

Office of the Superintendent - Pension Commission

Policy Bulletin #4

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Withdrawal or Unlocking of LIRAs and LIFs

Reference: The Pension Benefits Act of Manitoba and Pension Benefits Regulation

One-time 50% Transfer (Unlocking) - Act s. 21.4 and Regulation Division 4, Part 10

Non-residency - Act s. 21.3 and Regulation Division 5, Part 10

Small pension - Act s. 21(4) and Regulation Division 6, Part 10

Shortened life expectancy - Act s. 21(6) and Regulation Division 7, Part 10

Full unlocking at age 65 – Act s. 21.3.1 and Regulation Division 11, Part 10

Financial hardship – Act s. 21.3.2 and Regulation Division 12, Part 10

Maintenance Enforcement - Act s. 31.1 and Regulation Division 9, Part 10

WHAT IS LOCKING-IN?

Locking-in means that pension money cannot be withdrawn as a lump sum. The purpose of locking-in is to ensure that former pension plan members' benefits are used for the purpose originally intended: to provide a lifetime income for retirees and their spouses or common-law partners.

Manitoba locked-in money means locked-in money earned by individuals working in Manitoba just before they terminated their membership in a pension plan, retired, died or separated which was transferred from the pension plan to a Locked-in Retirement Account (LIRA) or Life Income Fund (LIF), and is subject to The Pension Benefits Act of Manitoba (Act) and Pension Benefits Regulation (regulation).

Locked-in monies earned by individuals who worked in other provinces; employees of the federal public service, military or police; and employees in federally regulated industries (banking, telecommunications, shipping, and inter-provincial transportation) **are not subject to Manitoba's locking-in rules or exceptions.**

EXCEPTIONS TO LOCKING-IN

There are specific exceptions under which LIRAs and LIFs (locked-in accounts) can be released and are explained in this Bulletin.

WITHDRAWAL OPTIONS

Except for withdrawal due to a shortened life expectancy, financial hardship and one-time transfer, if an owner is allowed to withdraw their funds, all the money is unlocked. The owner can elect to receive a lump sum or transfer it to a Registered Retirement Savings Plan (RRSP) or Registered Retirement Income Fund (RRIF) if permitted by tax law.

The owner of a locked-in account who has a shortened life expectancy according to subsection 21(6) of the Act and Division 7 of Part 10 of the regulation is entitled to withdraw all or any part of the balance of the account. The owner can elect to receive all or any part of the balance as a lump sum or transfer it to an RRSP or RRIF if permitted by tax law.

FINANCIAL INSTITUTION RESPONSIBILITIES AND LIABILITY

The financial institution is responsible to administer the LIRAs and LIFs it issues in accordance with the Act and regulation.

Penalties may result if Manitoba locked-in money is paid contrary to these requirements. The financial institution continues to be liable for any pension that would have been provided had the payment not occurred. Further, the superintendent may revoke that financial institution's registration on the Superintendent's Register in relation to LIRAs and/or LIFs.

ONE-TIME 50% TRANSFER (UNLOCKING)

A one-time transfer of Manitoba locked-in money can only be made once in a lifetime.

A LIRA or LIF owner who is at least age 55 may apply for a one-time transfer under section 21.4 of the Act and Division 4 of Part 10 of the regulation, which is defined under the regulation as a "one-time transfer", of an amount up to 50% of the balance in one or more of their LIRAs or LIFs or locked-in pension benefit credits under a pension plan to a RRIF as defined in the Income Tax Act (Canada), the contract for which meets the requirements of the regulation ("prescribed RRIF").

See [Policy Bulletin #3 - One-time 50% Transfer \(Unlocking\) from Life Income Funds and Pension Plans](#) for further information.

NON-RESIDENCY

If an owner of a locked-in account who satisfies Canada Revenue Agency (CRA) that, under the Income Tax Act (Canada), they are no longer a resident of Canada, and has had that status for at least two years, the owner might be entitled to withdraw the balance of their account under subsection 21.1(3) of the Act, if the contract permits. Division 5 of Part 10 of the regulation set out rules for determining whether they may make the withdrawal.

Proof of non-residency may be requested from CRA by completing and filing with CRA its Form NR73 - Determination of Residency Status (Leaving Canada). This form can be obtained from CRA's website at www.cra.gc.ca or by calling 1-800-959-2221.

If the amount in the owner's locked-in account is directly or indirectly attributable to a pension benefit credit earned by the owner as a member of a pension plan, the owner is a "member-owner". If the member-owner has a spouse or common-law partner who is not living separate

and apart from the member-owner by reason of a breakdown of their relationship, the financial institution must not permit the withdrawal unless that spouse or common-law partner consents in writing to the withdrawal and completes [Form 3 - Consent to Withdrawal for Non-Residency Status](#).

Upon receiving the required documents and information, the financial institution must take the necessary steps to address the interests of such other party as may be required under the regulation and determine if the amount to be withdrawn

- a) is or may become payable to another person due to a division of the member-owner's pension benefit credit under Section 31(2) of the Act (i.e. a court order or written agreement regarding the disposition of family assets exists as of the date the application for commutation is made), or
- b) is the subject of an order either under The Garnishment Act to enforce a maintenance order or under The Family Maintenance Act to preserve family assets,

and reduce the amount to be withdrawn by any such amount as noted above prior to paying the balance to the owner.

Withdrawal Process

Within 60 days after receiving the owner's request, the financial institution must provide to the owner, and if the owner is a member-owner with a spouse or common-law partner as noted above, to that spouse or common-law partner, a statement that sets out the balance of the locked-in account as at the date of the owner's request.

Within 90 days after receiving the statement noted above, the owner must provide to the financial institution

- a) written confirmation from CRA that they are a non-resident of Canada for the purposes of the Income Tax Act (Canada);
- b) proof they have had that status for at least two years; and
- c) if the owner is a member-owner the application must **also** include Form 3 noted above, completed by their spouse or common-law partner, if applicable.

If the financial institution is satisfied that the owner qualifies for the withdrawal, the financial institution must pay the balance, reduced by the amount if any noted above, to the owner within 90 days after receiving the application and any other documentation the financial institution requires to complete the withdrawal.

SMALL AMOUNTS

No consent or waiver forms are required under the Act or regulation for withdrawing small locked-in accounts.

The owner of a small locked-in account can withdraw the entire balance. Division 6 of Part 10 of the regulation sets out rules for determining whether a locked-in account is small. These rules are based on a percentage of the Year's Maximum Pensionable Earnings (YMPE) under the Canada Pension Plan.

If the total of the balances of all the owner's locked-in accounts is considered small under the regulation, the owner is entitled to withdraw the entire balance of those accounts. An owner's locked-in account is small if the total of

- a) the balances of all the owner's locked-in accounts; and
- b) if the owner is less than 65 years old, interest on those balances, calculated and compounded annually at the rate of 6% per annum from December 31 of the year in which the application is filed to the end of the year in which the owner turns 65 years of age;

is less than 40% of the YMPE for the year in which the owner applied for the withdrawal (**small amount limit**) (\$24,640.00 for 2021).

If the total of the balances **is less than** the small amount limit, the locked-in accounts **can** be withdrawn.

If the total of the balances **is greater than** the small amount limit, even by a few cents, the locked-in accounts **cannot** be withdrawn.

If the owner is **65 or older**, the total of the balances **must be less than** the small amount limit (\$24,640.00 for 2021).

Withdrawal Process

The owner wishing to make a withdrawal must make a request of the financial institution administering their locked-in account.

Within 60 days after receiving the owner's request, the financial institution must give the owner a statement setting out the balance for each locked-in account it administers as at the date of the owner's request.

Within 90 days after receiving the **statements for all of their locked-in accounts**, the owner may apply to the financial institution administering one or more of them for the withdrawal.

If not all of the owner's locked-in accounts are administered by the same financial institution, the application must include a copy of each statement given by any other financial institution. The financial institution must take the necessary steps to satisfy itself of the nature and amount of all the owner's other locked-in accounts as of the date of application.

Within 90 days after receiving the application and any other documentation the financial institution requires to complete the withdrawal, the financial institution, if satisfied that the locked-in account is a small one, must pay the balance of it to the owner.

The following examples illustrate the calculations for determining whether a locked-in account is small based on an application made in **2021**.

Example 1

- Age at **December 31, 2021** = 40
- Current balance of LIRA with financial institution #1 = \$5,000.00
- Current balance of LIRA with financial institution #2 = \$5,000.00
- Total of Balances of all LIRAs = **\$10,000.00**

Calculating “**small amount limit**”:

- $65 - 40 = 25$ years
- 1.06 interest compounded for 25 years = 4.291874*
- 40% of the YMPE = \$24,640.00, $\$24,640.00 / 4.291874 = \mathbf{\$5,741.08}$

Total of the balances of all locked-in accounts **is greater than** the small amount limit, so owner’s LIRAs **CANNOT** be withdrawn.

Example 2

- Age at **December 31, 2021** = 55
- Current balance of LIRA with financial institution #1 = \$4,000.00
- Current balance of LIF with financial institution #2 = \$4,000.00
- Total of Balances of LIRA and LIF = **\$8,000.00**

Calculating “**small amount limit**”:

- $65 - 55 = 10$ years
- 1.06 interest compounded for 10 years = 1.790849*
- 40% of the YMPE = \$24,640.00, $\$24,640.00 / 1.790849 = \mathbf{\$13,758.84}$

Total of the balances of all locked-in accounts **is less than** small amount limit, so owner’s LIRA and LIF **CAN** be withdrawn.

* See Interest Factors for Calculating Balances Eligible for Withdrawal of Small LIRAs and LIFs.

SHORTENED LIFE EXPECTANCY

An owner of a locked-in account who has a terminal illness or disability might be entitled to withdraw all or any part of the balance of their locked-in account. Division 7 of Part 10 of the regulation set out rules for determining whether they may make the withdrawal. “**Shortened life expectancy**” means a life expectancy that has been shortened by reason of a terminal illness or disability to less than two years.

If the owner transferred or there is to be transferred to their locked-in account an amount that is, directly or indirectly attributable to a pension benefit credit earned by the owner as a member of a pension plan, the owner is a “member-owner”. If the member-owner has a spouse or common-law partner who is not living separate and apart from the member-owner by reason of a breakdown of their relationship, the financial institution must not permit the withdrawal unless that spouse or common-law partner

- a) consents in writing to the withdrawal and completes [Form 7 - Consent to Withdrawal From LIRA or LIF Due to Terminal Illness or Disability](#), and
- b) in the case of a LIRA, waives their entitlement to a joint pension or joint annuity according to section 10.22 of the regulation and completes [Form 5A - Waiver of 60% Joint Survivor Pension for Pension Plan or Locked-In Retirement Account](#).

Withdrawal Process

The owner must submit a written request to the financial institution administering their locked-in account and supply the financial institution with a written statement by a physician licensed to practise medicine in Canada certifying that the owner has a shortened life expectancy of less than two years.

Within 60 days after receiving the owner’s request, the financial institution must provide to the owner, and if the owner is a member-owner with a spouse or common-law partner as noted above, to that spouse or common-law partner, a statement that sets out the balance of the locked-in account as at the date of the owner’s request.

Within 90 days after receiving the statement noted above, the owner may make a written application to the financial institution for the withdrawal, and if the owner is a member-owner the application must **also** include Form 5A and/or Form 7 noted above, completed by their spouse or common-law partner, if applicable.

If the financial institution is satisfied that the owner qualifies for the withdrawal, the financial institution must pay all or a part of the balance to the owner within 90 days after receiving the application and any other documentation the financial institution requires to complete the withdrawal.

If an owner withdraws only a part of the balance of a locked-in account, they are not required to re-apply to the financial institution.

Full Unlocking (100%)

A LIRA or LIF owner who is at least 65 years old may apply to unlock the balance in one or more of their LIRAs or LIFs. The unlocked funds may be withdrawn as a taxable benefit or be transferred to a RRSP or RRIF if permitted under the Income Tax Act (Canada).

The amount of the withdrawal must be reduced by

- a) the amount that is or may become payable to any person under subsection 31(2) of the Act (division of pension on breakdown of relationship) at the time of the withdrawal;
- b) the amount bound by any garnishment order served on the administrator under section 14.1 of The Garnishment Act before the date of withdrawal; and

- c) the amount bound by an order under section 59.3 of The Family Maintenance Act to preserve assets.

Withdrawal Process

An applicant wishing to make a withdrawal or transfer must make a written application in the form required by the administrator, along with the name of the applicant's spouse or common-law partner, if any, and any other information required by the administrator.

Within 30 days after receiving the above mentioned information, the administrator must be satisfied the applicant is age 65 and the money is Manitoba locked-in money and if so

- a) provide the applicant and the applicant's spouse or common-law partner whose consent is required if any, a statement that sets out the account balance in the LIRA or LIF as of the date of the application, and
- b) provide the spouse or common-law partner whose consent is required a statement setting out the effect of the withdrawal or transfer on their entitlement on the death of the applicant, or on a division of assets on relationship breakdown under subsection 31(2) of the Act, and copy of the withdrawal or transfer consent required to be signed by the spouse or common-law partner.

The administrator must complete the withdrawal or transfer within 90 days after receiving the application.

FINANCIAL HARDSHIP

A LIRA or LIF owner may apply to withdraw all or part of their funds due to financial hardship under certain financial hardship conditions. Only one application per calendar year can be made under each financial hardship condition. The four conditions are:

1. Low expected income
2. Medical expenses
3. Rental arrears
4. Mortgage arrears

See [Policy Bulletin 14 – Hardship Withdrawals from Locked-in Retirement Accounts \(LIRAs\) and Life Income Funds \(LIFs\)](#) for additional information and examples on unlocking your Manitoba locked in money due to financial hardship.

MAINTENANCE ENFORCEMENT

The garnishment of Manitoba locked-in money held in a locked-in account by a Designated Officer of the Maintenance Enforcement Program of Manitoba Justice is permitted by sections 14.1 to 14.3 of The Garnishment Act of Manitoba and section 31 the Act. Division 9 of Part 10 sets out additional rules for garnishment.

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

Who to contact for information

If you are 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 on the processes for withdrawal or unlocking of LIRAs and LIFs.

If you have any questions regarding this bulletin please contact:

Office of the Superintendent - Pension Commission
Finance Policy and Legislation Division
Department of Finance
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Email: pensions@gov.mb.ca
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This bulletin has no legal authority. The Pension Benefits Act of Manitoba and the Pension Benefits Regulation should be used to determine specific requirements.