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## Policy Bulletin #34 50 % Unlocking

Issued August 2006 / Revised October 2006

The *Employment Pension Plans Regulation* (the Regulation) has been amended to permit unlocking of up to 50% of the value of a pension plan benefit or locked-in account, **effective November 1, 2006**, subject to certain requirements. This Bulletin has no legal authority; the Act and Regulation should be used to determine specific legal requirements.

### Legislative References Regulation

Schedule 1.1 of the Regulation requires plans and LIRAs to permit a member/owner to unlock up to 50% of his or her benefit subject to certain conditions.

### General Rules

#### WHO may unlock?

A person who is **at least age 50** and who is either:

a) withdrawing funds from a pension plan due to a termination, retirement, death or divorce and moving the funds to a LIF, annuity, or a DC RIA

or

b) an owner of a Locked-In Retirement Account (LIRA) who is converting the account to a LIF or purchasing an annuity, or, subject to the **Transitional Provisions** below, a Life Income Fund (LIF) or Locked-In Retirement Fund (LRIF) owner.

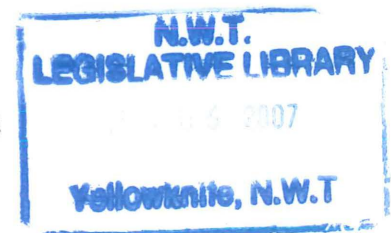
Some people will have to have their pension partner's (spouse's) permission – see **Pension Partner Waiver** below.

Only funds that are subject to Alberta law may be unlocked. See **Alberta Locked-in Funds** below.

#### WHEN may unlocking occur?

If that person's funds are in a pension plan or LIRA, they may unlock when they are about to transfer money out of the pension plan or LIRA to a LIF, life annuity or DC RIA.

If that person's funds are in a LIF or LRIF that was established before November 1, 2006, they may unlock at any time until December 31, 2007.



**Pension Partner Waiver**

If there is a pension partner (married or common-law spouse) when the decision to unlock is made, the funds cannot be unlocked unless the pension partner consents by signing a waiver giving up their entitlement to a survivor pension from the amount that is being unlocked.

This waiver is found in Option 1 of Part 1 of **Form 6** [for waiver forms, see website address below].

No waiver is required if the person who owns the account and is choosing the unlocking has no pension partner or is a surviving pension partner, or the ex-spouse of a plan member.

**Duties of the Administrator or Financial Institution**

The plan administrator or financial institution, as applicable, must provide persons who are eligible to unlock part of their benefit/account with a statement that

- indicates the total value of the benefit/account and the maximum amount that may be unlocked, and
- advises the person of the pension partner waiver requirement. The administrator or institution must obtain a signed waiver if applicable.

The administrator or institution shall transfer the unlocked funds concurrently with the transfer of the locked-in funds.

**Transitional Provisions**

Persons who established a LIF or an LRIF prior to November 1, 2006 will have a one-time opportunity to choose to unlock up to 50% of the value of their account. This choice must be made before December 31, 2007.

This choice must also be offered before the LIF / LRIF owner is moved to the new LIF.

If the LIF or LRIF owner has a pension partner, then the unlocking cannot occur unless the waiver of entitlement (i.e. the check-box) under **Option 1** of the **Form 6** waiver is completed, and the pension partner signs the relevant certification.

No waiver is required if the person who owns the account and is choosing the unlocking has no pension partner or is a surviving pension partner or the ex-spouse of a plan member.

*Does the 50% provision apply on deferred annuity purchases?*

The purchase of a deferred annuity is similar to the election of a deferred pension from a DB pension plan. In taking a deferred pension, the member agrees to commence a pension worth \$X per month starting at some future date.

The ability to withdraw 50% at the time of deferred annuity purchase will depend on that individual's age. A person who is at least 50 is eligible to transfer 50% of the commuted value of their benefit (or 50% of their account balance) out of the plan on a non-locked-in basis.

However, if they are age 49 and younger, the 50% unlocking provision will not be available because they did not meet the required age provision. Thus, in choosing a deferred annuity prior to age 50, they **forego the ability** to apply the 50% provision. For any person who elects a deferred annuity but is younger than age 50, the plan administrator must explain that the 50% unlocking option is not available to them.

*My pension plan allows for a transfer from the plan fund to a LIF, or annuity. However, the plan hasn't been amended to provide for the 50% unlocking provision. Can I still take 50% on that transfer?*

After November 1, 2006, any person who is at least age 50 and is transferring from a pension plan to a LIF, annuity, or DC RIA will be able to take advantage of the 50% provision even if their pension plan has not been amended to provide for the transfer.

*I am terminating employment and I am over the age of 50. However, my pension plan will only allow me to transfer my funds to a LIRA. How can I use the 50% provision?*

The 50% unlocking option will be available to you when you convert that LIRA into a LIF or annuity.

For further information please contact:

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For toll-free dialling, contact your local Alberta Government R.I.T.E. line by calling 310-0000.