regulation Division 4, Part 10

A Locked-in Retirement Account (LIRA) or Life Income Fund (LIF) owner or person entitled to transfer money out of a pension plan, who is at least age 55, may apply for a one-time transfer under The Pension Benefits Act (Act) and Pension Benefits Regulation (regulation) of an amount up to 50% of the balance in one or more of their LIRAs, LIFs or locked-in pension under a pension plan to a Registered Retirement Income Fund (RRIF) as defined in the Income Tax Act (Canada), the contract for which meets the requirements of the regulation ("prescribed RRIF"). The regulation defines this as a "**one-time transfer**".

#### IMPORTANT NOTES

**A one-time transfer may only be made once-in-a-lifetime and in respect of Manitoba locked-in money.** Manitoba locked-in money is locked-in money earned by individuals working in Manitoba just before they terminated their pension plan membership, which was transferred from their pension plan to a locked-in account and is subject to the Act and regulation.

The administrator is responsible for the administration of Manitoba locked-in money in accordance with the Act and regulation. "Administrator" means

- (a) in relation to a pension plan, the person or body of persons that is responsible for administering the plan, and
- (b) in relation to a LIRA or LIF or to a RRIF, the financial institution responsible for administering the plan or fund.

Penalties may result if Manitoba locked-in money is paid contrary to these requirements. Further, the financial institution continues to be liable for any pension that would have been provided had the payment not occurred.

Financial institutions are not required to file a standard form of prescribed RRIF contract with The Office of the Superintendent – Pension Commission (OSPC) in order to accept one-time transfers, but must ensure the contract complies with the regulation.

The OSPC does not provide or approve application forms. Administrators are responsible for preparing, providing and approving these forms. A sample application - [Application for a One-time Transfer.pdf](#) or [Application for a One-time Transfer.doc](#) - is available on the OSPC website.

Please note that the Request for Written Notice form is no longer in use and should not be sent to the OSPC.

## **ONE-TIME 50% TRANSFER (UNLOCKING)**

**Here are the steps for applying for a one-time transfer of up to 50% of the balance in one or more LIRAs, LIFs or pension benefit credits under a pension plan to a prescribed RRIF:**

### **STEP ONE - Applicant's request to the administrator for a one-time transfer**

An applicant who wishes to make a one-time transfer must submit to the administrator a written transfer request that

- a) provides the name, address and date of birth of the applicant and, if a transfer consent is required, the name of the spouse or common-law partner whose consent is required,
- b) identifies the plan or plans administered by the administrator from which the transfer is to be made
- c) confirms that the transferor has not previously made a one-time transfer, and
- d) any other information the administrator may require to begin the transfer process.

**NOTE:** The applicant may need assistance to ensure all funds managed by that administrator are identified. Further, if an applicant wishes to make a one-time transfer from different plans not all of which are administered by the same administrator, they must make a separate transfer request to each administrator. The applicant may not make a transfer request to a different administrator unless the transfer request is made

- within no more than 30 days after the first request, and
- the subsequent request does not relate to a plan into which funds have been transferred, directly or indirectly, from a pension plan or prescribed plan in respect of which the applicant has previously made a one-time transfer request. For the purpose of this requirement, a transfer request is deemed to be made on the day it is received by the administrator.

### **STEP TWO – Administrator must be satisfied and provide application**

For purposes of Step Two and in order to facilitate the transfer, if the applicant is a pension plan member or former pension plan member who directly or indirectly transferred their locked-in pension under the plan to their LIRA or LIF, the administrator must determine if the applicant is living separate and apart from a spouse or common-law partner by reason of a breakdown of their relationship at the time the applicant is applying for a one-time transfer.

The Act and regulation define "spouse" and "common-law partner" as follows:

**"Spouse"** means a person who is married to a member or former member.

**"Common-law partner"** of a member or former member means:

- a) a person who, with the member or former member, registered a common-law relationship under section 13.1 of The Vital Statistics Act, or
- b) a person who, not being married to the member or former member, is cohabiting with him or her in a conjugal relationship and has cohabited
  - i. for a period of at least three years, if either of them is married, or
  - ii. for a period of at least one year, if neither of them is married.

Upon receipt of the transfer request for a one-time transfer, and on being satisfied that:

- a) the applicant is at least 55 years old
- b) the administrator has not facilitated, and is not aware of, a previous one-time transfer by the applicant,
- c) the plan does not contain any money other than Manitoba locked-in money,
- d) no part of the amount to be transferred is the subject of
  - i. a maintenance order under section 14.1 of The Garnishment Act, *or*
  - ii. preservation order under section 53 of The Family Support Enforcement Act

the administrator must provide the applicant with an application form.

The application form must include:

- a) a statement of the maximum amount that may be transferred from the plan;
- b) a statement of the amount the applicant wishes to transfer;
- c) the date the information required under subsection 10.56(3) of the regulation was provided to the applicant and the spouse or common-law partner whose consent is required;
- d) the name and address of the financial institution that will manage the prescribed RRIF to which the transfer is to be made;
- e) a statement signed by the applicant confirming they have not previously made a one-time transfer, and not made another one-time transfer request more than 30 days ago;
- f) a statement signed by the applicant confirming that they understand this is a request for a one-time transfer and, unless they make a transfer request to all plans within no more than 30 days after the first request, they will not be able to make such a request in the future; and
- g) a statement signed by the applicant confirming that no transfer consent is required or, if it is required, a statement by the spouse or common-law partner whose consent is required in a form approved by the superintendent.

### **Maximum Calculation**

The maximum amount is calculated as 50% of the net fund balance of the LIRA and LIF for which an application is being made or 50% of the locked-in pension benefit credits under the plan for which the application is being made. According to subsection 21.4(4) of the Act and Division 4 of Part 10 of the regulation, the maximum amount available for a one-time transfer may be affected by:

- any amount that is payable to a spouse, former spouse or former common-law partner as required by the credit splitting provisions under subsection 31(2) of the Act;
- an order issued by the Maintenance Enforcement Program (MEP) of the Department of Justice under The Garnishment Act to enforce a maintenance order; and

- an order issued by MEP under section 53 of The Family Support Enforcement Act to preserve assets.

If an order under section 53 of The Family Support Enforcement Act exists and if the amount in the preservation order is equal to or greater than the maximum amount, the applicant would be prevented from making a one-time transfer.

See [Policy Bulletin #11 - Maintenance Enforcement - Garnishment of Pension Benefit Credits](#), for further information.

MEP, Manitoba Justice is located at 100 – 352 Donald Street, Winnipeg and may be contacted at (204) 945-7133, or 1-866-479-2717 toll-free in Manitoba.

<b>Maximum Calculation</b>	
<b>1. Balance on the Date of Application:</b>	\$ _____
<b>LESS:</b> the amount, if any, to be paid under ss. 31(2) of the Act	\$ _____
<b>LESS:</b> the amount, if any, to satisfy an order under The Garnishment Act:	\$ _____
<b>Net Balance:</b>	<b>\$ _____</b>
 <b>2. Maximum amount available for a one-time transfer</b>	
<b>50% of Net Balance:</b>	\$ _____
<b>LESS:</b> the amount, if any, to be preserved under The Family Support Enforcement Act:	\$ _____
<b>Revised Net Balance:</b>	<b>\$ _____</b>
<b>Maximum amount available:</b> (Cannot exceed net amount in 2.)	<b>\$ _____</b>

### **STEP THREE – Applicant must provide the completed application**

Within 30 days after receiving the application form and prescribed information required under subsection 10.56(3) of the regulation, the applicant must provide the completed application form to the administrator together with the completed transfer consent if required.

### **STEP FOUR – Time for completing the transfer**

The administrator must complete the transfer within 90 days after providing the information required under subsection 10.56(3) of the regulation, unless the investment term has not expired.

### **Garnishing Order Satisfied**

If before completing a transfer, an administrator is served with an order under section 14.1 of The Garnishment Act that affects the information specified by the regulation to be provided to the

applicant under subsection 10.56(3) of the regulation the administrator must provide revised information to the applicant and the spouse or common-law partner, if any, whose consent was required.

The applicant may either withdraw the application or submit a revised application form and if a consent of the spouse or common-law partner was required, a new consent.

The revised application form must be submitted within 30 days after the revised information specified by the regulation was provided to the applicant, and if required, to their spouse or common-law partner.

### **PRESCRIBED REGISTERED RETIREMENT INCOME FUNDS (Prescribed RRIFs)**

While financial institutions are not required to file a standard form of prescribed RRIF contract with the OSPC, the financial institutions must ensure the contract complies with Division 4, Part 10 of the regulation.

A prescribed RRIF contract must

- a) restrict amounts transferred to it to only amounts that are transferred from
  - i. a prescribed retirement plan under section 21.4 of the Act,
  - ii. a pension plan as permitted by Division 4 of Part 10 of the regulation, or
  - iii. another prescribed RRIF;
- b) permit the owner to transfer all or any part of the balance from it only
  - i. to another prescribed RRIF,
  - ii. to purchase an annuity, or
  - iii. to a pension plan, if it is permitted under the terms of the plan;
- c) provide that if all or any part of the balance of the RRIF is paid out contrary to the Act or this Division, the administrator of the RRIF will provide, or ensure the provision of, an amount equal to the amount of the balance paid out;
- d) in the case of a RRIF any part of the balance of which is derived, directly or indirectly, from the owner's previous entitlement, as a member of a pension plan, to pension benefits under that plan, provide that upon the owner's death the balance of the prescribed RRIF shall be paid
  - i. to the owner's surviving spouse or common-law partner, unless they,
    - A. have received or are entitled to receive all or any part of the balance under an agreement or order under The Family Property Act, or
    - B. have waived their entitlement to receive the balance and have not revoked that waiver, and
  - ii. in any other case, to the designated beneficiary or the estate of the owner; and
- e) includes the statement that, subject to an agreement or order under The Family Property Act or enforcement proceedings taken by a designated officer, as defined in section 52 of The Family Support Enforcement Act, under Part VI of that Act, the balance of the RRIF
  - i. may not be assigned, charged, anticipated or given as security, and any transaction purporting to do so is void, and
  - ii. is exempt from execution, seizure or attachment.

A designated officer of the MEP is authorized by The Family Support Enforcement Act to administer the spousal and child support obligations under the terms of a Court Order or Agreement. The Family Support Enforcement Act is available on the Manitoba Laws website.

### **Who to contact for information on processing one-time transfers**

If you are an applicant, a subsidiary, affiliate or agent of a financial institution responsible for administering an applicant's LIRA or LIF, you should contact that financial institution to obtain direction and support for processing a one-time transfer.

If you are an applicant terminating from a pension plan, you should contact the administrator of your pension plan to obtain direction and support for processing a one-time transfer.

### **Who to contact for information concerning the Maintenance Enforcement Program**

Maintenance Enforcement Program  
Canada Building  
100-352 Donald Street  
Winnipeg MB R3B 2H8

Phone the MEPLine: (204) 945-7133 in Winnipeg  
or 1-866-479-2717  
email: [manitobamepinquiries@gov.mb.ca](mailto:manitobamepinquiries@gov.mb.ca)

### **Who to contact for regarding this bulletin**

If you have any questions regarding this bulletin you may contact us at:

Office of the Superintendent - Pension Commission  
500 – 400 St. Mary Avenue  
Winnipeg MB R3C 4K5  
Tel: 204-945-2740  
Email: [pensions@gov.mb.ca](mailto:pensions@gov.mb.ca)  
Website: [www.gov.mb.ca/finance/pension](http://www.gov.mb.ca/finance/pension)

This bulletin has no legal authority. The Pension Benefits Act of Manitoba and the Pension Benefits Regulation should be used to determine specific requirements.